SENATE—*Friday, June 26, 1998*

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

PRAYER

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

Almighty God, Sovereign of this Nation and Lord of our lives, we prepare for the July 4 recess by remembering Benjamin Franklin's words to George Washington at the Constitutional Convention, "I have lived, sir, a long time, and the longer I live the more convincing proofs I see of this truth: that God governs in the affairs of men. If a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid? I believe that without His concurring aid we shall succeed no better than the builders of Babel. We shall be divided by our partial local interests; our projects will be confounded . . ."

Gracious Lord, we join our voices with our Founding Fathers in confessing our total dependence on You. We believe that You are the Author of the glorious vision that gave birth to our beloved Nation. What You began You will continue to develop to full fruition, and today the women and men of this Senate will grapple with the issues of moving this Nation forward in keeping with Your vision. Think Your thoughts through them; speak Your truth through their words; enable Your best for America through what You lead them to decide. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. LOTT. I thank the Chair.

COMMENDING SENATOR STROM THURMOND

Mr. LOTT. Let me say again, Mr. President, how proud I am that the Senate last night voted to name our defense authorization bill the Strom Thurmond National Defense Authorization Act. We all admire you and love you so much. You are the idol of every Senator. Your example is one to which we all aspire.

We are very proud of you, Mr. President.

The PRESIDENT pro tempore. Thank you very much for your kind remarks.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, this morning there will be a period of morning business until 10:10. Following morning business, the Senate will proceed to executive session to consider the nominations of A. Howard Matz to be United States District Judge for the Central District of California, and Victoria A. Roberts to be United States District Judge for the Eastern District of Michigan. It is, therefore, expected that up to two votes will occur on those nominations at approximately 10:15 this morning.

Following those votes, the Senate may consider any of the following items: drug czar reauthorization bill, the clean needles bill, the reading excellence legislation, the legislative branch appropriations bill, and other legislative or executive items that may be cleared for action.

Once again, Members are reminded there will be rollcall votes during today's session of the Senate, with the first vote expected at approximately 10:15.

I understand from our discussions with Senator DASCHLE that we perhaps have been able to get an agreement on the higher education bill—we did get the time agreement locked in—with a number of amendments in order. We will work to consider that bill as expeditiously as possible. We need to get it done because the authorization expires July 1. Even though we have had an extension of funding for 90 days, that is something we need to get done absolutely before we go out for the year. So we need to get it completed in the Senate and be able to get it in conference. We also may be able to take up the intelligence authorization bill later on today.

Let me go ahead and announce to the Senate, and I will repeat it later, right before votes probably, Senators should expect long days and lots of votes during the month of July. We will have votes on most Mondays, even though we have not made a final decision with regard to July 6. It is expected we will have one vote on that date, but we are still working with Senators on both sides to determine what that one vote will be late in the day.

Throughout July, though, Senators should expect to be here on Mondays and on Fridays. I expect that we will be in 6 or 7 hours each Monday; that we will have night sessions every night; that we will be in usually 12 hours a day Tuesdays, Wednesdays and Thursdays; and I will be trying to schedule bills and votes into the night Tuesdays, Wednesdays, and Thursdays so that we can move several appropriations bills and some of the bills I have mentioned here.

We have a number of other important issues—product liability, bankruptcy, the credit union bill. We have a lot of work to do, so what I will try to do is dual-track some of these, with appropriations bills being on the floor almost every day and then maybe work at night on other issues.

For instance, it is my intention to have the conference report on the IRS restructuring probably the Tuesday or Wednesday night that we come back. We may actually have a final vote on it the next morning. But in order to get our work done, Senators should expect that I will schedule votes around 9 o'clock every Tuesday, Wednesday, and Thursday.

I have really bent over backwards to be helpful to the Senate, to try to be considerate of their family needs, but it seems that we have not gotten reciprocation from Senators, frankly, on either side. The number of amendments is totally out of control. Every bill now has 100 amendments. If Senators can't learn to be serious, only have major amendments, cut the debate time, if we do not get cooperation on both sides of the aisle, then I have no alternative but to start having what would be called "bed check" votes. If we get our work done, we will not go late. If we do not, we will be here until 9 and 10 o'clock every night in July.

So Senators need to prepare for that, and then we won't surprise anybody. But that is the schedule we have to work in order to get six or eight appropriations bills done in July, and maybe more, if we can, and other important authorizations that have to be done. I know that is good news for one and all, and now morning business is in order.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for morning business not to extend beyond the hour of 10:10 a.m., with Senators permitted to speak therein for up to 5 minutes each. Under the previous order, the Senator from Ohio, Mr. DEWINE, is recognized to speak up to 10 minutes.

The Senator from Ohio.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

PRIVILEGE OF THE FLOOR

Mr. DEWINE. Mr. President, let me first ask unanimous consent that the privilege of the floor be granted to a member of my staff, Terrence O'Donnell, for the remainder of the day.

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

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE pertaining to the introduction of S. 2242 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, am I correct, the Senate is in morning business?

The PRESIDING OFFICER. The Senator is correct. The Senator is recognized for 10 minutes.

PATIENTS' BILL OF RIGHTS

Mr. DORGAN. Mr. President, it is my hope and the hope of many of my colleagues, that, when we return following the Independence Day break, we will take up a piece of legislation called the Patients' Bill of Rights.

We have, over many weeks, come to the floor of the Senate to talk about cases around the country that illustrate the critical need for us to do something about a health care system that has increasingly herded people into managed care plans in which profit and loss, or the bottom line, becomes more important than a person's health care needs. That is why the American Medical Association and many others support the Patients' Bill of Rights that we have introduced. My fervent hope is that the Congress and the Senate will find time to address this issue in July.

Let me talk just for a moment about a woman, Phyllis Cannon from Newcastle, OK. In September of 1991, Phyllis Cannon was diagnosed with acute myeloblastic leukemia. She underwent a regimen of chemotherapy, which her HMO did pay for, and her leukemia went into remission. But her doctor, her oncologist, fearing that her cancer would again surface, recommended that she undergo an analogous bone marrow transplant. However, her HMO contended that this procedure was still experimental for first remission patients, and it refused to pay for the bone marrow transplant, even though a bone marrow transplant procedure was covered under the terms of her plan.

Phyllis Cannon's oncologist fought vigorously for this procedure. He supplied the HMO with the latest medical literature on the procedure, knowing that an urgent transplant was critical for Phyllis' health. But, once again, the HMO denied coverage. Phyllis, her husband Jerry, and the doctor continued to fight, and finally, after another month had passed, the HMO relented and said it would pay for the bone marrow transplant.

But the HMO officials, once they had agreed to cover the transplant, didn't notify Phyllis of the decision until a month later, and by then it was too late. The leukemia had returned, and Phyllis died 6 weeks later.

Because Phyllis received her health care coverage from her employer, her HMO was protected under a law called ERISA. Employer-sponsored plans, like the one covering Phyllis, are governed by ERISA, which gives HMOs immunity from the harmful effects their decisions might have. So, for Jerry Cannon, ERISA left him no chance to hold the HMO accountable for its decision which led to his wife's death. And this story, one more story, of Phyllis Cannon, demonstrates the need for a Patients' Bill of Rights.

Increasingly, as health care becomes more a function of profit and loss, it is straying from the central purpose of health care.

Let me share with my colleague what Phyllis' husband Jerry said. This is a picture of Jerry holding a photograph of his wife.

> [Telling my wife that the HMO was not going to provide the transplant she needed] just devastated her. She gave up after that. Oh, it was horrible. Once I got off the phone, I could see all hope leave her.

This is just one person, one person among thousands and tens of thousand in this country who now fear a health care system in which they are herded into this big chute called HMOs or managed care, and some insurance company accountant in a back room 500 miles away will make a decision about whether a medical procedure is covered. And when they make a mistake in that back room of the insurance office, no one can hold them accountable. If the doctor makes a mistake, that doctor is accountable. But the health care plan has no accountability.

In fact, they have special protection under the law. We suggest as the remedy a Patients' Bill of Rights supported by the President, by the American Medical Association, and by a vast array of groups around this country that represent patients.

Let me describe one more time, as I have before when I have come to the floor to talk about this issue, why the American people are demanding we do something about this problem.

There was a story in the paper several months ago about a woman who was injured quite severely by a fall from a horse. Her brain was swelling, and bystanders called an ambulance to take her to the hospital. While this woman was in the ambulance, with her brain swelling, she said, "I don't want to go to hospital X," which was the nearest hospital. "I want you to take me to hospital Y," which was further away.

She survived this brain injury and was asked later, "Why did you, while you were in this ambulance suffering from a serious injury, ask to be taken to the hospital that was further away?" She said, "Because I had read a lot about the hospital that was closest, and it was all about profit and loss, all about the bottom line. I didn't want to be wheeled into an emergency room in that hospital and have someone look at me in terms of dollars and cents, in terms of profit and loss. That is not the way I wanted to be treated as a patient."

Our Patients' Bill of Rights says that every patient has a right to know all the medical options available for treatment of their disease, not just the cheapest option. Our Patients' Bill of Rights says that people have a right to go to an emergency room when they have a medical emergency. You think that is something that is understood across this country? It is not. There are plenty of instances when people are not getting coverage for emergency room visits.

Our Patients' Bill of Rights says that when someone is in need of a specialist to treat their disease, he or she has a right to see that specialist. You think that is routine in managed care organizations today? I am sorry to say it is not.

And our Patients' Bill of Rights—unlike the bill that was unveiled just yesterday, I believe, in the other body—says patients have a right to sue their health plan if its decision harms them. We take away the special exemption that is given these organizations so that when a health plan makes medical judgments that can deny someone like Phyllis the cancer treatment she needs the folks who made that decision are made to take responsibility for it. That is why President Clinton and a good many in Congress, Republicans and Democrats, say it is time to do something about this issue.

I suppose that one can make the case, "Well, there's only so much money in the system." Doctors make the case that they want to practice medicine in the doctor's office, in the hospital room.

I have met with a good many doctors in my State to talk to them about the health care system. Increasingly, they tell us that managed care organizations are taking the decisions out of the doctors' offices and out of the hospital rooms, and making them instead in some insurance office hundreds of miles away by someone who knows nothing about the patient and nothing about the patient's needs.

Doctors are angry about that, and justifiably angry in my judgment. It is

time—long past the time—to pass a piece of legislation that says to these organizations, there are certain basic rights that ought to be available to every American when they are ill, when they are in need of help from the health care system.

Among those rights, as I just mentioned, is the right to understand, from your health care provider, all of the options available to you to help treat you, not just the cheapest option available that the managed care organization is willing to provide. Those are the kinds of things that we will address and discuss and hopefully deal with when we bring a Patients' Bill of Rights to the floor.

Again, I am pleased to say this is not one of those issues that is a partisan issue. There are Republicans and Democrats who feel strongly and have spoken aggressively on the floor of the Senate and the House about this issue.

The power to schedule here in the Congress is a very important and very significant power. We hope that those who have the power to schedule will put on the agenda of the U.S. Senate the Patients' Bill of Rights. No, not some watered down, lukewarm version like was introduced yesterday that is designed only to allow Congress to say it dealt with this issue. I am talking about a real Patients' Bill of Rights, one that addresses and solves the health care problems that Americans are forced to deal with every day and that, regrettably, Jerry Cannon and his poor wife Phyllis discovered a few years ago in a very tragic way.

We can solve these problems, and we should. We owe it to Phyllis and Jerry and the other families around this country who confront this every day in the doctors' offices and in the hospital rooms.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah, Mr. HATCH, is recognized to speak for up to 10 minutes.

JUDICIARY COMMITTEE'S MICROSOFT INQUIRY

Mr. HATCH. Mr. President, I rise this morning to speak for just a few moments on the Senate Judiciary Committee's progress with respect to our Microsoft inquiry and, more specifically, to share my perspectives on how Microsoft has conducted itself before the committee; to discuss some important developments from this past week; and to discuss the committee's upcoming plans with respect to the Microsoft issue.

This week has been a significant one. Just yesterday, Windows 98 was rolled out to consumers. I might note that, contrary to Microsoft's emphatic protests last month that a federal lawsuit would have catastrophic consequences for the PC industry, the Justice Department did file suit, and, lo and behold, the sky has not fallen on either Microsoft or the computer industry. Meanwhile, the Department of Justice encountered a setback in its original consent decree case. And, something which got less attention in the midst of these other developments, the Software Publisher's Association, the 1,200 member software industry association of which Microsoft is a member, released a report describing how, if allowed to proceed with its tried and true market practices, Microsoft will extend its current desktop monopoly to control the market for network servers—a technology which provides the foundation for the Internet and corporate intranets. So this is important. Microsoft is attempting to extend its current monopoly of 90 percent of the underlying operating system to control all the market for network services, both the Internet and corporate intranets.

So, for those who have looked seriously at the Microsoft issue, I believe it is clear that the issue is about much more than just the browser. In fact, I have never thought that the browser issue was the most important issue at all, although it is important if you look at all of the ramifications of the browser problems.

It is about whether one company will be able to exploit its current monopoly in order to control access to, and commerce on, the Internet; whether one company will control the increasingly networked world in which we are coming to conduct our businesses and in which we are coming to lead our lives.

Indeed, the reach of Microsoft's monopoly power is on the verge of extending well beyond markets which we have traditionally thought of as software or technology markets, and the effects of this expansion will be felt not just by the software companies who have traditionally competed with Microsoft, but by a broad swath of U.S. consumers. As the New York Times yesterday observed,

> Right now Microsoft is expanding into myriad Internet businesses, including news, entertainment information, banking, financial transactions, travel bookings and other services. Since consumers have no choice but to buy the Windows operating system when they buy personal computers, Microsoft is in a position to give such a big advantage to its own software that any other software maker would not be able to compete.

I agree with the Times's conclusion. They went on to say: "It is not healthy for the courts to grant Microsoft a permanent chokehold over the entire expanding world of the Internet." I ask unanimous consent that this New York Times editorial be printed in the RECORD.

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

[From the New York Times, June 25, 1998]

A MISTAKEN MICROSOFT RULING

One month after the Justice Department filed its sweeping antitrust suit against Microsoft, a Federal appeals court has issued a deeply flawed ruling that may weaken the Government's case. The three-judge panel seemed to adopt Microsoft's arrogant claim that it has the right to incorporate its browser, or any other software, into its Windows operating system as long as doing so offers certain advantages to consumers. But if the thinking behind this decision prevails, it could permit Microsoft to use its monopoly power to crush competitors throughout the Internet. The Justice Department thus needs to mount a vigorous counterattack invoking the full force of antitrust laws.

The Justice Department can argue that the appeals court ruling need not determine the outcome of its larger antitrust case against Microsoft. That is because it was based on a narrow case brought by the Justice Department last year, when it charged that Microsoft violated a 1995 consent decree affecting the marketing of Windows 95. In that decree, Microsoft agreed not to condition its sale of Windows to computer makers on the sale of other software, but could improve Windows by integrating other functions into it.

In December a Federal district judge ordered Microsoft to split off its browser, the software used to navigate the World Wide Web, from Windows 95. Now the appeals court has said the browser can be included, because with it Windows became a new and improved integrated product.

The problem with the appeals court's reasoning is that virtually any new form of software can be integrated into the basic Windows system, arguably improving it. Right now, Microsoft is expanding into myriad Internet businesses, including news, entertainment information, banking, financial transactions, travel bookings and other services. Since consumers have no choice but to buy the Windows operating system when they buy personal computers, Microsoft is in a position to give such a big advantage to its own software that any other software maker would not be able to compete.

Because the court of appeals ruling was based on the meaning of the 1995 consent decree, the Justice Department has a chance to reverse its thinking in its larger case against Microsoft, which is to come to trial in September. In that case, the judge will be asked to look beyond the consent decree to the broad principles of antitrust law, and to look as well at Microsoft's predatory practices. The department has assembled impressive evidence that Microsoft deliberately used its monopoly in Windows to crush its rival Netscape, which was selling a browser that many consumers preferred to the one made by Microsoft.

The appeals court's decision referred to the general "undesirability of having courts oversee product design." Judge Patricia Wald, in her dissent, correctly warned that the decision "would seem to permit" Microsoft to incorporate "any now-separate software product into its operating system by identifying some minimal synergy" as a result. It is not healthy for the courts to grant Microsoft a permanent chokehold over the entire expanding world of the Internet.

Mr. HATCH. I believe this is one of the more important policy issues of our day, one which will have far reaching ramifications for years to come, and that it would be remiss for lawmakers and law enforcers not to be paying close attention to these issues. So, when we return from the July recess, I

plan to hold further hearings on competition in the digital age. In particular, I plan for the committee to examine market practices and developments in the so-called "enterprise" or back office software market, and more generally to examine practices and developments affecting access to, and transactions on the Internet. Specific hearing dates and witness lists will be released when finalized.

While I will reserve comments regarding Microsoft's tactics in these markets until after we learn more about this issue next month, I do have a few comments regarding Microsoft's tactics in Washington over the last several months. In a nutshell, I would offer my view that Microsoft has, regrettably, seen fit to deploy a massive pr campaign grounded in spin control and misdirection, as opposed to engaging the American public, on the basis of the facts and the merits surrounding all of these issues.

For starters, I find it rather surprising that any one company would, rather than seeking to prevail on the merits, instead have the hubris to try and use the appropriations process to "go on the offensive" and seek to restrain a federal law enforcement agency that has an obligation to enforce the laws, as was recently reported. I trust that my colleagues in this Chamber would have little difficulty in seeing this as anything but an effort to interfere with an ongoing law enforcement action. I can certainly appreciate my colleagues wanting to go to bat for their constituent, but I would find it surprising and disturbing were they or any other Senators swayed to permit this body to seriously consider such an effort to interfere with the appropriations system hope and cut out funds for the Justice Department division on antitrust. I hope that they don't continue in those efforts if those reports are true.

More fundamentally, though, I am troubled that Microsoft has seen fit to engage in a game of hide the ball, as opposed to putting their best case forward on the facts and on the merits. This issue has nothing to do with the government trying to design software. It is about trying to preserve competition and innovation—the hallmark of a free market—in an area that is absolutely critical to the future of our economy and I guess you have to pay the world. It is critical to our economy, as well. It is about getting to the bottom of the true facts here so as to understand how best to accomplish this fundamental objective. Frankly, if the facts truly aren't so bad, I would expect Microsoft to be happy to explain them.

One of the issues I have been concerned with since last fall, for example, happens to be the restrictive contracts Microsoft has imposed on various Internet firms seeking placement on the ubiquitous Windows desktop. Rather than admit that they have indeed imposed such terms, and explain to us why we should not find them objectionable, Microsoft has consistently sought to avoid the existence and implications of these contract terms. When pressed on the issue, Microsoft announced on the eve of our March hearing that it would no longer enforce these restrictive covenants or these restrictive contract provisions, instead of explaining why these provisions were legal. But, when the Justice Department filed its suit nearly three months later, we learn not only that these restrictive and exclusionary provisions existed, but that Microsoft in fact continues to enforce them with respect to the biggest Internet firms such as AOL and Compuserve, notwithstanding Microsoft's prior representations to the Committee that these very provisions had been removed from its contracts "on a worldwide basis."

These are just a few examples where Microsoft has been less than one hundred percent candid and forthright. There are others. Committee staff has prepared a brief report outlining some of the areas where I believe Microsoft could and should have been more forthright with the Committee.

As the Committee continues its inquiry, I plan to give Microsoft a fair opportunity to be heard on these issues. But I think they should be heard on the record, rather than through carefully orchestrated, multimillion dollar pr campaigns that are more concerned with blurring the true facts than explaining them. So I hope that, when given the opportunity to be heard on the record, Microsoft chooses to be somewhat more candid with the American people than it has been so far.

I ask unanimous consent that a report prepared by the majority staff of the Senate Judiciary Committee, dated June 26, 1998, be printed in the RECORD.

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

[A Report Prepared by Majority Staff, Senate Judiciary Committee, June 26, 1998]

MICROSOFT STATEMENTS TO THE UNITED STATES SENATE JUDICIARY COMMITTEE

INTRODUCTION

Throughout the course of the Senate Judiciary Committee's ongoing inquiry into competition in the software industry, Microsoft has continually sought to steer the Committee away from important but potentially damaging areas of inquiry. At times, Microsoft has relied on factually misleading or inaccurate statements to accomplish this objective. A sampling of such statements, and a brief assessment of their accuracy, are provided in the following report.

I. EXCLUSIONARY LICENSES WITH INTERNET SERVICE PROVIDERS

At the Committee's November 4, 1997 hearing, Senator Hatch raised concerns about the exclusive nature of Microsoft's licenses with Internet Service Providers (ISPs) that appeared to have the effect of limiting ISP's freedom to promote and distribute competing browsers. Senator Hatch specifically cited a number of provisions in Microsoft's license with Earthlink.

In response, Microsoft Senior Vice President William Neukom wrote Senator Hatch, stating that: "The implication at the hearing that Microsoft's agreement with Earthlink was somehow directed at locking out competing software is plainly refuted by the facts.

". . . the ISP is free at all times to distribute and promote any browser software to any customers not referred by Microsoft."[1]

[1] Footnotes at end of report.

In addition, Microsoft Chairman Bill Gates testified at the Committee's March 3 hearing that Microsoft's ISP agreements "are not exclusive"[2] and reiterated Mr. Neukom's suggestion that those restrictions Microsoft did impose on ISPs only applied to customers referred to the ISP by Microsoft.[3]

When pressed by Committee staff to square these assertions with the plain language of the Earthlink license, Microsoft officials stated that staff was overlooking the fact that the Committee's version of the contract contained redactions. The redactions referred to, however, turned out to be largely irrelevant and Microsoft's assertions cannot be squared with the unredacted language of the contracts.

First, Microsoft's restriction on an ISP's freedom to promote competing browsers plainly is not limited, as Messrs. Neukom and Gates suggested, to customers referred to the ISP by Microsoft. Microsoft's contracts include blanket prohibitions, not limited to customers referred by Microsoft, stating that the ISP "shall not advertise or otherwise promote any non-MS browser more than 10 to 20% of total impressions," and that the ISP "shall not display any logo for, or maintain a link to, a non-MS web browser on [ISPs] home page for the ISP Service, on the Start Page, or on *any [ISP] home page for any other Internet access service offered by [the ISP].*"[4] (Emphasis added). Messrs. Gates and Neukom's assertion that "the ISP is free at all times to . . . promote any browser software to any customers not referred by Microsoft" is simply false.

Second, and more importantly, Microsoft required its ISP licensees, in order to avoid being removed from the Windows ISP referral, to ensure that a high percentage (between 75% and 85%) of total browser shipments were Internet Explorer.[5] Independent of other restrictions in Microsoft's ISP contracts, an ISP which is obliged to guarantee that 85% of the browsers it distributes are Microsoft browsers clearly is not, as Mr. Neukom stated, "free at all times to distribute . . . any browser software to any customers not referred by Microsoft."

In sum, it is inconceivable how licensing provisions that prevents ISPs from promoting competing browsers, and actually require that ISPs ensure that 75–85% of its browser shipments are Microsoft's, are not "exclusive" and directed precisely at "locking out competing software." Indeed, this conclusion is only buttressed by the fact that, as a top strategic priority aimed at "Winning the Internet platform battle," Microsoft executives directed its sales force to sign "[e]xclusive licensing of Internet Explorer to top 5 [Internet] Access providers."[6]

II. WITHDRAWAL OF EXCLUSIVE ISP LICENSING PROVISIONS

When the Committee persisted in questioning how these ISP contract provisions were anything other than exclusionary and

designed to "lock out competing software," Microsoft, instead of providing any plausible, substantive response, stated that it had agreed to remove these provisions from its contracts. On the eve of the Committee's March 3 hearing, Microsoft provided the Committee with a letter stating that the contract provisions at issue had been deleted from its ISP agreements "on a worldwide basis."[7] When questioned on the subject by Senator Hatch at the Match 3 hearing, Mr. Gates states that "we agreed to waive" the ISP contract provisions that had raised concerns.[8] The clear implication of Microsoft's letter to the Committee, and Mr. Gates's testimony, was that Microsoft would no longer prevent firms that provide Internet access from promoting or distributing alternative browsers as a condition of gaining placement on the Windows desktop.

Notwithstanding Mr. Gates's testimony, and Microsoft's assertion to the Committee that it had removed these restrictive contract terms "on a worldwide basis," Microsoft had apparently continued to enforce the most restrictive of its contract terms with the largest Internet access firms, including AOL, CompuServe and Prodigy.[9] In fact, the firms still restricted from distributing and/or promoting non-Microsoft browsers represent over 53% of North American Internet users.[10] Given the fact that more than half of U.S. consumers accessing the Internet are still subject to Microsoft's restrictive and exclusionary contract terms, Microsoft's failure to, at a minimum, qualify or clarify its officially asserted waiver of these provisions can be considered nothing other than a sleight of hand.

III. ABILITY TO SWITCH BROWSERS

In his testimony before the Judiciary Committee, Mr. Gates sought to limit the relevance of any restrictions it might impose on ISPs by suggesting that, regardless of what browser was bundled by an ISP, the ISP's customers "could always go out and switch their browser. There is no product that is easier to switch in the world today than a browser. It takes about five seconds to go up and click and go get the Netscape browser or the Microsoft browser or any other browser that is out there on the Internet."[11]

In reality, it is simply not possible to switch browsers in five seconds. To execute the procedure referred to by Mr. Gates, a user would have to launch Internet Explorer, find that Netscape homepage, find an option for downloading, Netscape Navigator, and execute the download. Using a typical 28.8 K modem, it took the Committee systems administrator over two hours merely to complete the download process. The reality is that all but the most sophisticated Internet users are likely to forego the time and effort necessary to download a browser off the Internet when they can instead use the browser which comes bundled with their Internet service or PC. Thus, Mr. Gates's attempt to minimize the exclusionary impact of its ISP contracts is misleading at best.

IV. EXCLUSIVE LICENSING PROVISIONS WITH CONTENT PROVIDERS

Microsoft has also imposed restrictions on the ability of firms providing Internet content ("content providers" or "ICPs") to promote, distribute, or render payment of non-Microsoft browsers. Here again, Mr. Gates has been less than candid about these resctictions. At the Judiciary Committee's March 3 hearing, for example, Mr. Gates testified: "At far as Internet content providers go, let me be very clear about that. There is nothing that restricts anybody who has content relationships with us from developing sites that exploit any browser out there in the marketplace. Those people are free to do as they choose in terms of developing sites, and they have lot of ways they can promote the other sites that they do."[12]

This statement, however, glossed over the very significant fact that, while Microsoft might not have been able to explicitly prohibit a content provider from developing content that can be retrieved with using non-Microsoft browsers, it did manage to split its leverage over content providers, to get them to agree, as a condition for obtaining placement on the Windows desktop, to various restrictions designated at "locking out" competing browser platforms. For example, the Justice Department learned that, contrary to Mr. Gates's testimony, Mirosoft's contracts with the largest and most popular ICPs in fact do require those ICPs to promote their Microsoft channel exclusively, and do restrict the ICPs' abilities to deal with "Other Browsers." As the Justice Department's brief explains:

ICPs are not allowed to compensate in any manner a producer of an "Other Browser"—including by distributing its browser—for the distribution, marketing, or promotion of the ICP's content, effectively precluding payment for a channel on Netscape's competing Netcaster product;

Even if an "Other Browser" (namely Netscape) distributes—without compensation—an ICP's content through Netcaster, the ICP is still prohibited by its Microsoft contract from promoting or advertising the existence of its Netcaster channel and from licensing its logos to Netscape in order for Netscape to promote and highlight the existence of that content for Netcaster;

ICPs are not allowed to promote any "Other Browser" products;

Microsoft restricts the distribution of "Other Browsers" by requiring that the ICP "distribute Internet Explorer and no Other Browser as an integral part" of an ICP Channel Client for the Win32, Win16 or Macintosh platforms; and

ICPs must create channel content exclusively viewable with Internet Explorer, and optimize many of their websites to take advantage of Internet Explorer—specific extensions to web standards (such as HTML) and Windows-specific technology (such as Active X).[13]

Thus, Mr. Gates's testimony that Microsoft does not restrict content providers' ability to develop for, or promote, competing browsers, is flatly contradicted by the evidence unearthed by the Justice Department. Moreover, when pressed on this issue at the Committee's March 3 hearing, Mr. Gates went to great lengths to avoid conceding that Microsoft imposed such restrictions, even when posed with direct questions and asked to give a "yes-no" answer. For example, when Senator Hatch repeatedly questioned whether Microsoft prevented any of its content partners from advertising or promoting Netscape, Mr. Gates persisted in giving non-responsive answers and avoiding the simple "yes" or "no" answer that was requested. Only after Senator Hatch, visibly frustrated, repeated the question for a fifth time, did Mr. Gates finally concede albeit in a grossly incomplete fashion, that Microsoft did in fact impose restrictions on Internet Content Providers. The colloquy was as follows:

Q: Mr. Gates, you have been somewhat hard to nail down on a very specific question, and I would appreciate just a yes or no, if you can. Do you put any limitation on content providers that limit them . . . for advertising or promoting Netscape? Yes or no, if you can.

A: Every Internet content provider that has a business relationship with Microsoft is free to develop content that uses competitors' platforms and standards.

Q: But my question is do you put any limitations on content providers that limit them . . . for doing any advertising or promoting of Netscape?

A: Well, understand, there are more people in the Netscape channel guide than there are on the Microsoft channel guide.

Q: How about Microsoft: Do they put limitations or restrictions on people from advertising and promoting Netscape?

A: I am not aware of any limitation that prevents them from doing content that promotes Netscape.

Q: Do you use your exclusive arrangement with the companies—do you use that as leverage to stop them from advertising or promoting Netscape?

A: I don't—we don't—. . .

Q: Does Microsoft then limit—place any limit on any content providers that limits them . . . for advertising or promoting Netscape or any other competitor?

A: I said earlier that on the pages that you link to through the channel guide—that on those pages you don't promote the competitive product, but that is a unique URL. You are free to promote their content in quite a variety of ways, but not off the specific page that we link to.[14]

Mr. Gates's steadfast refusal to answer Senator Hatch's question prevented the Members of the Committee from discovering what would be revealed in the Justice Department suit nearly three months later—a broad range of exclusionary restrictions that Microsoft imposes on content providers. Indeed, contrary to Mr. Gates's testimony, it appears that Microsoft does, in fact, restrict content providers from promoting content developed for competing browsers, and from promoting or distributing other browsers. These practices all are, to use Mr. Neukom's own words, clearly designed at "locking out competing [browser] software."

V. STRATEGIC MOTIVATION BEHIND "INTEGRATION" OF WINDOWS AND INTERNET EXPLORER

An issue central to understanding the "browser wars" and the nature of competition in the software industry generally is whether Microsoft's decision to link its browser to Windows was a response to consumer demand and preferences, or an effort to lock competing browsers out of the market. A December 20, 1996 e-mail by Microsoft Senior Vice President Jim Allchin appears to shed light on this question. It reads as follows: "Ensuring that we leverage Windows. I don't understand how IE is going to win. The current path is simply to copy everything that Netscape does packaging and product wise . . . My conclusion is that we must leverage Windows more, Treating IE as just an add-on to Windows . . . [is] losing our biggest advantage—Windows market share . . . We should first think about an integrated solution. That is our strength?"[15]

In follow-up questions to the Committee's March 3 hearing, Senator Hatch inquired whether Mr. Allchin was "urging that Internet Explorer be integrated into Windows as a strategic marketing measure intended to compete with Netscape Navigator by ensuring that all Windows users would automatically receive Internet Explorer as well." In his written response, Mr. Gates claimed that this interpretation was inaccurate, stating

that "Mr. Allchin's e-mail had nothing to do with the distribution of Internet Explorer. . . ."[16]

Mr. Gates's assertion is puzzling at best. Mr. Allchin's questioning "how IE is going to win" and criticism of Microsoft's current plan "simply to copy everything that Netscape does packaging and product wise" certainly appears to be concerned with nothing other than "the distribution of Internet Explorer." Indeed, Mr. Allchin's view that Microsoft should tie Internet Explorer to Windows in order to gain an advantage over Netscape is abundantly clear in an e-mail he wrote only two weeks after the above-quoted e-mail. In this second e-mail, Allchin wrote: "You see browser share as job 1 . . . I do not feel we are going to win on our current path. *We are not leveraging Windows from a marketing perspective. . . . We do not use our strength—which is that we have an installed base of Windows and we have a strong OEM shipment channel for Windows.* Pitting browser against browser is hard since Netscape has 80% marketshare and we have 20% . . . *I am convinced we have to use Windows—this is the one thing they don't have. . . .*" (emphasis added)[17]

Indeed, Allchin's view was echoed by other Microsoft employees.

Christian Wildfeuer, for example wrote as follows: "It seems clear that it will be very hard to increase browser market share on the merits of IE 4 alone. It will be more important to leverage the OS asset to make people use IE instead of Navigator."[18]

It is, in short, difficult to accept Mr. Gates' summary assertion that "Mr. Allchin's e-mail had nothing to do with the distribution of Internet Explorer."

VI. THE WINDOWS MONOPOLY

Notwithstanding the fact that Microsoft has a 90% plus market share in the market for personal computer operating systems, Mr. Gates denies that Microsoft enjoys a monopoly in this market. In an effort to support his position, Mr. Gates has repeatedly made reference to the fact that prices in the computer industry have been falling. For example, in his oral testimony before the Judiciary Committee, Mr. Gates stated that: "Another sign of a healthy, competitive industry is lower prices. The statistics show that the cost of computing has decreased ten-millionfold since 1971."

(Mr. Gates repeated this statistic in a recent Economist piece, where he also stated that the price of Windows has remained "relatively stable.")[20] And, in his written testimony, Mr. Gates proudly declared that "Prices for personal computers continue to fall, even as PC's become more powerful and offer greater features than ever before . . . Microsoft has been an active participant in providing the incredible price/performance gains that distinguished the computer industry."[21]

What Mr. Gates fails to mention, however, is that the price of Windows has steadily increased since its introduction to the marketplace. According to one news report, the price Microsoft charges OEMs for a PC operating system has risen from $12–$15 per copy of DOS, to $35 for Windows 3.x, to approximately $60–$70 for Windows 95.[22] Four OEMs have reported that Microsoft will further raise the price of Windows 98[23] and it is expected that Windows NT 5.0 (which eventually will replace Windows) will cost OEMs approximately $130 per copy.[24] Thus, while the cost of computing has "decreased ten-millionfold," the price of a Microsoft operating system has increased roughly tenfold—from $12 to $130. This market departure from an overwhelming industry trend of decreasing prices is a classic sign of monopoly power.

While it is, of course, true that new features and functionality have been added to Microsoft's operating systems over this period, the same clearly can be said of other computing components and computing generally. Whereas a single transistor cost $5–$6 in 1959, today $6 will buy a 16 megabit DRAM chip with sixteen million transistors.[25] And, while Intel's first Pentium chip, with 3.1 million transistors and a speed of 60 megahertz, sold for $878 in 1993, the Pentium II, with 7.5 million transistors and a speed of 233 megahertz, now sells for $268.[26]

Thus, Mr. Gates's use of the fact that the price of computing has fallen dramatically to imply that Microsoft operating systems are priced competitively is quite misleading. In fact, Microsoft's monopoly power in the operating system market has enabled it not just to raise operating system prices while the price of other computing components has dropped precipitously, but in fact has allowed Microsoft to reap huge monopoly profits. According to the Wall Street Journal, for example, Microsoft earns a staggering 92% gross and 50% operating margin in its Windows business.[27]

VII. COMPETITION AND CHOICE IN THE PC OPERATING SYSTEM MARKET

In another effort to rebut the seemingly self-evident proposition that Microsoft's 90%-plus market share for PC operating systems amounts to a monopoly, Mr. Gates also stated to the Committee that, "if Microsoft attempted to raise its prices beyond competitive levels, powerful operating system competitors like IBM, Sun Microsystems, Novell, Apple or a new entrant to the business could satisfy consumer demand instantly."[28]

This sweeping statement is plainly at odds with the economic reality, attested to by OEMs, that, given Microsoft's monopoly and the fact that such a vast majority of desktop applications are written for Windows,[29] computer manufacturers clearly do not have the choice of turning to an operating system other than Windows. Indeed, numerous representatives from computer manufacturers have testified that they simply have no choice but to ship computers with Windows, and that there is no other operating system which a computer manufacturer could or would use as a substitute to Windows.

Packard Bell executive Mal Ransom testified that there were no "commercially feasible alternative operating systems" to Windows 98.

Micron executive Eric Browning asserts: "I am not aware of any other non-Microsoft operating system product to which Micron could or would turn as a substitute for Windows 95 at this time."

Hewlett Packard executive John Romano testified that HP had "absolutely no choice" except to install Windows on its PCs.

Gateway executive James Von Holle testified that Gateway had to install Windows because "We don't have a choice."

Mr. Von Holle has testified that if there were competition to Windows, he believed such competition "would drive prices lower" and promote innovations.[30]

FOOTNOTES

[1] November 12, 1997 Letter to Chairman Hatch from William H. Neukom, Microsoft Senior Vice President, Law and Corporate Affairs. (Appendix A)

[2] Senate Judiciary Committee Transcript of Proceedings, "Market Power and Structural Change in the Software Industry," March 3, 1998, p. 78. (Appendix B)

[3] Senate Judiciary Committee Transcript of Proceedings, "Market Power and Structural Change in the Software Industry," March 3, 1998, p. 62. (Appendix C)

[4] Provision 7 of Earthlink License Agreement, see February 18, 1998 Letter to Manus Cooney, Chief Counsel and Staff Director, Senate Judiciary Committee, from Marc Berejka, Federal Regulatory Affairs Manager, Corporate Attorney, p. 3. (Appendix D)

[5] *U.S.* v. *Microsoft Corporation*, Memorandum of the United States In Support of Motion for Preliminary Injunction, May 18, 1998, at 30. (Appendix E)

[6] Brad Chase Memo, "Winning the Internet Platform Battle," April 4, 1996, p. 1. (Appendix F)

[7] February 28, 1998 Letter to Manus Cooney, Chief Counsel and Staff Director, Senate Committee on the Judiciary, from Jack Krumholtz, Director Federal Government Affairs, Senior Corporate Attorney. (Appendix G)

[8] Senate Judiciary Transcript of Proceedings, p. 62. (Appendix C)

[9] *U.S.* v. *Microsoft Corporation*, Memorandum of the United States In Support of Motion for Preliminary Injunction, May 18, 1998, at 31 and note 25. (Appendix H)

[10] Id., note 25. (Appendix H)

[11] Senate Judiciary Committee Transcript of Proceedings, p. 62 (Appendix C)

[12] Senate Judiciary Transcript of Proceedings, p. 62–63. (Appendix C)

[13] *U.S.* v. *Microsoft Corporation*, Memorandum of the United States In Support of Motion for Preliminary Injunction, May 18, 1998, at 35–36. (Appendix I)

[14] Senate Judiciary Transcript of Proceedings, p. 176–179. (Appendix J)

[15] Response of Bill Gates to Supplemental Questions from Senator Hatch, p. 15. (Appendix K)

[16] Response of Bill Gates to Supplemental Questions from Senator Hatch, p. 16. (Appendix K)

[17] U.S. v. Microsoft Corporation, Complaint, May 18, 1998, at 8. (Appendix L)

[18] *U.S.V. Microsoft Corporation*, Memorandum, at 25. (Appendix M)

[19] Senate Judiciary Committee Transcript of Proceedings, p. 19. (Appendix C)

[20] The Economist, http://www.economist.com/editorial/freeforall/current/sfl0077.html. (Appendix N)

[21] Statement of Bill Gates before the Senate Judiciary Committee, p. 2–3. (Appendix O)

[22] ZDNet, "OS Pricing: The Crux of the Matter," February 2, 1998. (Appendix P)

[23] Business Week, "Just How Much Does Windows 98 Cost?," June 15, 1998, p. 50. (Appendix Q)

[24] ZDNet, February 2, 1998. (Appendix P)

[25] Wall Street Journal, "Microsoft's Windows Bucks the Pricing Trend," March 23, 1998. (Appendix R)

[25] Wall Street Journal, "Microsoft's Windows Bucks the Pricing Trend," March 23, 1998. (Appendix R)

[27] Ibid. (Appendix R)

[28] Response of Bill Gates to Supplemental Questions from Senator Hatch, p. 11. (Appendix S)

[29] *U.S. v. Microsoft Corporation*, Memorandum, at 17, and note 10. (Appendix T)

[30] *U.S. v. Microsoft Corporation*, Memorandum, at 2–3. (Appendix U)

Mr. HATCH. I suggest people who are interested in this issue not only listen to what I have to say here today but that they read this. I think they will find that this is a group that basically disassembles on many issues. Frankly, I don't think they need to disassemble. All they have to do is come in and tell their case forthright and in a fair and reasonable manner and do it on the merits. If you read this, I think you will realize this is a much more serious set of problems than some in the media make it, especially some of those who seem to think there should never be an enforcement of the antitrust laws.

You don't get people from the left to the right, or right to the left—from Bork to you-name-it on the left—saying that there are things that are

wrong here, that there is an exploitation of the monopoly power of 90 percent of the operating system and the desktop operating systems throughout the world to crush competition and to do a number of other things that basically are violative of our laws, without their being some heat to some of the arguments that they are making.

I have to say, our committee hearings have shown that there are some things that are wrong here. It is a matter of getting people in the software industry to have the guts to come forward and tell their stories. For instance, the OEM, the original equipment manufacturers, are terrified because they depend totally on Microsoft's underlying operating system to run their machines. All Microsoft has to do is to delay the delivery of that underlying operating system or anything else they do to the OEMs by 1 week and they could be multimillions of dollars in the hole as others get an unfair advantage. We have had people come in and tell us, who are afraid to testify for fear they would lose their business, that they have been warned they better not cooperate with the committee or they better not tell the story.

This happens in a wide variety of things according to people who have come to us. Now I think they have to have the guts to get in front of the committee and tell their stories and let the chips fall where they may. If they are true, if what they have been alleging to us and to the Justice Department is true, then we ought to find out about it and Microsoft ought to have some answers for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

NOMINATION OF VICTORIA ROBERTS

Mr. LEVIN. Mr. President, in a few moments we will be voting on two judges for the Federal court. The second of those judges is Victoria Roberts, a woman who I recommended for nomination to the President of the United States. She is exceedingly well qualified by temperament, by experience, to be a district court judge. She is only the second person in our history in Michigan who has been elected both president of the State bar of Michigan and the Wolverine Bar Association.

I just thank Senator HATCH, the members of the Judiciary Committee, Senator ABRAHAM, for their support of Victoria Roberts. I am delighted that her name has been recommended to the Senate and that we will be voting upon her confirmation in a few minutes.

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

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

Mr. THOMAS. I ask that I may speak for 3 minutes as in morning business.

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

A BIENNIAL BUDGET

Mr. THOMAS. Mr. President, I would like to just mention again, as we enter into the real depth of appropriations, one of the things that we have talked about a great deal that I feel very strongly about, and I think we ought to think about as we do that, is a biennial budget.

Each year in this institution we spend about half or more of our time dealing with appropriations, which leaves us very little time to do the other things that are very necessary—particularly oversight. Almost all legislative bodies in this country have biennial budgets, which gives an opportunity, first of all, for the agencies to have two years with which to know what their spending will be. Secondly, it allows the institution to have time to oversee the spending that is authorized.

Rather than take more time to talk about it, I just raise the question again and urge the leadership to give some consideration to a biennial budget, where we would make a budget for two years and then have a chance for oversight, have a chance for the agencies to know what they are doing longer, and have a chance to do some of the other business that properly comes before this body.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF A. HOWARD MATZ, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the consideration of executive calendar No. 574, which the clerk will report.

The legislative clerk read the nomination of A. Howard Matz, to be U.S. District Judge for the Central District of California.

Mrs. BOXER. Mr. President, I am very pleased that the Senate is considering today the nomination of A. Howard Matz to be U.S. District Judge for the Central District of California.

With all the support Mr. Matz has from both Democrats and Republicans, I know the Senate will agree he is eminently qualified to sit on the U.S. District Court for the Central District in California.

I first recommended Mr. Matz for this seat on the federal bench on July 23, 1997, and said then that Howard Matz is an exceptional attorney and person. His experience, intelligence, and integrity make him extremely well-qualified for the Federal bench.

Howard Matz is currently a partner in private practice. He represents largely business clients in civil and white-collar crime matters. His clients have included IBM, Walt Disney Co., the cities of Anaheim and Riverside, Yale University and numerous individuals, partnerships, lawyers, and law firms. I would like to note here that I am not related to Joel Boxer, a partner in Howard's firm.

Mr. Matz received his undergraduate degree from Columbia University and his law degree from Harvard University. In addition to working in various law firms, early in his career he clerked for U.S. District Court Judge Morris Lasker. As an Assistant U.S. Attorney in the Criminal Division, in charge of the Los Angeles Fraud and Special Prosecutions team, he has always believed the punishment should fit the crime. Mr. Matz is highly regarded in the legal community, having written many articles on legal topics and having served as a speaker and panelist on legal matters numerous times. He has received many awards and other distinctions from representatives of the Securities and Exchange Commission, the Federal Bureau of Investigation, the Department of Health and Human Services, and the Internal Revenue Service for cases he handled as a prosecutor.

Complementing his exceptional legal career, Matz also engages regularly in pro bono work and is very active in his community. He is on the board of directors of Bet Tzedek, having once served as the President of this highly respected provider of legal services for the poor. He has also served on the board of the Los Angeles Legal Aid Society. He is a member of the Board of Overseers for the Los Angeles campus of the Hebrew Union College-Jewish Institute of Religion and is one of the founding sponsors of the Skirball Cultural Center and Museum.

Howard Matz has received numerous letters in support of his nomination.

Judge Lourdes G. Baird, was appointed to the U.S. District Court in the Central District of California by President Bush. Howard Matz was Judge Baird's mentor at the United States Attorney's office when they served as Assistant U.S. Attorney together. Judge Baird wrote "For over 20 years I have known Howard Matz well, both professionally and socially, and

strongly believe that he would be an outstanding federal judge if given the opportunity. . . . I am certain that one could find very few candidates who could fulfill the demands of this position as well as Howard."

Sheriff Sherman Block of the County of Los Angeles wrote in a letter to Chairman HATCH "Matz is an extremely hard working individual of impeccable character and integrity. His list of credits, both professionally and within the community, is extensive. I would like to recommend that you favorably consider this appointment. I have no doubt that he would be a distinguished addition to the United States District Court."

Gil Garcetti, the Los Angeles County District Attorney, has known Howard Matz for almost 15 years. Gil Garcetti turns down most requests of support from those seeking appointments, but for Mr. Matz, he felt the need to express his strong support. Garcetti wrote to Chairman HATCH "His unusually diverse background—representing clients in civil and criminal litigation, in state court and federal court, as plaintiffs and defendants—has given him a view of the judicial process which would compel him to exercise his responsibilities as a federal judge with restraint. . . . I am confident Howard possesses no other agenda than to preside fairly and to rule with due regard for the importance of precedent."

George O'Connell, former U.S. Attorney for the Eastern District of California under President Bush, and former Assistant U.S. Attorney in both Los Angeles and Sacramento, wrote "I can only underscore the I think Mr. Matz would make a superb United States District Judge. . . . I do not think that he would engage in inappropriate judicial activism. Rather, I believe he would make the most sincere efforts to achieve justice within the existing framework of the law."

Robert Bonner, former U.S. Attorney (Appointed by President Reagan), former U.S. District Court Judge in the Central District of California, former head of the Drug Enforcement Administration (Appointed by President Bush), has known Matz for nearly 25 years, and served side-by-side as Assistant U.S. Attorney in the Criminal Division of the U.S. Attorney's office in the Central District of California. Bonner wrote in a letter to Chairman HATCH that he believes "Howard Matz possesses those attributes of character, knowledge and intellect that convince me that he will be an outstanding federal district judge. On a personal note, and on an issue of concern to both of us, not only do I know Howard well, but I believe that, if appointed, he will not be an activist jurist."

Harold Blatt, the head of Bryan Cave LLP, sent Senator ASHCROFT two detailed support letters from California partners of his distinguished firm, who know Mr. Matz very well.

Ronald Olson, a former Iowan and former chair of the American Bar Association Federal Judiciary Committee, writes to Senator GRASSLEY that he has known Howard for most of his professional life. Olson wrote "Howard is a lawyer who understands the limitations of the law as well as its possibilities, and I can assure you that he will serve as a judicial officer in a way that respects the limited powers of the Court and the fundamental roles of the legislative and executive branches."

John Fishel, Executive Vice President of the Jewish Federation, wrote "Mr. Matz would make an outstanding federal judge and hope that his nomination will receive serious consideration."

I would like to submit these recommendation letters in full for the Record.

I strongly believe Howard Matz will make an outstanding addition to the federal bench. I believe his intelligence, judicial temperament, broad experience, professional and community service, and deep commitment to justice qualify him to serve on the federal bench with great distinction. I am very proud to have had the opportunity to recommend him to the President, and hope the Senate will confirm him today.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I will say one thing. With the approval of these two judges, this Republican Congress will have confirmed, during the full tenure of President Clinton, 272 Federal judges, following the confirmation of these two judges.

Mr. President, I ask unanimous consent that we have two separate back-to-back votes of 15 minutes each on the two nominations we're considering this morning.

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

Mr. HATCH. Mr. President, I ask for the yeas and nays on both of the nominations.

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, Will the Senate advise and consent to the nomination of A. Howard Matz, to be U.S. District Judge for the Central District of California.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), the Senator from Iowa (Mr. HARKIN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN), is absent due to family illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. WYDEN) and the Senator from Minnesota (Mr. WELLSTONE) would each vote "aye."

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

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 182 Ex.]

YEAS—85

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

NOT VOTING—15

Akaka	Hutchinson	Roth
Baucus	Inhofe	Specter
Bennett	Kyl	Stevens
Glenn	McCain	Wellstone
Harkin	Rockefeller	Wyden

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider will be laid upon the table. The President will be immediately notified of the Senate's action.

Mr. LOTT addressed the chair.

The PRESIDING OFFICER. The majority leader.

SCHEDULE

Mr. LOTT. Mr. President I would like to take leader time just to go over the

schedule briefly because I know Senators are interested in the balance of the day and when we return.

This second vote will be the last vote of the week. We did get a good deal accomplished yesterday and I thank Senators for their cooperation on the Department of Defense authorization bill, the military construction appropriations bill and nominations.

The Senate will recess this afternoon until 12 noon on Monday, July 6, for the Independence Day recess. When we reconvene on Monday, it will be my intention to turn to the Department of Defense appropriations bill. Any votes to occur with respect to that appropriations bill will be stacked to occur on Tuesday, July 7. It is my understanding the managers may have as many as 20 amendments to consider on Monday, and expect to debate those amendments and have votes, then, on Tuesday.

Before the Senate adjourns, I will ask consent that we turn to the product liability bill. If that request is objected to, then I will move to proceed to that matter and file cloture. That cloture vote will occur, then, on Tuesday, July 7, at 9:30, if it is necessary to file cloture. We will then be asked to consider the IRS reform conference report Tuesday evening, and I do mean Tuesday night, so that we can get work done on appropriations bills, product liability, and the IRS reform.

There will be no vote occurring, then, on Monday, July 6. There are a lot of conflicts, Senators trying to get back and I am trying to be cooperative on that. But I do want to announce again, as I did earlier today: Expect votes on Mondays and Fridays and expect 12-hour days Tuesdays, Wednesdays and Thursdays throughout July. We have to do at least 8 appropriations bills during July.

If we get our work done, we won't have to have votes at 9 or 10 o'clock. But it would be my intention, if we don't get cooperation, that I would schedule votes at 9 or 10 o'clock every Tuesday, Wednesday and Thursday, because we have to get it done. I hope Senators will stop introducing 100 amendments to every bill. It is ridiculous. If you have three or four important amendments on each side, and I am talking to both sides, fine. But if we call up DOD and there are 150 amendments offered, it just tells you something about the Senate. So we are going to get our work done in July if we have to go way into the night every night.

Members should be prepared, then, to work on the appropriations bills and the conference reports. We have a time agreement on higher education. We will work to take up bankruptcy, drug czar reauthorization, Internet gambling, pornography and filtering. I thank all Senators for their cooperation.

I thank Senator GORDON SMITH for what he has done to the dress code in the Senate. I think the Senate is looking brighter, lighter, and it is good for our image and, I think, for the country.

I yield the floor.

NOMINATION OF VICTORIA A. ROBERTS, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

The PRESIDING OFFICER. Under the previous order, the Senate will now consider the nomination of Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The legislative clerk read the nomination of Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Mr. ABRAHAM. Mr. President, it is my pleasure to offer a few brief remarks on behalf of Ms. Victoria Ann Roberts, who will soon be confirmed by this body to be a United States District Judge for the Eastern District of Michigan.

Ms. Roberts has built an impressive professional resume, as managing partner for a Detroit's Goodman, Eden, Millender and Bedrosian, as an Assistant United States Attorney, and as the president of the State Bar of Michigan.

Ms. Roberts has also taken a long and active interest in several community organizations that have greatly benefitted Metropolitan Detroit. She served on the board of directors of the Fair Housing Association of Detroit from 1985–91 and was its chair from 1986 to 1989. In addition, she has worked with Big Brothers, Big Sisters of Michigan since 1987, serving as Secretary, Vice President, and member of the Board of Directors and Advisory Board.

I think all of this points to an individual who brings a well-rounded and very successful set of legal credentials to the Federal Bench, and to a person who has consistently given to her community and her state as a volunteer in a variety of very important ways.

Mr. President, I am pleased to congratulate Ms. Victoria Roberts on this confirmation, and I look forward to following her career as a judge on the federal bench.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Victoria A. Roberts of Michigan, to be United States District Judge for the Eastern District of Michigan.

On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), the Senator from Iowa (Mr. HARKIN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN) is absent due to family illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. WYDEN) and the Senator from Minnesota (Mr. WELLSTONE) would each vote "aye."

The result was announced, yeas 85, nays 0, as follows:

[Rollcall Vote No. 183 Ex.]

YEAS—85

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

NOT VOTING—15

Akaka	Hutchinson	Roth
Baucus	Inhofe	Specter
Bennett	Kyl	Stevens
Glenn	McCain	Wellstone
Harkin	Rockefeller	Wyden

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table. The President will be immediately notified of the Senate's action.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I began this year challenging the Senate to maintain the pace it set in the last weeks of the last session in which it

confirmed 27 judicial nominees in 9 weeks. Instead, the Senate has confirmed only 31 nominees so far this year—instead of the 54 it should have if it had maintained last year's pace.

I reissue my challenge for the remaining 10 weeks of this session: The Republican Senate can confirm another 30 nominees by the end of the session if it will just work at the pace it achieved in connection with the President's radio address last year.

I thank the Majority Leader for calling up the nominations of Howard Matz and Victoria Roberts. With their confirmations, and I do believe that they should and will be confirmed, the Senate will have acted on only 33 federal judges at a time in which the federal judiciary has experienced 103 vacancies, many of longstanding duration. Indeed, Ms. Roberts would fill a judiciary emergency vacancy. We will have 45 judicial nominations still pending before the Senate or the Judiciary Committee, some which were first received over three years ago.

There are currently nine other qualified nominees on the Senate calendar having been reported favorably by the Judiciary Committee. I deeply regret that the entire Senate Executive Calendar is not being cleared and the Senate is not being given the opportunity to vote on all 11 nominees awaiting Senate action.

The nomination held up the longest is that of Judge Sonia Sotomayor to fill a critical vacancy on the Second Circuit, a Circuit whose Chief Judge has declared an emergency situation, canceled hearings and taken the extraordinary step of proceeding with 3-judge panels including only one Second Circuit judge. Chief Judge Winter recently issued his annual report in which he notes that the Circuit now has the greatest backlog it has ever had, due to the multiple vacancies that have plagued that court.

In addition, there are 36 nominees pending before the Committee and more nominees being received from the President every week. I hope that the Committee will schedule prompt hearings for each of the judicial nominees currently pending in Committee and the nominees we expect to be receiving over the next several weeks so that they may have an opportunity to be considered by the Committee and confirmed by the Senate. At the rate of six nominees a hearing, the Committee needs to schedule at least six more hearings this summer for currently pending nominees.

The Senate continues to tolerate more than 70 vacancies in the federal courts with another 11 on the horizon—almost one in 10 judgeships remains unfilled, and, from the looks of things, will remain unfilled into the future unless the Judiciary Committee does a better job and the Senate proceeds promptly to consider nominees reported to it.

We have held only seven judicial nomination confirmation hearings all year. I recall in 1994—the most recent year in which the Democrats constituted the majority—when the Judiciary Committee held 25 judicial confirmation hearings, including hearings to confirm a Supreme Court Justice.

Nine currently pending nominees for the Courts of Appeals need their hearings and need them promptly if they are to be considered and confirmed this year, only three of those were received in the last 60 days. We have 25 currently pending nominees to the District Courts and only four of those were received in the last 30 days.

Unlike earlier days in the Senate when nominees were not made to wait for weeks and months on the Senate calendar before they could be considered, that is now becoming the rule. Margaret Morrow spent 244 days on the calendar. Patrick McCuskey and Michael McCuskey each spent 144 days on the calendar. The average time on the calendar has gone from a day or two to over 44 days.

I calculate that the average number of days for those few lucky nominees who are finally confirmed is continuing to escalate. In 1994 and 1995 judicial nominees took on average 86 or 87 days from nomination to confirmation. In 1996, that number rose to a record 183 days on average. Some would discount that number because it was a presidential election year, but even they cannot ignore that it shattered the previous record. Last year, the average number of days from nomination to confirmation rose dramatically yet again, and this is the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200 day barrier for the first time in our history. It was 212 days. Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. As we begin the day the average time from nomination to confirmation is over 250 days. That is three times the time it took before this slowdown began in earnest.

During the entire four years of the Bush Administration there were only three judicial nominations that were pending before the Senate for as long as 9 months before being confirmed and none took as long as a year. In 1997 alone there were 10 judicial nominations that took more than 9 months before a final favorable vote and 9 of those 10 extended over a year to a year and one-half. Of the judges confirmed so far this year, Hilda Tagle's confirmation took 32 months, Susan Oki Mollway's confirmation took 30 months, Ann Aiken's confirmation took 26 months, Margaret McKeown's confirmation took 24 months, Margaret Morrow's confirmation took 21 months, and Victoria Roberts will have taken 11 months. An additional nine confirmations this year took more than 200 days.

Last year the President sent us 79 judicial nominations but the Senate completed action on fewer than half of them. The percentage of judicial nominees confirmed over the course of last year was lower than for any Congress over the last three decades and, possibly, at any time in our history.

Left pending were 42 judicial nominees, including 11 who were first nominated in 1995 and 1996, and 21 to fill judicial emergencies. Still pending before the Senate are four nominees first nominated in 1995 and two more first nominated in 1996. There are still eight nominations pending from 1997.

Unfortunately, over the last three years, the Senate has barely matched the one-year total of judges confirmed in 1994 when we were on course to end the vacancy gap. We have not yet made up for attrition over the last two years. I observed at our last nominations hearing that we are not even keeping up with Mark McGwire, the St. Louis Cardinal slugger. In the three months of the baseball season leading up to the All Star game, he has hit 35 home runs. The Senate has had two additional months and confirmed only 33 judges.

I recall in 1992, the last year of President Bush's Administration, the Senate, with a Democratic majority in a presidential election year confirmed 63 judicial nominations. Since obtaining their majority in the 1994 election, the current Republican majority has not achieved that number of confirmation in any year. Indeed in the presidential election year of 1996, the Senate confirmed only 17 judges and none for the courts of appeals.

The Chief Justice of the United States Supreme Court has called the number of judicial vacancies "the most immediate problem we face in the federal judiciary." I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and to work with us to have the Judiciary Committee and the Senate fulfill this constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

The numerous, longstanding vacancies in some courts are harming the federal administration of justice. The people in these districts and circuits need additional federal judges. Indeed the Judicial Conference of the United States recommends that in addition to filling the current vacancies, the Congress should authorize 53 additional judgeships throughout the country, as set forth in S. 678, the Federal Judgeship Act that I introduced in May 1997.

That indicates that the work demands of the federal judiciary justify 133 additional judges. There is a clamor for us to fill these vacancies and there is harm by the Senate's delay and failure to do so.

The Chief Justice of the United States Supreme Court pointedly declared in his 1997 Year End Report: "Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary." We have had hearings canceled by both the Second Circuit and the Ninth Circuit due to judicial vacancies. Must we wait for the administration of justice to fail before the Senate will act on the other 45 judicial nominees pending before us? I hope not.

In his most recent report on the judiciary the Chief Justice of the United States Supreme Court observed: "Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994." He went on to note: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down."

I hope that the Judiciary Committee and the Senate will proceed to consider and confirm judicial nominees more promptly and without the months of delay that now accompany so many nominations. I hope the Committee will not delay in scheduling the additional hearings we need to hold to consider the fine men and women whom the President has nominated to fill these important positions.

Mr. President, Howard Matz, I am glad to see, was confirmed. He was nominated last October, reported by the committee on April 2.

I thank the majority leader for bringing this up and getting it concluded. Senator BOXER of California showed enormous perseverance and determination in moving this forward. I commend her and her choice. I note that he was confirmed by unanimous vote, 85–0.

Victoria Roberts' nomination has been on the calendar 1 month, pending 11 months. Senator LEVIN has been very strongly supportive of her, and I believe that also was a unanimous confirmation. I commend the Senators involved, and I commend the majority leader.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate returns to legislative session.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from West Virginia.

CHESTER TRENT LOTT III

Mr. BYRD. Mr. President, Romulus was the legendary first King of Rome. It was said that he went up to Heaven during a storm. Others have drawn the conclusion that it was during an eclipse of the Sun. In any case, it was a historic event.

When Joshua had his men march around the walls of Jericho, they blew their trumpets at a given signal and the walls came tumbling down. We are told in the Scriptures that it was a long day, a long day, a significant event, perhaps a scientific event, one about which there has been some debate.

I have been informed of a truly significant recent event. I wouldn't say that it is Earth shaking, but who knows? It could eventually be looked back upon as an earthshaking event.

Now, what is this all about? The Senator from Maryland, Mr. SARBANES, is watching and listening with great interest, and so are others. This event, I want to say in the RECORD and for all those who are watching through that electronic eye, this event was about the coming of Chester Trent Lott III, the first grandchild of our distinguished majority leader, and the baby came with the angels on last Saturday evening.

He weighed 7 pounds and 7 ounces—so, you see, those are mystic numbers, 7/7—7 pounds, 7 ounces. He was 19.5 inches in length. Now, these weights and measures are important. They were even important to the barons who forced King John on the meadow at Runnymede on June 15, 1215, to sign the great charter, the Magna Carta, which required that there be a system of weights and measures in the Kingdom. And our illustrious forebears who wrote the Constitution of the United States said that Congress would have the power to fix the standard of weights and measures.

So here to live by that system of weights and measures is a new man, a nova Homo sapiens named Chester Trent Lott III. That is a matter of great significance in the life of our leader.

I congratulate Senator LOTT on this most felicitous happening, this most felicitous occasion. Mr. President, there is nothing, may I say to the distinguished Senator from Massachusetts, Mr. KENNEDY, so wonderful as cradling in your arms—oh, many times I have done it—cradling in your arms a swaddled baby. It awakens in one such an amazing range of emotions. There is nothing like it. It is an experience sui generis—one of a kind. Upon the birth of one's own child, the tremendous joy and relief felt in meeting for the first time this tiny, new person is tempered by a measure of fear. You gaze down at this fragile baby and realize what an awesome responsibility you have assumed. Your baby is small, maybe 7 pounds 7 ounces—and there are smaller babies. They are all small and so fragile, so helpless, and so dependent upon you for their survival. His skin is as soft as a butterfly's wing, his fingernails as translucent as scraps of rice paper; yet those minute, perfect little fingers grasp yours with such fierce determination! I can feel those little fingers closing around my fingers with such fierce determination—although that experience of having my own daughters do that is now 60 years gone. But the memory is fresh in my mind.

But to become a grandfather—now, that is a higher plateau. Mr. Leader, you are walking a higher plateau of immortality. It is not your first taste of mortality—that came with your son or daughter—but now a more inspiring, promising taste of immortality. To become a grandfather is a completely different experience. There is none of that fear, but all of the joy. That joy is heightened by a deep conviction—a deep conviction that "this is in my image" and in its grandmother's image, too. But it has my genes, it has my chromosomes, it is part of me. I can see it going on into the future and carrying on through life. ROBERT BYRD will never die, I would say. I can say that in more ways than one, but in this situation, my grandchild is part of me.

Tennyson said, "I am a part of all that I have met." But this was known before Tennyson. A grandfather, when he looks upon that child, can say with joy: "This is a part of me; it will never, never die."

That joy is heightened by a deep connection that you feel to the long continuum of countless generations, stretching all the way back from Adam and Eve to you and through you to your child, and now to your child's child. And you can feel the pull of the ancient echoes from the dim and distant past as your arms adjust to the weight of this little, new life in your arms. And you can see into the hazy unknown and murky distant future of continuing, endless generations, when this child of your child will have children who will carry a part of you and a part of everyone in this chain before you into the next century, and beyond.

There is a sense of connectedness and timelessness that allows you to understand your place in the long, slow march of generations that is as difficult to express as it is wonderful to experience.

That political treatise, The Policraticus, was written by John of Salisbury in the early part of the 12th century. It told of Prothaonius, who said it was glory enough for him that

he had lived a life, of which his "grandson need not be ashamed." It was glory enough for him that he had lived a life of which his grandson need not be ashamed. We grandfathers should try to emulate Prothaonius.

Well, I offer my sincere congratulations to Senator LOTT and best wishes to his new grandson; and, of course, I congratulate Mrs. Lott, about her new grandson, and my wife joins me. I hope the duties of the "grandfather's office" will not prevent the Senator from Mississippi from spending many happy hours with the newest member of the "House of Lott."

We read about the House of David. This is the "House of Lott." And, as the days and months go by, when this grandfather holds his new grandson, I hope that Senator LOTT will appreciate the emotion that is expressed by these few lines of verse, which I did not write, but which I dedicate to Chester Trent Lott III.

First, in thy grandfather's arms, a newborn child
thou didst weep, while those around thee smiled;
so live, that in thy lasting sleep
thou mayst smile while those around thee weep.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I am truly honored and awed by the beautiful, flowing, wonderful remarks of the distinguished Senator from West Virginia. I can assure him that the "House of Lott" will forever treasure his remarks here today.

I actually was not sure that the Senator was going to do this today. But by accident, coincidence, I had suggested to my wife earlier this morning about 10:30 that she might want to look in on the Senate's activities this morning. I hope that she and my son and daughter-in-law and young grandson have been able to watch this magnificent presentation.

I could never match, nor would I even attempt to respond in kind to the magnificent statement that has just been given by the Senator from West Virginia.

The American people have seen once again here this morning what an important and incomparable role that the Senator from West Virginia plays in this body. He is our historian. He is our conscience. He is the one that guarantees that we honor this institution, respect each other, that we are honest and fair with each other, that we think about our country, and that we have moments of great oratory and moments where we reach for that power star in this country and in the world. But only Senator BYRD would take the floor and take the time to talk about the importance of family, fatherhood, grandchildren, and generations yet to come.

He brings us back to Earth. He makes us appreciate, once again, how really humbled we should be to be here, and that we should always keep our priorities in order.

History gives us something we can look back toward as we move in the future—great events, great moments, crowning of kings, and war treaties. But in most lives nothing is more important than the birth of your children, your daughter, and your son, and your grandson.

So I thank him for what he had to say here today, not just for my grandson and me, but what it says about this institution, what it says about our relationship, and what is says about America and the importance of family.

I am very proud. I am a very proud grandfather. I have a wonderful wife and two wonderful children, and now our grandchild.

You are right. I have held him in my arms already. I was reduced to a puddle of tears and excitement about this occasion. It really is one of the magic moments in your life.

But the most wonderful experience I had over the past week was when I took my son to lunch last Sunday to give him a break because it had been a long time through the delivery. And his wife did wonderfully well. And I was talking to him. I said, "Now, son, don't feel like you have to pass the family name on. You know, call him whatever you want." He said, "Dad, I want to name my son after my best friend."

I couldn't say anything more, because I was so proud of him and what he had to say.

So this is a great event. I am really appreciative of what you had to say, and I am appreciative of being able to serve in this great body.

Thank you.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to add my hearty congratulations to our distinguished leader.

And how much I enjoyed listening to Senator BYRD. I had the privilege of having a long conversation with your granddaughter the other day. She has a certain interest in my State. I am not even going to let you know what we were talking about.

Someday, Senator LOTT, we will put in the RECORD the great story about Senator MURKOWSKI and his grandchildren. That is a wonderful story. It should be in the RECORD.

But these are moments in the life of the Senate—to look at these two, the greatest of leaders, exchange heartfelt thoughts. It enriches us all. And I thank you.

Mr. SARBANES. Mr. President, I want to join with all my other colleagues in congratulating the majority leader, Senator LOTT, on the birth of his grandson, and also to express my very deep appreciation to Senator BYRD for his wonderful statement just a few minutes ago on the floor of the Senate.

There is no one who brings us back to our sense of the Senate as an institution any more than Senator BYRD. And it is always a delight to have the opportunity to hear him.

MARTIN LUTHER KING, JR., MEMORIAL

Mr. WARNER. Mr. President, I join with my distinguished colleague from Maryland, Mr. SARBANES, and all Senators last night for the unanimous-consent passage of an important piece of legislation authorizing the placement of a Martin Luther King, Jr., Memorial in area I of the capital of the greatest country in the world, right here in Washington, DC.

Mr. President, I rise to applaud the passage of this important legislation authorizing the placement of a Martin Luther King, Jr., Memorial in Area I of the Capital.

I would like to take this opportunity to recognize Senator SARBANES and Congresswoman MORELLA for the leadership they have both shown over the years we have worked together on legislation authorizing the establishment of a Martin Luther King, Jr., Memorial.

In 1996, Congress passed and the President signed legislation, also sponsored by Senator SARBANES and myself, authorizing the Alpha Phi Alpha Fraternity, the oldest predominately African-American fraternity in the United States, to establish without cost to the Federal Government a memorial to Martin Luther King, Jr., in the District of Columbia.

Mr. Chairman, the Alpha Phi Alpha Fraternity wishes to honor Dr. King with a memorial in the Nation's Capital as tangible recognition of his remarkable role in the history of our nation. Dr. King's message of nonviolence and freedom for all should be passed from generation to generation. A memorial in his name will be effective in helping us reach this important goal.

The legislation establishes the memorial in Area I, which consists of the Mall and environs. As you know, the Department of Interior, after consult with the National Capital Memorial Commission, transmitted its formal recommendation that the memorial be located in Area I in a letter to the President of the Senate dated January 29, 1998.

Requirements contained in the Commemorative Works Act stipulate that the Department of Interior's recommendation regarding location of a memorial in Area I shall be disapproved if not enacted into law within 150 days of its transmittal to Congress. Therefore it was critical that the Senate consider and pass this legislation prior to that deadline.

I would like to add two personal reminiscences that I have about Dr. King. By coincidence largely, I was within the vicinity of the Lincoln Memorial when he delivered his historic address. I do recall vividly the long line of marchers coming to and from that historic event.

Somewhat later in life, I was privileged to serve on the governing board of the Washington Cathedral. The subject came up as to whether or not he would be invited to preach in the Washington Cathedral. And I remember very well the board meeting. I was present and with others cast my vote such that he could come to that magnificent edifice which is on the highest promontory of the Nation's Capital to deliver his last and most historic sermon.

So I am deeply moved. But I have played a modest role in seeing that another very fitting memorial be dedicated to that American of extraordinary accomplishment.

I yield the floor.

Mr. SARBANES. Mr. President, I want to amend one thing that the distinguished Senator from Virginia said. I think he referred to his role here as a "modest role." But he really was very pivotal in helping us to get this legislation enacted last night.

The Secretary of the Interior determined that the Martin Luther King statue, which is going to be placed in the District of Columbia in memory of Martin Luther King, would be put in the prime area, which is the Mall and the surrounding areas. That determination needed the approval of the Congress. Senator WARNER and I joined together in the Senate, along with Congresswoman MORELLA, who led the effort in the House, in order to bring this about.

We will now have a statue in the District in a fairly short time. The money will be raised privately by the Alpha Phi Alpha Fraternity. But it will stand as a tribute to what Martin Luther King, Jr. represented, which, in my judgment, was a commitment to achieving change through nonviolence—a very important lesson. Martin Luther King, Jr. clearly worked within the framework of a democratic society. He sought very significant and substantial change. He sought to make the Nation live up to its ideals. But he was committed in doing it in a nonviolent way.

I think that is a very important lesson for all Americans.

I, like the Senator from Virginia, have personal memories. I was at the Reflecting Pool the day he gave the "I Have a Dream" speech, when he stood on the steps of the Lincoln Memorial, and, of course, that speech had a tremendous impact on American society then and continues to have a tremendous impact.

So I am very glad that this matter has been moved forward now. All of the legislation that is now necessary is in place, and now we look forward to going ahead and we look forward to, at sometime in the not too distant future, a ground breaking and, sometime thereafter, a dedication.

I express again my deep appreciation to the distinguished senior Senator from Virginia for his efforts in this regard.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. WARNER. Could I just simply add my thanks to my colleague. We were full partners on it. And, indeed, I did not know that the Senator likewise was at the historic speech. It shows you how interesting life can be.

I thank the Chair, and I thank my colleague.

Mr. KERRY. Mr. President, I understand we are in morning business?

The PRESIDING OFFICER. We are, with remarks limited to 10 minutes.

Mr. KERRY. I thank the Chair.

CONGRATULATING SENATOR LOTT AND SENATOR BYRD

Mr. KERRY. Mr. President, I join with my colleagues in expressing my admiration and respect for the senior Senator from West Virginia, for the extraordinary comments he made on behalf of Senator LOTT. I was equally touched I think by the honest, open response of Senator LOTT to the emotions that he felt with respect to the birth of his grandson. I think we can all sense, at least those of us who have had children, the enormous emotional wave of that particular moment.

So we salute both of those colleagues of ours. I thank Senator BYRD for taking the time to share with the Senate those important thoughts.

THE TOBACCO BILL

Mr. KERRY. Mr. President, I almost hate to break the sort of magic, if you will, of those moments, but I want to say a few things, if I may, about the proposal yesterday of the Speaker of the House with respect to the principles that the House and he will pursue in trying to put forward tobacco legislation.

Many people in the press have been busy writing that the tobacco bill is dead, and a great number of people have suggested, even in this body, that tobacco is dead as an issue for this year.

I wish to make it very clear that, if anything, the proposal by the Speaker makes it clear that not only is it not dead but the Republicans feel compelled to somehow create some sort of cover for the efforts that took place in the Senate over the course of the last weeks to stop a particular piece of legislation.

I think the headlines that ran across the country saying "Republicans Killed Tobacco Bill"; have stung more than some people want to suggest, and the evidence of that is the fact that the Speaker saw fit to provide this figleaf to the party. It is a figleaf, and I think it has to be put in the context of Speaker GINGRICH'S own $50 billion tax credit that he snuck for the tobacco industry into the balanced budget legislation. No one should forget that only a year ago the Speaker of the House provided the tobacco industry of this country with a $50 billion tax credit and now he is providing another gift to the industry and a disaster for children and for public health.

As Surgeon General Koop said yesterday about the Gingrich proposal:

> Instead of doing something serious about reducing the number of children who smoke, these Members of Congress have created a bill that they can hold up for a photo opportunity and a sound bite. If the House Republicans try to call this a bill to limit the damage that tobacco does to the Nation's health, that's false advertising.

Then Surgeon General Koop said:

> I'm glad they feel they have to do something. I'm sorry they think they can do so little.

Mr. President, let me say specifically what the great flaws are in the outline proposed by the Speaker.

First of all, rather than expand FDA authority over tobacco, it actually restricts authority. By restricting the FDA to only being able to regulate the manufacture of cigarettes, it actually strips the FDA of most of its regulatory authority. And that is directly contrary to what the Senate accepted in the proposal that came from the Commerce Committee by a vote of 19 to 1, and it was never contested in this Chamber that that authority ought to exist.

The House, under the Gingrich proposal, would even curtail the FDA's ability to restrict the illegal sale of tobacco products to children. That is extraordinary, and also it lacks any common sense whatsoever.

Furthermore, the Gingrich proposal provides no tough penalties whatsoever on the tobacco industry if they are to continue to market to kids. There is not any one of us who does not know the long history of the tobacco industry marketing to kids.

Here is the memo from R.J. Reynolds Company:

> They, i.e. young people, represent tomorrow's cigarette business. As this 14-24 age group matures, they will account for a key share of the total cigarette volume for at least the next 25 years.

In the course of the debate, we made it very, very clear, through their own words, the degree to which tobacco companies targeted young children and the degree to which they created a strategy to try to addict young people to cigarettes, to tobacco. There is no effort whatsoever in the Gingrich approach to try to hold the tobacco companies responsible, not only to the programs that might reduce children from

smoking but also to tough provisions that would hold them accountable if they do not meet the reduction in teenager smoking.

The tobacco industry has preyed upon children for decades. The Republicans in the House evidently are prepared to let them continue to do that, and the Senate I know will find that unacceptable.

Furthermore, the Gingrich approach lays out a series of very tough, punitive measures for teenagers without being punitive on the companies themselves. They are tougher on the kids who wind up subjecting themselves to the lure of the tobacco companies than they are on the tobacco companies themselves. That is absolutely extraordinary and totally unacceptable.

Obviously, there ought to be some penalties with respect to teenage purchase if it is against the law to purchase, but the answer to reduce youth smoking is not a solely punitive bill on children, it is to include the tobacco companies. If anything ever stood for the degree to which the Republicans in the House, and maybe elsewhere, are prepared to stand with the tobacco companies, it is an outline for a tobacco bill that holds the children liable and lets the tobacco companies go free.

In addition to that, there is no price increase whatsoever for the effort to reduce youth smoking. We can argue about what this level ought to be. The Senate rejected the notion that it ought to be $1.50, but the Senate did accept the notion that $1.10 seemed to make sense. At least no one voted to strip that $1.10, and I doubt that they would.

So it is clear, all of the evidence thus far makes it clear, that raising the price has some impact on smoking. Let me quote from Philip Morris. You don't have to believe the Senate debate, but this is Philip Morris speaking, this is an internal document from the Minnesota trial:

> You may recall from the article I sent you that Jeffrey Harris of MIT calculated . . . the 1982–1983 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke.

In 1982, the tobacco companies took note themselves of the fact that a price increase prevented 600,000 teenagers from starting to smoke:

> Those teenagers are now 18–21 years old, and since about 70 percent of 18–20 year-olds and 35 percent of older smokers smoke a [Philip Morris] brand, this means that 700,000 of those adult quitters had been [Philip Morris] smokers, and 420,000 of those non-starters would have been [Philip Morris] smokers. Thus, if Harris is right, we were hit disproportionately hard. We don't need this to happen again.

Philip Morris says, "We don't need this to happen again." Evidently, NEWT GINGRICH agrees with him because he has come up with a proposal that allies himself directly with the tobacco companies and with that memo.

Mr. President, it is clear we need serious legislation. We have made it clear that we are going to return on future pieces of legislation to try to pass tobacco legislation in the Senate.

Let me be clear. If we were to simply come back with the same bill that was defeated, I think we would be both stupid and we would deserve a vote of rejection by the Senate. So it is clear that we need to rethink how we do this in an intelligent way.

The Senate found cause to cite specific kinds of problems with the last piece of legislation. I am not going to disagree that there were not legitimate problems. I do disagree that we could not have cured them in a legitimate legislative process. But it is clear that, if we put our minds to it, we can constrain a piece of legislation so it adequately is tailored to meet the needs of reducing teenage smoking and of creating a sufficient amount of funding, if you will, of the States' needs with respect to the settlement process. After all, the tobacco companies and the States agreed to a $368 billion base over 25 years, and that provided about $200 billion to the States to be able to settle. They came to agreement on that.

It would seem to me we ought to be able to ratify something in the Senate that establishes a comprehensive proposal to have a State settlement at the same time as we meet the needs of health care with respect to reducing the number of kids smoking at the same time as we meet the needs of farmers.

So, we will be able to test that, in the next weeks, through a proposal that I and others will make, which ought to be able to address the most critical concerns that were expressed by Senators in opposition but at the same time provides us with something completely different from what Speaker GINGRICH is talking about.

We do not need a figleaf. We do not need a photo opportunity. We need a serious piece of legislation that will allow the States to be able to do what they need to do to provide counteradvertising and cessation efforts to address the health care needs of our country and to reduce teenage smoking while simultaneously allowing us to come to a global settlement.

I believe that is achievable. I hope when we return the Senate will act seriously to make that happen. I look forward to the U.S. Senate sending over to the House a serious piece of tobacco legislation that will provide the country with an opportunity, in bipartisan form, to be able to deal with this important problem.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, before I make comments on trade, let me only say to the Senator from Massachusetts, long before the Senate decided to put down the very ill-conceived piece of legislation, the Speaker of the House was saying that the House would address teenage smoking problems. So, whether the Senator from Massachusetts decides to characterize it today as a figleaf or Johnny-come-lately, that was clearly the intent of the House all along. Obviously, the Speaker is now honoring his commitment by stepping forward with a proposal.

I hope in the end we can address this issue and not allow teenagers to be the figleaf of big taxes and big government, and find a real solution to this problem.

U.S. GOVERNMENT IS ALLOWING EVASION OF U.S./CANADA LUMBER AGREEMENT, AT THE EXPENSE OF U.S. MILLS AND JOBS

Mr. CRAIG. Mr. President, I would like to talk today briefly about an issue that affects hundreds of American companies and tens of thousands of American workers, and that is, of course, the proper enforcement of the 1996 U.S./Canadian Softwood Lumber Agreement.

On several occasions I have stood before this body to express disappointment at our trading partners who are violating trade agreements with the United States. Generally, the problem arises abroad and requires aggressive efforts by the administration to insist on compliance by other countries to ensure that our products and our workers can compete on a level playing field. But the foremost problem for the Lumber Agreement is action by the U.S. Customs Service that is affirmatively undermining the current softwood agreement that I am speaking to.

As many of us who are from lumber-producing States are so keenly aware, the 1996 Lumber Agreement is our largest sectorial trade agreement with our largest trading partner, Canada. It is a very moderate response to a massive Canadian subsidizing of lumber. Unlike United States lumber mills which must buy timber at market prices, Canadian mills are provided timber by the Provinces at prices that are oftentimes one-quarter to one-third the market value of real timber on the stump. Those subsidies amount to $4 billion Canadian dollars a year. Subsidized imports have cost the United States thousands of jobs and have injured and constrained a pivotal U.S. industry.

In 1991, Canada unilaterally abrogated a 1986 settlement of that dispute. Canada's imports to the United States climbed from about 27 percent of market share to almost 37 percent. The compromise in the 1996 Agreement was intended to offset, in part, Canada's subsidies and bring Canada's share of our market back to around 33 percent to 34 percent.

In February of 1997, however, a ruling by our own Customs Service enabled Canadian producers to evade the agreement merely by drilling holes in the lumber. Let me repeat that—by simply drilling holes in a 2x4 or a building stud, ostensibly, the argument was, for wires and pipes in construction purposes. Customs said this lumber with a hole was "joinery or carpentry," like doors or window frames or built-up truss. This was a ridiculous ruling, by almost everybody's evaluation. It is inconsistent with other classifications. It is inconsistent with common commercial understanding. Official guidance issued by the Commerce Department, the International Trade Commission, and the Customs Service all confirmed that drilled lumber is "lumber" for import classification purposes, not joinery or carpentry. The U.S. Trade Representative confirmed that this product was intended to be covered by the Agreement.

Not surprisingly, though, once Customs opened the door, imports of "joinery and carpentry" rose from about $8–10 million a month to nearly $46 million a month in April. This loophole is allowing over $1 million a day—let me repeat that—$1 million a day of subsidized lumber to evade the Agreement and destroy the Agreement's intent of offsetting the subsidy.

The U.S. industry is again experiencing widespread shutdowns, slowdowns, and job losses. In my State of Idaho, mills are closing or anticipating closure because of this flood of Canadian timber now hitting our market.

Last September, Congress confirmed its intention that drilled lumber be considered "lumber." But while Customs promised a quick reassessment of the February 1997 ruling, our report was ignored. Customs finally requested formal comments on the ruling by late October, but then gave a 60-day comment period rather than its normal 30-day comment period. You almost have to say, "U.S. Customs, whose side are you on?"

Customs delayed its response until April 15—that is from a February ruling of the year before—when it acknowledged its mistake, but again failed to take action. Instead, even though it had thoroughly reviewed extensive public comment, it asked for more comment, but this time referenced a statute with a deadline for formal action by June 15. Now we are almost a year and a half into the process. After 17½ months of review, the agency failed to meet that statutory deadline. Highly subsidized drilled lumber continues to pour over the border, damaging the agreement and destroying jobs in my State and in every other timber-producing State in the Nation.

Now, some are arguing that even if Customs finally corrects the error, it will take another 60 days for implementation, at the cost of more than $70 million in U.S. sales. I have to say—and I use this word, but I would like to find a stronger word—"Customs, how ridiculous can you get?" Importers were warned by Customs in the October 27, 1997 Federal Register notice that they could not rely on the old ruling. Once Customs decides that this product is properly covered by the United States-Canadian Lumber Agreement, further invasion should be stopped. By its terms, the international agreement will cover this lumber.

What is particularly shocking about this loophole is that before the Agreement was signed, the administration expressly committed to the U.S. lumber industry that USTR, Commerce, and Customs would work aggressively at full and effective enforcement.

Now, I do not know if you call stumbling through the darkness of statutes for 17 months an aggressive effort. Mr. President, this "ain't" aggressive.

Mr. President, the Customs Service handled this issue in what I would have to say is the most outrageous of ways. U.S. mills and workers should be able to expect their Government, their President, to work for them by enforcing trade agreements. Heaven knows, they should be able to expect their Government not to affirmatively undermine trade agreements and cause them to be defenseless against unfair imports. That Customs would continue to do so in violation of a direct statutory requirement and blithely ignoring this Congress' report is beyond the pale. Of course, now with the Asian flu, we have Indonesian dimensional lumber beginning to hit the west coast at even well below our cost of production.

In the strongest terms, I urge Customs to begin doing the job that it is commanded to do by U.S. law and for which U.S. taxpayers are paying. Customs must immediately issue a definitive, corrected ruling on drilled lumber and implement the ruling at once—not 30 days, not 60 days, not 17 months—but at once. It must also correct related miscalculations regarding notched lumber that are also undermining the lumber agreement. Reported efforts by the administration to clarify with Canada the Agreement's treatment of drilled and notched lumber do not affect Customs' obligation to act in accordance with U.S. law and policy. In fact, if Customs fails to act properly and reclassify this product, we can only expect more delay and more efforts at evasion in the future. More broadly, the agency must vigorously enforce the agreement and help the U.S. lumber industry realize that full subsidy offset is exactly what they deserve.

Failure by Customs to proceed in conformity with U.S. law and policy could have grave implications for other trade agreement programs. Just at a time when this country must awaken to not only the fairness of trade, but the importance of trade, and the balance of it, the administration is apparently moving in the other direction by ignoring it and allowing the flow of subsidized imports. The administration promised full and vigorous enforcement. With this loophole, it is not living up to that commitment.

Trade agreements serve U.S. interests only if they are effective. If the American people cannot trust the administration to maintain the integrity or much less enforce such agreements, the administration cannot expect a continued mandate to pursue trade agreements. Here we are trying to, struggling to, get this administration the ability to deal in trade, and they are simply doing the slow waltz at a time when it is costing this country hundreds of jobs, if not thousands.

Customs' mishandling of this important issue could also have budgetary implications. The taxpayers should not be expected to fund activities that actually worsen their position. Moreover, Congress should reconsider who has authority to make and implement classification decisions which can undermine our international trade agreements. In the context of countervailing duty and antidumping duty cases, the Commerce Department has direct authority to prevent these types of evasion. Perhaps we need to give USTR direct authority—and a mandate—to stop Customs from the twiddling of their fingers and their willy-nilly attitude toward obeying and enforcing the law. "Customs, I'm sorry, 17 months doesn't cut it."

Mr. President, this is truly one of those situations that makes most Americans outside the beltway just shake their heads in disbelief at our Government. I, and I know others in Congress, will demand drastic actions if this problem is not rectified in a prompt manner. I am sending a copy of this to Secretary Rubin, and I am going to ask other senior Treasury officials to report to Congress immediately about the agency's intentions on this matter.

At a time when trade is of utmost importance to the producers in our country, we must recognize that balance is what really counts, and not allow industry or certain industries to die simply by arbitrary decision or inaction on the part of Customs and other agencies of our Federal Government.

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

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

Mr. GRAMS. I ask unanimous consent to be able to speak for up to half an hour in morning business.

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

WHAT CAN WE LEARN FROM THE PAST? A HISTORY OF SOCIAL SECURITY

Mr. GRAMS. Mr. President, on July 1st, concerned Americans will gather in Cranston, Rhode Island, for the second in what will be a series of public meetings called the "Great Social Security Debate."

I want to thank the Concord Coalition, the American Association of Retired Persons, and Americans Discuss Social Security for sponsoring this event.

The first forum, which took place last April 7th in Kansas City, Missouri, was a great success. The discussions in Rhode Island will no doubt be equally compelling, especially given the focus of the debate: "Retirement in the 21st Century."

It is with one eye to the 21st Century that I rise today to speak about Social Security's past—to offer some perspective on its history and what we can learn from our attempts at social policy making.

In recent years, as more and more Americans become aware of its looming financial and demographic crisis, Social Security is no longer the "third rail" of American politics.

Both Democrats and Republicans have offered reform plans, including ones that would set up individual retirement accounts—a suddenly mainstream idea that would have been considered heresy just a couple of years ago.

Long before President Clinton's "Save Social Security" State of the Union address, a national dialogue was already underway.

Summits, conferences, forums, and town hall meetings were organized to allow all Americans, old and young, to discuss Social Security and how to reform it to benefit our Nation and make retirement more secure for current and future generations.

This democratic process will help us build a national consensus and eventually find workable solutions to preserve and strengthen Social Security while providing freedom of choice for all Americans.

As we move forward, it is important to remember that history is a mirror—by looking through it we gain perspective and the wisdom it provides, giving us the opportunity to avoid repeating mistakes. Nobel Laureate Friedrich Hayek says:

> Political opinion and views about historical events ever have been and always must be closely connected. Past experience is the foundation on which our beliefs about the desirability of different policies and institutions are mainly based. . .
>
> Yet we can hardly profit from past experience unless the facts from which we draw our conclusions are correct.

A review of its history will provide a better understanding of the origin and evolution of our Social Security system. It will facilitate the national debate on its reform and point us in the right direction.

For a time I would like to travel back in time. For hundreds, perhaps thousands of years, human society relied on families, relatives, or friends to care for their elders.

For the unfortunate individuals who could not support themselves, or did not have families to support them, the community provided assistance, in many cases through what were called the "poor laws."

The first compulsory social insurance programs on a national scale, including the programs that we call "Social Security" today, were established in Germany under Bismarck during the 1880s. Soon after, Austria and Hungary followed Germany by passing similar legislation.

England adopted national compulsory social insurance in 1911 and greatly expanded it in 1948. After 1920, social insurance on a compulsory basis was rapidly adopted throughout Europe and into the American hemisphere.

The United States did not have a national social insurance program until 1935.

Today, more than 140 countries in the world have one form or another of a social security program.

Unfortunately, a recent World Bank study shows that most of these programs are not sustainable in their present form. I will discuss this issue on another occasion.

It has been said that the industrial and agricultural revolution that began in the late 18th Century triggered social reform that shifted elderly-care from individuals and families to the state.

But empirical evidence is insufficient to support this statement, particularly in the case of the United States.

Prior to 1929, the economic condition of the elderly in America was fairly secure: most owned their own homes and lived off labor income, which was supplemented by emerging private pension plans as well as life insurance, savings, and family support.

The intellectual origin of social insurance, or as we call it, Social Security, comes in effect from an obscure group of scholars known as the German historical school of economics.

Driven by their dislike of laissez-faire capitalism and fear for a Marxist-led revolution, a group of German-government employed professors desperately sought a middle ground to make peace with Marxists.

They pushed for large-scale welfare legislation that could, in their view, ease the social tension, keep social order and justice, and avoid proletariat revolutions.

One of the leading figures was Gustav Schmoller. Schmoller was sympathetic to the industrial proletariat, and hated what he called the "unethical" striving for wealth by the property-owning classes.

He believed that the lower classes had a right to derive benefits from increased production through welfare legislation. He argued that unequal distribution of income was evil, and that government, not the individual or the community, had the moral duty to help the proletariat maintain equity and social harmony.

In the early 1870s, Schmoller set up the Congress for Social Reform. The purpose was to draft, propose, and promote social legislation. Later, he and others created the Association of Socialpolitics as a forum to advocate social reform.

As a result of his effort, the Bismarck government passed the first welfare laws in 1883 and old age insurance laws in 1889 in Germany.

Very few in this country have ever heard about the German Historical School of Economics, but it was this small group of intellectual elite had a tremendous impact on American economic thought as well as public policy making.

As thousands of young Americans went to Germany to study in the late 19th century and early this century, many became disciples of the German Historical School of Economics and were indoctrinated by German welfare capitalism.

The American students were urged by their German teachers to influence the course of politics in the U.S. and change American attitudes toward social legislation.

Now, these German-trained and educated economists—Adams, Clark, Patten, Seligman, and Ely—founded the American Economic Association in 1885. That is the American counterpart of the German Association of Socialpolitics.

Edwin Gay, one of Schmoller's students, was a founder of the National Bureau of Economic Research and created the journal, Foreign Affairs.

Recford Tugwell, a well-known American disciple of the German Historical School of Economics, favored social legislation along the lines of the German welfare economists. Tugwell became influential under President Roosevelt in the 1930s and exerted considerable legislative influence under the New Deal.

Richard Ely, another important disciple of the German Historical School, established the American Association for Labor Legislation, later named the American Association for Old-Age Security. That launched the first American social insurance movement. He was even put on trial by Wisconsin's superintendent of public instruction for propagating socialism in Wisconsin schools in 1894. Ely and John Commons succeeded in passing the old-age insurance legislation in Wisconsin in 1925.

That was among the first in this country.

Later, the Wisconsin model was used in drafting the federal Social Security legislation.

Now, despite their enthusiasm for social legislation, these German-trained intellectuals were initially not successful in achieving their goals in America.

Before 1929, there were no significant, broad-based demands for compulsory, federal old-age insurance. In most states, elderly assistance was locally provided and administered through poor laws.

Private charity and town/county-controlled almshouses were the primary sources for elderly assistance. In 1929, the New York Commission on Old-Age Security found that 90 percent of the elderly population were either self-supporting or were being supported by their families and relatives.

Less than four percent depended on private charity or public assistance. Private pensions existed although they were not widespread in America before the era of the Great Depression.

During the Great Depression, when the stock market plunged 80 percent, 15 percent of the population began receiving some form of public relief. This event gave tremendous momentum to social legislation.

On June 8, 1934, President Franklin D. Roosevelt announced his intention to provide a program for Social Security.

Subsequently, FDR created the Committee on Economic Security, which was chaired by Frances Perkins, Secretary of Labor, with four other members of the cabinet.

The committee was instructed to study the entire problem of economic insecurity and to make recommendations that would serve as the basis for legislation consideration by the Congress.

A number of university professors were called to staff the CES. According to the recollections of Professor Douglas Brown, a staff member in the small, old-age security section of the CES, the major attention of the CES and its staff was focused on unemployment insurance, not old age insurance.

FDR, Perkins, and the CES director clearly had doubts about a national old-age system. On a number of occasions it appeared unlikely that the Committee would approve the old-age insurance system.

Because it was on the back burner, the old-age security section had a very small staff and was left alone to work out a plan at its will.

Basically, two individuals, Barbara Armstrong of the University of California and Douglas Brown of Princeton, pushed old-age insurance in the CES. The two actually drafted the U.S. Social Security plan in only a month.

Their compulsory old-age insurance plan raised serious concerns about its constitutionality within the CES.

Even President Roosevelt, Labor Secretary Perkins, who was also the chairman of the CES, and Edwin Witte, the Executive Director of the CES, did not think this was the right time for a Social Security system.

But the intellectual elite within the CES pushed on. In November, 1934, Armstrong asked her friend, Max Stern, who was in the Scripps-Howard newspaper chain to launch a sharply written editorial criticizing Roosevelt's failure to give his wholehearted support to old-age insurance.

Roosevelt finally caved. From then on, old-age insurance moved to the front burner at the CES.

The original proposals for the old-age insurance program drafted by the CES staff allowed the states or private insurance companies to administer the program.

But this was removed in later drafts. Douglas Brown later admitted that the CES staff deliberately exaggerated the difficulties of establishing separate state old-age insurance systems as an alternative to a federal system.

It is generally believed that the Great Depression made Social Security necessary for the American people.

The CES argued that the Great Depression had greatly exacerbated the plight of the elderly, that the elderly were among the first to lose their jobs, and that the effects of the Depression would be felt for a long time to come since many families had seen their lifetime savings wiped out.

However, the Social Security proposal submitted to Congress fell far short of dealing with this. The Social Security system started to collect payroll taxes in 1937 but no benefits were distributed until 1942. It took more than seven years for this elderly relief measure to be effective—long after the Great Depression ended.

More recent studies have suggested the Depression may not have dictated the establishment of a Social Security system.

For example, economists now believe that by examining the welfare of the elderly outside the family context, reformers such as those staffing the CES drew an exaggerated picture of the elderly's plight.

The 1935–36 data shows that per-capita household income peaked at $627 for persons aged 60 to 64, while for people aged 65 and over, average per-capita income was only slightly lower, at $601.

In any event, the CES made its report to the President in early January 1935, and on January 17, the President introduced the report in both Houses of Congress for simultaneous consideration.

In less than seven months following its introduction, Congress passed and the President signed the Social Security Act into law.

The history of Congress' debates and consideration of this legislation is of particular interest.

When drafting the compulsory old-age legislation, the CES felt that the House Ways and Means Committee and the Senate Finance Committee, which had jurisdiction over the issue, might not be sympathetic toward FDR's plan, so they created a special committee that would be headed by the labor committees' chairmen.

Without showing much interest in the substance of social security, the tax committees were concerned nonetheless with who should have jurisdiction over it.

When it appeared he might be bypassed, Ways and Means Chairman Robert Doughton of North Carolina went to see FDR, whereupon the President told Frances Perkins that bypassing the Ways and Means Committee would never do.

He did not want to alienate Doughton and his Senate counterpart, Pat Harrison. Without especially liking the old-age insurance program, both committee chairmen stood loyally by it, perhaps in return for having been left in charge.

Instead of being put into a new committee, the chairmen of these committees, the Senate Finance and House Ways and Means, did not want to feel that they were being bypassed, so they pledged their loyalty in order to keep jurisdiction in their committees over these plans.

Once the Economic Security bill was introduced, both chambers began hearings immediately, and it took less than a month for the committees to complete its work on the bill. Nearly 100 people testified—but most of them were either government officials or friends of the CES. The general public and opponents of the bill, particularly employer groups, were not well represented. Again, according to CES Director Edwin Witte, the employer groups "simply knew too little to take any active role." So did the public.

In other words, the employers and the public knew too little, so they only invited certain people to testify before their committees in support of the new Social Security program.

The Economic Security Legislation contained many titles. In an "all-or-none" strategy, FDR smartly tied old-age insurance with the old-age assistance program.

If not for the needed program to aid the elderly poor, the old-age insurance would have never gone through the Congress, according Edwin Witte.

Nevertheless, there was no shortage of opposition to the bill in the House.

In fact, the old-age insurance title was nearly stricken from the bill in the House Ways and Means Committee and again on the House floor, where an amendment to strike the program mustered a third of the votes cast.

Congressman Allen Treadway, the ranking Republican member of the House Ways and Means Committee,

called old-age insurance the "worst title in the bill. . . a burdensome tax on industry."

Congressman Daniel Reed pointed out that neither old-age insurance nor unemployment compensation were "relief provisions and they are not going to bring any relief to the destitute or needy now nor for many years to come."

When the Senate began debate on the legislation, the old-age insurance program became even more controversial. Many senators from both sides of the aisle seriously questioned how un-Americaness this compulsory old-age insurance plan was. So there were a lot of questions and concerns at that time in Congress over these proposals.

Some worried about the extremely high cost of the program and the heavy tax burden it would impose on the American people.

Some doubted the finance mechanism, and predicted the funding could not be sustained. Some pointed out how unwise it was to have the federal government, instead of states and private companies, run the plan.

Some were concerned that, as an emergency measure to respond to the difficult days of the Great Depression, the plan would turn into a permanent program over which the Congress had no control.

Some criticized the discriminative nature of the legislation against the young and higher-wage earners. Some questioned the morality of the current generation passing the burden to future generations.

Unfortunately, many of their prophecies have become reality today.

The major battle on the Economic Security Legislation was fought over the Clark amendment.

Senator Bennett Clark, a Democrat from Missouri, recognized the income-redistribution and non-competitive nature of the old-age insurance program and decided to amend it by allowing companies with private pensions to opt out of the public program.

Any employer could stay out of the Social Security program if they had a pension plan that offered benefits comparable to the federal program. Workers would be given the freedom to choose either the federal Social Security program or a private pension plan offered by their companies.

Clark argued that if the purpose of the old-age insurance program was to provide pensions based on earnings and contributions, not to redistribute income, the private sector was perfectly capable of performing this function. Unearned benefits, not competition, were the source of the problem.

The proponents of the Economic Security Bill feared that if the Clark amendment passed, it would encourage private competition and put the federal-run program at a disadvantage.

That is the market at work. Again, those who were proponents of the Social Security plan did not like the Clark amendment because they thought it would encourage private competition and it would put the Federal run program at a disadvantage.

Competition would eventually undermine and destroy the Social Security program, they argued.

The Clark amendment was narrowly defeated in the Senate Finance Committee by a tied vote, but was adopted on the Senate floor by a wide margin of 51 to 35. Considering FDR's veto threat and the two-to-one ratio of Democrats/Republicans in the Senate, this was indeed a very significant vote.

Subsequently, the Senate passed the Economic Security bill, including the Clark amendment, by a vote of 77–6. However, the amendment became a sticking point once the bill reached conference.

House conferees strongly opposed the amendment on the grounds that it would ruin the federal program, but Senate conferees refused to concede on this matter.

The conference dragged on for weeks. At the end, FDR ordered the Senate Democrat conferees to agree to the House position, and because many conferees feared that the much-needed old-age assistance might be delayed by the Clark amendment, they agreed to drop the amendment.

The concession was that the Administration promised to further study the idea of contracting out of Social Security.

There would be a special joint legislative committee to work on legislation based on the Clark amendment and submit it to Congress for consideration during the next session. With that understanding, the Congress approved the conference report. FDR signed it into law on August 14, 1935. The promised special committee and the Clark legislation, of course, never happened.

In her book, "The Roosevelt I Knew", Frances Perkins recorded an interesting conversation she had with Senator Al Gore, Sr., of Tennessee:

> I remember that when I appeared before the Senate Committee old Senator Gore raised a sarcastic objection. "Isn't this Socialism?"
>
> My reply was, "Oh, no."
>
> Then, smiling, leaning forward and talking to me as though I were a child, he said, "Isn't this a teeny-weeny bit of Socialism?"

Despite her denial, Senator Gore may have made a point. Professor Theresa McMahon, a member of the Social Security Council, put it more bluntly by saying at that time: "I don't mind taxing the bachelors . . . I think they ought to take on the responsibility of sharing their income with somebody else."

On January 31, 1940, the Social Security system started to distribute the payroll taxes the government had collected in the past three years to those who never paid any tax into the system. The first monthly retirement check was issued to Ida May Fuller of Ludlow, Vermont, in the amount of $22.54. Miss Fuller died in January of 1975 at the age of 100. During her 35 years as a beneficiary, she received over $20,000 in benefits and paid in nothing.

In the 60 years following its creation, and despite continued criticism, the Social Security program has grown dramatically in size and scope. As more beneficiaries and programs are added, the payroll tax has been raised 51 times.

Congress 51 different times has gone back either to raise the tax on Social Security, or to expand the income on which that was to be taxed.

As an example, in 1940, an American worker earning the maximum taxable wage paid $70 in payroll tax. That is $675 in inflation-adjusted dollars. Today, that same worker would pay a Social Security payroll tax of $8,481.

So the maximum in 1940 in today's dollars would have been $675. The maximum today is nearly $8,500. Meanwhile, the number of workers per retiree has dropped from 100 in 1942 to two today, and the unfunded liabilities of the program have become unbearable for future generations.

Since the enactment of the 1935 Social Security Act, many changes have taken place to expand the program.

Major changes include the 1939 amendment, which was initiated by Social Security officials and greatly expanded the program. It required the payment of benefits to the spouse and minor children of a retired worker, and survivor benefits to the family in the event of the premature death of a covered worker.

It also increased benefit amounts and accelerated the start of monthly benefit payments from 1942 to 1940. The 1939 amendment officially set up the pay-as-you-go scheme which uses today's tax to pay today's benefits, leaving unfunded liabilities to future generations.

A 1950 amendment accelerated the benefits schedules and extended Social Security coverage to the self-employed. In 1952, all Social Security beneficiaries received a general "cost-of-living" increase.

The Social Security Amendments of 1954 expanded the old-age insurance to a disability insurance program.

Another major change was made in 1956.

The 1956 amendment expanded Social Security coverage to more classes of workers, increased the wage base substantially, and increased benefits by 77 percent.

In 1965, Medicare, a new social insurance program that extended health coverage to retirees, was added to the Social Security system. In the 1970s, another new program, Supplemental Security Income, was added.

The 1950s and 1960s were the golden age for Social Security because the fund revenue was greatly increased by growing employment and rising wage rates. Social Security officials repeatedly assured the Congress that Social Security would maintain long-term actuarial balances.

Ronald Reagan saw the defects of the system and was the first to suggest investing Social Security funds in the market. As early as 1964, Reagan asked: "Can we introduce voluntary features that would permit a citizen to do better on his own, to be excused upon presentation of evidence that he had made provisions for the non-earning years?"

Reagan's advice was cast aside. But in 1975, Social Security first began running larger long-term deficits. Its expenditures exceeded income by $1.5 billion. The pay-as-you-go finance mechanism started cracking and was unable to produce large windfall gains to retirees.

In 1977 and 1983, Congress had no choice but to pass Social Security rescue packages by significantly increasing taxes. Again Washington claimed the fix would make Social Security solvent for at least 75 years. Again, that was a lie.

Today, Social Security faces the severest crisis yet. When 74 million baby boomers begin retiring in 2008, Social Security will run a cash shortage in 2013 and go broke in 2031, according to official projections. Knowing the "reliability" of these official forecasts, the shortage could arrive much earlier.

Without a policy change, the Congressional Budget Office estimates the debt held by the public will balloon to nearly $80 trillion, from today about $5.6 trillion in debt. But without a policy change, beginning with Social Security, the Congressional Budget Office estimates that the debt held by the public could balloon to as much as $80 trillion. And General Accounting Office estimates that it could be even worse. The General Accounting Office says it could be a $158 trillion debt. This is very, very serious.

Mr. President, that covers the history of Social Security. Now, what can we learn from our past policy making experiences?

First, the Social Security system was put together in just a few weeks without thorough debate and time to consider such a major policy change.

It was imposed on the American people following a time of economic crisis and despair by a few individuals who had a personal agenda of redistributing private income.

At the time it passed, few people understood the long-term impact of the program on the citizens. It was hardly a democratic process.

Second, a retirement program that mixes insurance with welfare does not work, because these two functions are fundamentally incompatible.

As a result, we have a bad welfare plan and a bad old-age insurance plan which make the system much more inefficient for those who need welfare assistance as well as those who need retirement security.

It does not work because it is based on the false assumption that people no longer have to work to achieve the American dream—the government will take care of them.

Third, when we consider Social Security, policy—not politics—should be our guide. Changes made for short term gain will come back to haunt us.

Fourth, the federal government does not have a good record of running social insurance programs. We should look for ways to improve and streamline the program.

Fifth, we should begin to look to the ingenuity and competitive spirit of the private sector to improve and rejuvenate the program.

The American people should have some freedom of choice. Each individual has different abilities and different needs at different times; they should be free to choose either the current compulsory insurance plan or their own individual retirement accounts.

The individual retirement account is not a new idea. A majority in Congress supported this idea 60 years ago. Sixty years ago the Clark amendment, the individual retirement account, was supported by the vast majority in Congress—60 years ago. Had we adopted the Clark amendment then, our Social Security system would be in much better shape today.

And it is not too late, because Congress should take Senator Clark's advice by allowing people to opt out of the Social Security system and giving individual workers the right to fund and control the investment of their own retirement accounts.

With today's mature and well-regulated financial markets, every American, rich or poor, can greatly improve their retirement security. We must provide the options to ensure that Americans can provide for their retirement, not just pass an increasing liability on to their children and grandchildren. If we don't make this change, we are going to pass to our children a national debt somewhere between $80- and $160 trillion. We need to pass on the ability for our children and grandchildren to make those decisions for themselves.

Finally, we need to educate and inform the public about Social Security. We should encourage more people to participate in the policymaking process. We need to encourage them to understand how options can actually help them enjoy their retirement. A well-informed general public will not be deceived by political rhetoric and will be able to decide what is the best option for them. They can make that decision best for themselves.

So, Mr. President, with the perspective offered by the past, I urge my colleagues to join me in the months to come in my efforts to improve retirement security for all Americans.

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

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

Mr. BYRD. Mr. President, I ask unanimous consent that I may consume as much time as I require.

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

THE PRESIDENT'S TRIP TO CHINA

Mr. BYRD. Mr. President, 11 months ago, this body resoundingly passed S. Res. 98, a sense-of-the-Senate resolution, cosponsored by the distinguished Senator who presently presides over the Senate, the Senator from Nebraska, Mr. HAGEL, and myself. The Byrd-Hagel Resolution sent a strong message to the Administration regarding the then-impending Kyoto Protocol. The Resolution directed the Administration not to submit the Kyoto Protocol to the Senate for its advice and consent until developing countries, especially the largest emitters, make "new specific scheduled commitments to limit or reduce greenhouse gas emissions" similar to those to which developed nations would be bound if the Protocol were implemented. The resolution also called on the Administration to show that such a Protocol "would not result in serious harm to the economy of the United States."

In anticipation of the President's trip to China, I recently sent a letter to him urging him to use his influence to persuade the Chinese to take "a progressive leadership role among the developing world" so that we can begin to fully address this complex and serious issue. I noted that, "after 2015, China is expected to surpass the United States as the world's largest emitter of greenhouse gases. While the Chinese contribution to global emissions in 1995 was 11 percent, it is expected to reach 17 percent by percent by 2035. In that same time period, the U.S. emissions will shrink from 22 percent to 15 percent."

While the international effort to bring China on board may seem like a difficult task, it is still possible if we seek win-win opportunities. While China has taken a number of steps to clean up its own environment, China's domestic efforts must increase given the serious nature of their environmental problems. I urged the President

to encourage China to support the market mechanisms that were successfully incorporated in the Protocol by the Administration's negotiators.

Through flexible, market-based mechanisms, we have a tremendous opportunity to work with the developing world, allowing for economic growth and also reducing world, allowing for economic growth and also reducing global greenhouse gas emissions. As I have previously said, the United States and the rest of the developed world is not attempting to limit the economic growth of China or any other developing nation. China has the right to develop economically. But, based on the growing body of evidence and the potential consequences of increasing greenhouse gas concentrations, all economic development should be done in a responsible manner. The Chinese must recognize the importance of their role, and they should not ignore their responsibilities in addressing this shared problem. Global warming is a global problem. It is not just an American problem. It is not just a European problem. It is a global problem. And as such, it requires not just an American solution, not just a European solution, but a global solution.

I wrote the President stating that, "the combination of these efforts would be the right course of action and underscores how the Chinese could accept binding commitments to reduce their greenhouse gas emissions. Taken together, these steps would lead to a real reduction in emissions as well as global participation in the Kyoto Protocol."

Mr. President, I believe we should challenge the Administration to recognize the concerns of the Senate and the American people with regard to the Kyoto Protocol and its possible impact on the U.S. economy, but in saying this, I am also willing to seek a constructive dialogue focusing on addressing this important issue. Of all the significant concerns that the President will discuss with the Chinese during his visit, I believe that this is one of the most critical for the long-term relationship of both our nations. We have to begin to work together because our shared environmental futures are at stake, and the well-being of our people's futures—these are at stake.

SENATOR COATS AND THE LINE-ITEM VETO

Mr. BYRD. Mr. President, on another item, I take this opportunity to speak about him during his absence, and I am referring to the distinguished Senator from Indiana, Mr. COATS.

Mr. COATS will be leaving the Senate after this year. He is voluntarily doing so. He is a very able member of the Senate Armed Services Committee. I serve on that committee with Senator COATS. He is very knowledgeable about national defense, about military matters. He takes his responsibilities seriously. He is extremely articulate in his exposition of the problems and the defense needs of our country, and he is quite influential among the other members of the committee and of the Senate on both sides of the aisle as well.

I admire him. He was a very dedicated protagonist—a very dedicated protagonist of the line-item veto, and it was on those occasions when we would debate back and forth between us, and among us on both sides of the aisle, that I learned to respect Senator COATS—learned to respect him for his ability to debate, for his equanimity, always, in debate. He is always most charitable, very deferential, and courteous to a fault. He has always treated me fairly and kindly. On yesterday, when we discussed the Supreme Court's decision—which I favored, and which did not follow the viewpoint of Mr. COATS—Mr. COATS was most magnanimous in his words concerning those of us who opposed the line-item veto.

So, basically he is a gentleman, and what more can one say? A gentleman; he considers the views of others, he listens to the words of others patiently and with respect, and is much to be admired. I admire him.

He has indicated, along with Senator MCCAIN, that it is his—it is their intention to come forward with another proposal. And of course I will respect their viewpoint and listen to what they have to say and read carefully what they propose, and will again oppose anything that purports to shift the people's power over the purse as reflected by their elected Representatives in this body and in the House of Representatives—shift that power to any President.

Yesterday was a great day in the history of our Nation, an exceedingly important day, because, beginning with President Grant after the Civil War, all Presidents, with the exception of William Howard Taft, have endorsed and espoused the line-item veto. For much longer than a single century, Presidents have wanted the line-item veto. George Washington, the first and greatest President of all Presidents, in my viewpoint, recognized the Constitution for what it was and for what it is. He said that when he signed a bill, he had to sign it or veto it in toto, he had to accept it or veto it in its entirety.

Washington presided over the Constitutional Convention that met in Philadelphia in 1787. He presided. He listened to all of the debates. He, obviously, listened and joined in the conversations that went on in the back rooms and the meeting places of Members when they were not in convention session. He knew what their thoughts were. He knew what Madison's thoughts were; he knew what Hamilton's ideas were; he knew what Elbridge Gerry's feelings were; he knew what Governor Edmund Randolph's ideas were. But George Washington knew that that Constitution did not allow, it did not permit, it did not give the line-item veto to any President.

I am grateful to the majority on the Supreme Court for having acted to save us from our own folly. I am somewhat disappointed and amazed that there would even be a minority on the Supreme Court on this issue. I cannot comprehend a minority of the Members of the Supreme Court seeing any way other than as the majority saw it. I voted against Clarence Thomas to go on the Supreme Court, but Mr. Justice Thomas yesterday saw clearly what the Constitution requires.

Who yesterday stood to defend this unique system of checks and balances and separation of powers? Clarence Thomas was one of the six. He redeemed himself in great measure, in one Senator's eyes—my own! I was proud of Chief Justice Rehnquist who agreed with Mr. Justice Stevens in the majority opinion. I was proud of Mr. Justice Kennedy in his concurring opinion.

For the first time, Congress had committed this colossal error of shifting to the President a power over the purse that he does not have under the Constitution. Congress failed the people of the United States, in whom all power in this Republic resides and from whom all power is given. And the Senate failed. For the first time in more than a century and a quarter, the Congress yielded to political impulses and gave to the President a share in the control of the purse that the Constitution does not give him.

For those who have read Madison, who have read the Federalist essays, they saw in Federalist 58 Madison's words when he said, "This power over the purse may in fact be regarded as the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure." Those are Madison's words.

So, Mr. President, where are our eyes? Read the Federalist essays, read the debates that took place in the convention—according to Madison's notes and the notes of others who attended that convention. Where could we possibly imagine that that Constitution gives to us puny pygmies—the power and the authority or the right to attempt to end run the Constitution by giving to the President the line-item veto by statute?

What a shame. What a shame. How would those framers look upon us? But the framers wisely provided for that eventuality when they created the judiciary. And our forebears in the first Senate, which met in 1789, also provided for that eventuality when they

enacted the Judiciary Act and created the court system.

I am a more exalted admirer of the Supreme Court today than I have ever been in my 29,439 days of life. It isn't my birthday; I have just lived 29,439 days. I keep count of my days, take my life one day at a time—29,439 days. And yesterday I became a more enthusiastic and avid admirer of the Supreme Court of the United States than ever before because, to me, this, this decision by the Court preserved the system of checks and balances and separation of powers.

So God bless America. God bless this honorable Court.

I also pause to thank those 28 other Senators who, on March the 23th, 1995, stood with me in voting against that inimical, perverse Line-Item Veto Act that sought to give the line-item veto to the President of the United States.

And I thank those 30 other Senators on both sides of the aisle who stood with me in voting against the conference report on that legislation, the Line-Item Veto Act, on March the 27th, 1996, a year and 4 days later. That was when the Senate stabbed itself in the back. Those 31 who stood in defense of the constitutional system of checks and balances and separation of powers on that day, those 31 were vindicated by the Supreme Court's decision on yesterday.

Thank God for the United States of America!

God save the Supreme Court of the United States!

(Mr. ENZI assumed the Chair.)

FOURTH OF JULY

Mr. BYRD. Mr. President, on still another note, it seems like such a short time ago that we rang in the New Year. It is almost July, and the midpoint of the year has passed. How quickly we have gone from gray skies, lowering clouds, and seemingly incessant rain, with some snow, some hail, strong winds, to bright sunshine and the first fruits and vegetables of the season. Already the brief moment of the wild strawberries, those tender morsels of condensed sunshine and spring showers, has passed, but juicy blackberries are ripening along their protective bramble arches, ready for picking in time to fill a pie that may grace a festive Fourth of July picnic. In West Virginia, whole families can be spotted, buckets in hand, along the fence rows where brambles grow, especially those old rail fences, gathering blackberries for pies and jam. Of course, the younger the picker, the more blackberries that end up inside the picker rather than inside the bucket, but that is just one of the messy, finger-staining joys of summertime. And the fingers are stained, as are the lips and the chins and the drippings on the clothing.

When I think of the Fourth of July, visions of family picnics crowned by the very literal fruits of that berry-picking labor are among the many happy thoughts that surface. Like that blackberry pie topped with melting vanilla ice cream, Fourth of July memories are a sweet blend of small town parades with volunteer firemen in brightly polished trucks and high school marching bands bedecked in their finest regalia; of local beauty queens sharing convertibles with waving mayors and Congressmen and Senators; and flags . . . flags everywhere, waving in the sweaty palms of excited youngsters and proudly flying before houses on quiet side streets where no parade will ever pass, but where grandpa might sit on the porch in his World War II service cap and wave to the passing neighbors. That is the American scene.

Although cheapened by holiday sales that commercialize the occasion, like all holidays, the Fourth of July has somehow remained triumphantly above it all, like the flag so gallantly flying over Fort McHenry that inspired Francis Scott Key to write "The Star Spangled Banner." More families and friends gather for picnics or reunions and an evening spent watching fireworks than spend the day in the mall and the evening before the television set. Most people still know that the Fourth of July celebrates the declaration of our nation's independence from Great Britain, though other historical facts concerning our battle for freedom and the establishment of our government are fuzzy though these are facts, and out of focus but not the Fourth of July. Most people consider themselves patriotic, though I suspect that a substantial percentage could not clearly define what it means to them to be a patriot.

To be a patriot is much, much more than to be a fan of, say, a football team. To root for one's country is part of being a patriot, but that support can be shallow, like the hurrah of a sports fan that turns all too quickly to boos—boos, b-o-o-s—when the team's record loses a certain winning luster. Those cheers, those hurrahs, change to boos, b-o-o-s. It might have been some other spelling of "booze" imbibed during the game. We will leave that for another day. To be a patriot is to reach into the deep current that has carried our nation through history, and not be distracted by the ephemeral eddies of scandal that ripple the surface. To be certain, a part of that definition is the quiet willingness to set aside one's own plans and don the uniform of a nation that calls for your service. But one need not only wear a uniform to be a patriot. Nor is it enough simply to pay your taxes, obey the speed limit, and memorize the pledge of allegiance to the flag of the United States of America and to the republic—not the democracy—to the republic for which it stands, one nation, under God.

I am proud of the fact that I was a member of the other body, and I'm the only Member of Congress who still serves in the Congress of the United States who was present there when the words "under God" were included in the Pledge of Allegiance on June 7, 1954.

Interestingly, exactly 1 year from that day, on June 7, 1955, the House of Representatives—I was a member of the House at that time—the House of Representatives enacted legislation providing for these words "In God We Trust" to appear on the currency and the coin of the United States. Those words had appeared on some of the coins previous to that time, but on June 7, 1955, the House enacted legislation providing that the currency and the coin of the United States would carry the words "In God We Trust."

To be a patriot involves understanding, appreciating, and protecting that which gives our Nation its unique spot on the compass of the world—our Constitution. It has been much in the news the last 24 hours. And that cannot be condensed onto a bumper sticker.

In establishing a government that adroitly balances the minority against the majority, the small or less populous States against the larger, the executive against the legislative against the judicial, and that preserves individual liberty and opportunity, our Founding Fathers truly delivered on the promise embodied in the Fourth of July. The Declaration of Independence was a clarion call in the wilderness, a defiant shout down the echoing canyons of history, saying, "We can do better." The Constitution gave that call that was issued in the Declaration of Independence substance, and the more than 200 years of history since that time have done little to erode the triumph of that achievement.

The Constitution of the United States of America is a remarkably compact document. This is it—this little, tiny document. Of course, this particular booklet also contains the Declaration of Independence. But that is it. That is the Constitution of the United States. Think of the struggles, think of the sacrifices of men and women, think of the battles, think of April 19 when Captain Parker stood on the greens at Lexington with his men and bared their breasts to the British redcoats, and then at Concord, and then Bunker Hill, and King's Mountain. And think of the battles during the War of 1812, on the sea, on the land, the carnage, the blood that was shed in the Civil War by men on both sides, who fought for the Union and who fought against the Union. All of these, and more, gave their lives.

The Constitution still lives! The men who wrote the Declaration of Independence—Jefferson, Franklin, Sherman, Adams, Livingston—their lives were at risk. Their lives were at risk. They could have been hanged. That was treason—treason—to write that Declaration of Independence! They could have

been taken to England and tried and executed there. That was treason! Think of the sacrifices that have gone into the creation of that little booklet—the history, the events, the treasures that were at risk, the fortunes that were lost, the lives that were lost, the blood that was shed, the families that were destroyed, the properties that were confiscated—all of these and more.

What did we get out of it? We got this—the Constitution of the United States! The Constitution's beginnings go back for years, for decades, for centuries, back a thousand years. American constitutionalism began at Runnymede on the banks of the Thames in June 1215 and before. It had its roots in the English struggle when Englishmen shed their blood at the point of a sword in their efforts to wrest from tyrannical monarchs the power of the purse.

So there it is. That little document is all we got out of it. But what that contains! More than the Magna Carta. That is what we will be celebrating on the 4th of July—that Declaration of Independence and that Constitution. Too soon we have forgotten, haven't we? This is a remarkable document. Every schoolchild ought to study it, and every schoolchild ought to be required to memorize it.

The Law of the Twelve Tables, created in Rome in the year 450 B.C. A delegation was sent to Athens to study the laws of Solon—that remarkable man who is one of the seven wise men of Greece—to study the laws and to bring back to Rome the ideas and the provisions that could be put into a law, which the Plebeians would understand as well as the Patricians. The delegation went in 454 B.C., and they came back to Rome and began this work in 451 B.C. In 450, they completed the work: The Law of the Twelve Tables. They inscribed these laws on tables, and those tables were destroyed in the year 390 B.C. by Brennus and the Gauls. The Gauls conquered Rome and destroyed much of it and, along with it, destroyed the Law of the Twelve Tables.

But so what? Cicero said that the young people had been required to memorize the Law of the Twelve Tables, and therefore, even though the Gauls destroyed the Twelve Tables, the Law of the Twelve Tables lived on in the memories of the schoolchildren. Hence, the Romans hadn't lost the Law of the Twelve Tables. The Schoolchildren had been required to memorize the Law of the Twelve Tables.

Cicero also had this to say about the Constitution:

> It is necessary for a Senator to be thoroughly acquainted with the Constitution, without which no Senator can possibly be fit for his office.

Those who wish to find that quotation may look in Blackstone, the first book of Blackstone, section 1, paragraph #10, I believe it is. Blackstone quotes Cicero and what Cicero said about the Constitution.

This is it. Let us all think about that on the 4th of July. Let us think about those who pledged their lives, their fortunes, and their sacred honor for that document. It is not lengthy. What does it weigh? Put it on the scale. Put it on the scales of time, on the scales of history, on the scales of liberty. Its weight cannot be measured.

Every schoolchild ought to study this, and every adult ought to know so instinctively that any challenge to the balance of powers outlined in this document should be instantly identified and resisted. If only cultural antibodies could be developed that would allow the people of this Nation to acquire an immunity, and would allow the Members of this body and the other body of the Congress today and forevermore to acquire an immunity, to constitutional cancer—it is a vaccine that I would gladly take. Then, perhaps, I and others like me would not have to struggle so hard to excise the melanomas of balanced budget amendments and line-item acts that periodically threaten to overturn the safeguards established by the Framers to ensure that the people and their elected representatives have recourse against an ambitious power grab by the executive, or by any political party.

Like the wild strawberries and blackberries that sweeten a country stroll on a Sunday afternoon, our republican form of government is a natural treasure of a generous and bountiful land. But, like the delicate wild beauties of vine and bramble which are too easily overlooked amid the garish profusion of plenty that surrounds us, so must we be alert to often subtle presence of Constitutional safeguards embodied in our complex profusion of laws and governmental structures. We must guard against a complacency that would trample them under foot or mow them down in a fervor of thoughtless modernization for the sake of change or in the name of some soul-less efficiency.

This Fourth of July—this Fourth of July—let us put aside for a moment the bright display of fireworks, the inspiring ring of martial music, and listen for the timeless song of our past. Listen for the courage and determination in the solemn opening paragraphs of the Declaration of Independence where it is said:

"When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness."

Mr. President, on July 4, 1776, the thirteen united states of America committed themselves to a bold new course, at great risk. It is no small thing to break away from centuries of tradition, in the face of overwhelming military might, and the opening paragraphs of the Declaration of Independence make it clear that our Founding Fathers knew full well the seriousness and the risks of the course they had embarked upon. They recognized the challenge laid out for them in establishing a new and better form of government.

This Fourth of July, I will happily watch the parades and the fireworks and, with luck, perhaps enjoy with my wife of 61 years and my daughters of many years and my grandchildren of several years a piece of blackberry pie with ice cream.

But I will also take the time to pull out my little copy of the Constitution that I carry with me, near to my heart. I will take a few minutes to marvel again at the skill and economy with which the Framers outlined a government that has so well provided for our nation through the centuries. We who enjoy the freedom, the independence, the security, and the prosperity of 1998, owe a great debt of gratitude for the courage and the commitment of those patriots of 1776, and an equal debt to the men, some of them the same individuals, who followed through on that promise in the Constitutional Convention of 1789. We honor them best, I think, by preserving their legacy for the patriots of the 21st Century, our children and grandchildren.

The legacy bequeathed to us in trust to our children and grandchildren is, Mr. President—I say to the very distinguished patriotic Senator, who is from Wyoming, and who graces the Presiding Officer's chair in the Chamber today—simply the most richly endowed nation on the face of the Earth—rich in land, in opportunity, in liberty.

We are the inheritors of plenty, thank God, merciful Providence. I have had the great fortune to travel widely during my life. I have visited with kings, queens, shahs, prime ministers, presidents, and premiers of many

lands. I have seen the beauties of Europe, the mysteries of the Orient, the crumbling ruins of once-mighty empires in the Middle East. They have all left me with wonderful memories and great stories. But when I travel, I pine for home.

I took a trip around the world along with six colleagues in the House of Representatives in 1955. That was 43 years ago. We traveled around the world in an old Constellation. We traveled for 68 days. That would have been called a junket today. We were a subcommittee of the House Committee on Foreign Affairs. And so I traveled in many wonderful lands, but the most beautiful sight that I saw in that entire 68 days, having seen the Taj Mahal, having seen Sun Moon Lake in Taiwan, having seen the other wonders and beauties of the world and of nature, the most inspiring and gratifying thing that I saw were the two little bright red lights flashing at the top of the Washington Monument when we returned to the good old United States of America. We had been in lands where there was no fresh, clean water to be drawn from the faucets. We so much take America for granted today, but what a wonderful experience it was anew to be able upon our return to go back to a faucet and see come from that faucet water—clear, pure, good water—that we could drink without fear of becoming ill. So I have been left with many wonderful memories, but never shall I forget those two red lights at the top of the monument to the greatest President of the greatest country in the world, the Washington Monument.

I miss when I travel the comforting presence of friendly West Virginia faces, the soft breeze that carries their cheerful hellos, the warm smiles that brighten the day and lift my heart. I think that I never appreciate home so much as when I am away from it. I suspect that you, Mr. President, and most Americans feel that way, too. That great poet Henry Van Dyke certainly did, and he used his facility with words to capture the feeling in his poem, "America For Me."

'Tis fine to see the Old World, and travel up and down
Among the famous palaces and cities of renown,
To admire the crumbly castles and the statues of the kings,—
But now I think I've had enough of antiquated things.
So it's home again, and home again, America for me!
My heart is turning home again, and there I long to be,
In the land of youth and freedom beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.
Oh, London is a man's town, there's power in the air;
And Paris is a woman's town, with flowers in her hair;
And it's sweet to dream in Venice, and it's great to study in Rome
But when it comes to living there is just no place like home.
I like the German fir-woods, in green battalions drilled;
I like the gardens of Versailles with flashing fountains filled;
But, oh, to take your hand, my dear, and ramble for a day
In the friendly western woodland where Nature has her way!
I know that Europe's wonderful, yet something seems to lack:
The Past is too much with her, and the people looking back.
But the glory of the Present is to make the Future free,—
We love our land for what she is and what she is to be.
Oh, it's home again, and home again, America for me!
I want a ship that's westward bound to plough the rolling sea,
To the blessed Land of Room Enough beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars!

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

The PRESIDING OFFICER. The clerk will call the roll to ascertain the absence or presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I want to express my appreciation to the fine men and women of the United States Air Force, who honored my great State and her great people by naming the 19th operational B-2 Stealth Bomber, The Spirit of Mississippi. I saw the B-2 fly—and it filled me, and all those who participated in the naming ceremony, with enormous pride.

The dedication of this magnificent aircraft took place in a moving ceremony on Saturday, May 23d, in Jackson, MS. The ceremony took on additional meaning for all those who joined me since it came at the start of the Memorial Day weekend, when we honor those who sacrificed so much for the defense of our great Nation.

The ceremony included a number of great Americans. General Richard Hawley, the Commander of the Air Force's Air Combat Command, chose Mississippi as the name to grace this aircraft as she serves to deter our enemies for decades to come. Also participating in the ceremony was Mr. Kent Kresa, the Chairman, President, and Chief Executive Officer of Northrop Grumman, the company that built this technological wonder with the help of the skilled people and companies of Mississippi.

I was pleased to be joined by a number of senior political leaders from Mississippi: My esteemed colleague, Senator THAD COCHRAN, Governor Kirk Fordice, and Congressman ROGER WICKER of the 1st District.

Major General James H. Garner, the Adjutant General of the Mississippi National Guard, and Colonel Robert Barron, the Commander of the 172d Airlift Wing at Jackson, served as our hosts for these ceremonies.

When you stand up close to a B-2, and have the opportunity to see a B-2 fly, you realize just how magnificent this aircraft truly is—and the magnitude of the technological accomplishments that it represents. Just to put this in perspective, the B-2 aircraft has a wingspan about ⅔ the length of a football field and, so they tell me, the radar signature of an insect. With refueling, it can fly anywhere on the planet to deliver 16 one-ton precision-guided bombs—even in bad weather. The B-2 offers a revolutionary combination of stealth, range, payload, and precision. It could only have been built here in America—and, I say with pride, only with the help of my fellow Mississippians.

Fielding this revolutionary aircraft took courage and dedication on the part of key leaders in the Senate, the House of Representatives, and four separate administrations. To get where we are today, from concept to a squadron of B-2s ready to fly and fight, took almost two decades of effort. Standing here now, we can better appreciate their vision. And we need to remember the time it took to develop the B-2 as we look to the future of America's long-range bomber force.

We in Congress believe that long-range air power will be even more important in the future than it has been in the past. The reasons are straightforward. Our forces based overseas are shrinking in size—and that trend is likely to continue. Potential adversaries are arming themselves with fast-moving conventional forces and weapons of mass destruction. Long range air power gives the President the ability to respond to aggression immediately and decisively—and that's what helps provide deterrence.

We in Congress, however, have had growing concerns about the future of the bomber force. Accordingly, we mandated last year that a distinguished and independent panel of experts—the Long Range Air Power Panel—examine current plans for the bomber force and recommend actions to the President and the Congress. That panel has completed its review and I'd like to briefly share some of its important recommendations regarding the B-2 and the future of America's long-range bomber force.

The Panel stated up front that, and I quote: "long-range air power is an increasingly important element of U.S. military capability." Over the near term, to make sure that the bomber force can meet the increasing demand for long-range air power, the Panel recommended that we need to invest in and upgrade the current force. In the

case of the B–2, for example, the Panel stated that we should work on in increasing the B–2's sortie rate using a combined program that improves stealth maintenance and performance. This will take some additional funding beyond what we provided in the 1998 budget, but keep in mind that doubling the B–2's sortie rate would in effect double the combat power of the force. That's a bargain.

The Panel also made an important recommendation regarding the long-term future of the bomber force. As I noted before, it took almost 20 years to field the B–2. In less than 20 years from now, the Panel stated that we should be fielding a next generation bomber—and to do so, we need to get started now to develop a plan to replace the existing force over time. I don't know what the next generation bomber will look like. Maybe it will be an upgraded B–2 or something completely different. But I do know that given the strategic importance of long-range air power, we need to get started. I look forward to seeing the Pentagon's recommendations next year about this important issue.

The enhancements suggested for the B–2 are in line with the requirements identified by my fellow participant in the Spirit of Mississippi naming ceremony, General Hawley. As we complete work on this year's defense budget, we should follow the example offered by a brilliant former leader from Mississippi—the late Senator John Stennis—who along with other leaders in this chamber had the vision to start building the B–2. His vision is now a reality that will fly for many decades into the future. In following Senator Stennis' guidance, we need to support the continued enhancement of the revolutionary B–2 stealth bomber. And we need to encourage the Air Force to provide us with a comprehensive plan for developing a next-generation bomber to sustain the long-range air power force over the long-term. John Stennis would be very proud of our actions—and our long-term vision.

TRIBUTE TO LISA KAUFMAN, SOUTH DAKOTA WINNER OF THE NATIONAL PEACE ESSAY CONTEST

Mr. DASCHLE. Mr. President, I rise to salute Lisa Kaufman of Freeman, SD—an outstanding young woman who has been honored as South Dakota's first place winner in the eleventh annual National Peace Essay Contest sponsored by the United States Institute of Peace. More than 5,000 students in the 50 states participated in this year's contest. Students wrote about the way in which war crimes and human rights violations are accounted for in various international conflicts.

Ms. Kaufman was chosen to represent South Dakota in a special program for state-level winners here in Washington this past week, where she participated in a three-day simulation of high-level discussions with the goal of finding the best way to address war crimes and human rights violations to ensure a stable peace in Cambodia. She has received a college scholarship to reward her achievement.

I also commend Ms. Vernetta Waltner, the faculty coordinator for the contest at the Freeman Academy, for her involvement and for encouraging participation in this type of program.

I am pleased that Ms. Kaufman and our next generation of leaders are helping build peace to promote freedom and justice among nations and peoples. Their commitment and dedication is a lesson to us all. The title of Ms. Kaufman's essay is "Justice Leads to Peace." She richly deserves public recognition for her accomplishment, and I am proud to ask unanimous consent that her winning essay be printed in the RECORD.

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

JUSTICE LEADS TO PEACE

(By Lisa Kaufman)

It is impossible to deny the fact that there are many cruelties associated with war. In the news, we see and hear about the devastation that war causes in a country. Damage occurs to the land. Buildings and even whole cities may be destroyed by bombs. The real problem with war, though, is that it causes damage beyond just the destruction of various structures within a country. War affects people. Individuals who live through times of war endure much pain. An ugly reality is that many violent crimes are committed against people during times of war.

So how does a society deal with those who committed atrocious human rights violations during a war? I feel that the only way to restore a stable peace is to face the challenge of punishing those guilty of war crimes. A society can't move on without dealing with the realities of its past, no matter how painful they may be. Several countries throughout the world are now facing the obstacle of dealing with war criminals as they move down the road to peace.

One country that is dealing with this issue is South Africa. Conflict over the practice of apartheid, or racial segregation, escalated into a serious situation during the last half of the 20th Century. The conflict is deeply seeded in South Africa's history. The British gained control of South Africa in 1814 and white control of the country immediately provoked uprising by the native blacks who sought independence. In 1910, Britain did grant South Africa independence, but the situation didn't change much as white English-speaking people maintained control of the government.

The government established apartheid as an official policy in 1948, and various acts were passed with the purpose of completely separating South Africa's blacks from the white minority. Inevitably, protests arose and they became more serious throughout the 1950's. Nelson Mandela led the African National Congress (ANC), a political organization that actively worked for black control. Boycotts, strikes, and rallies were used to draw attention to their plea for the end of apartheid. Tensions rose even higher when the ANC was banned by the government and Nelson Mandela was jailed.

The black movement began to escalate again during the 1970's and 1980's. Renewed demonstrations and riots plagued the country and a state of emergency was declared in 1986. Change finally began when a new president, Frederick de Klerk, took office in 1989. Nelson Mandela was released from jail and apartheid was gradually dismantled. Real progress came with elections held in 1994 in which blacks took control of the government with Nelson Mandela as the new president.

The new government faced many challenges, one of which was dealing with those guilty of human rights violations that occurred during the era of apartheid. The Truth and Reconciliation Commission was created in June 1995 to give victims a chance to voice the abuses that occurred. It also served to uncover evidence about the perpetrators of those crimes. Political amnesty was guaranteed for those who came forward voluntarily to confess. In other words, those who admitted to committing political crimes were pardoned, but those who remained silent could be prosecuted.

I feel that the creation of this commission was beneficial in several ways, but was too lenient in its dealings with war criminals. The acceptance of the commission was evident when over 10,000 victims came forward to share their personal horror stories. This reveals that there was a need among the people to talk about what happened. The way in which the commission dealt with war criminals represented a compromise, though Truth is essential, but at what cost?

There must be penalties for these crimes that were committed and I think that the offer of political amnesty was too generous. Citizens should be able to see punishment handed out to the guilty so that they can feel safe again. It would be beneficial to reward those who come forward voluntarily with a lesser sentence, but they still deserve to face punishment for their actions. Justice must not be compromised in this way. War criminals must be held accountable.

Another recent conflict that has been plagued by discoveries of genocide and vast human rights violations is the civil war in Bosnia. The region has had a troubled past. After World War II, Yugoslavia was united as a confederation of six republics held together by the ruling Communist Party. This federation was unstable, though, because of deeply seeded ethnic divisions.

In 1990, the Communists lost control and Yugoslavia began to crumble. In June, 1991, two of the republics, Slovenia and Croatia, declared their independence. The other republics followed, with Bosnia and Herzegovina declaring their independence in March 1992. Civil war then broke out in Bosnia between the three ethnic groups living in the area: the Croats, Serbs and Bosnian Muslims. The Muslim-dominated government forces fought to maintain a multiethnic state while the Bosnian Serbs and Croats called for separate ethnic states.

A peace treaty was signed in December 1995 in which Bosnia was split into two substates, a Muslim-Croat federation and a Serb republic. The agreement called for the exchange of territory and this led to much violence. International peacekeeping forces and humanitarian organizations were present throughout the war and remain in the area yet today to stabilize the conflict.

Both during and after the war, reports were confirmed of torture and cruelty committed by all three ethnic groups. The Bosnian Serbs were specifically singled out,

though, for their policy of "ethnic cleansing" in which over 700,000 Muslims were forced from their homes in Serb-controlled areas of Bosnia. The Serbs were also responsible for putting people in concentration camps and killing and raping many women. Mass graves hold evidence to the large number of deaths that occurred.

These human rights abuses were acknowledged with the formation of The United Nations International Criminal Tribunal for the former Yugoslavia. This tribunal was set up at The Hague in 1994 with the purpose of judging serious violations of international humanitarian law. The tribunal issued indictments of various criminal suspects and then those in the international community were responsible to arrest them and turn them over to the tribunal to face punishment.

The problem with this arrangement was that many indicted war criminals were not actively sought by international peacekeepers. The North Atlantic Treaty Organization (NATO) was very active both during and after the war in Bosnia by stationing peacekeeping soldiers throughout the area. These NATO troops have not chosen to search out the war criminals, though. At one point 75 people had been indicted by the tribunal, while only nine had been arrested.

In July 1997, NATO started to actively track down indicted war criminals. More arrests were made, but NATO has not yet moved to arrest the higher-level criminals that have been indicted, such as Radovan Karadzic, a Serb leader who is accused of genocide, or the intent to destroy a whole ethnic group.

I believe that it is time for international peacekeepers to actively move in on arresting the high-profile suspects. It is easier to leave these suspects alone, but by delaying action, peace and reconciliation is being delayed. I agree with the tribunal's goal of bringing war criminals to face judgment, but the way that this effort is being carried out is short of effective.

These issues dealing with the prosecution of war criminals must be dealt with carefully. There are many variables to consider. Even though public trials may be painful for survivors, I feel that it is necessary to deal with the perpetrators in public. Silence is not a solution. It is better to deal with those suspected of human rights violations than to pretend the damage never occurred. Only when these problems are dealt with can lasting peace have a chance.

Truth must be exposed. Elie Wiesel, a Holocaust survivor and Nobel Peace Prize winner, recently said, "There is no compensation for what happened. But at least a certain balance can be established that opposing fear there is hope, hope that when we remember the fear . . . our memory becomes a shield for the future." By exposing what really happened we can guard ourselves against it ever happening again.

Both South Africa and Bosnia face challenges in their future. As they work to bring war criminals to justice, painful memories resurface. They are taking steps in the right direction, though, as they confront the atrocities that took place during times of war and conflict. War criminals must be tried and held responsible for their actions. There are no valid excuses for killing. People should never have to suffer based on their ethnic origin or simply the color of their skin. When these offenses occur, the guilty must be punished so that peace and justice can thrive in the future.

PRODUCT LIABILITY REFORM ACT

Mr. LIEBERMAN. Mr. President, I rise today to make a few very brief comments on the Product Liability Reform Act of 1998, which the Senate will soon be considering. I will make more lengthy remarks on this bill when we return from recess and move on to this bill, but I did not want to let the bill's introduction last night pass without comment.

This bill is a good bill, and I am proud to be one of its original co-sponsors. It is the product of incredibly hard work and tremendous dedication by Senator GORTON and Senator ROCKEFELLER, and I want to congratulate—and thank—them and their staffs for what they have been able to achieve. I also want to thank the President for his willingness to work with us to come up with a bill that now has his full support.

I, frankly, would have liked a stronger bill, like the one we passed last Congress, but the President vetoed that bill. That is something that I think all those of us who support reform have to keep in mind as we move forward with this bill. Because even if it doesn't incorporate everything we wanted, this bill does offer much—together with the promise of the President's signature.

The President's promise is important not just to those of us who have long supported legal reform. It also should be important to my colleagues who have not. I hope it prompts them to take a serious look at this bill—to put aside preconceived notions they may have of product liability reform, and to take a fresh look at what we have done.

Mr. President, this bill offers meaningful—and fair—reform of our legal system to redress the system's abuses while at the same time protecting consumers' rights. And it contains the provisions of a bill Senator MCCAIN and I have been working on for a couple of Congresses: the Biomaterials Access Assurance Act.

The Biomaterials bill is the response to a crisis affecting more than 7 million patients annually who rely on implantable life-saving or life-enhancing medical devices—things like pacemakers, heart valves, artificial blood vessels, hydrocephalic shunts, and hip and knee joints. These patients are at risk of losing access to the devices because many suppliers are refusing to sell biomaterial device manufacturers the raw materials and component parts that are necessary to make the devices. The reason: suppliers no longer want to risk having to pay enormous legal fees to defend against product liability suits when those legal fees far exceed any profit they make from supplying the raw materials for use in implantable devices. Although not a single biomaterials supplier has ultimately been held liable so far, the actual and potential costs of defending lawsuits has caused them to leave this market. A study by Aronoff Associates found that 75 percent of suppliers surveyed were not willing to sell their raw materials to implant manufacturers under current conditions. That study predicts that unless this trend is reversed, patients whose lives depend on implantable devices may no longer have access to them.

The Biomaterials title of the Product Liability bill responds to this crisis by allowing most suppliers of raw materials and component parts for implantable medical devices to gain early dismissal from lawsuits. At the same time, by allowing plaintiffs to bring those suppliers back into a lawsuit in the rare case that the other defendants are bankrupt or otherwise judgment proof, it ensures that plaintiffs won't be left without compensation for their injuries if they can prove a supplier was at fault. Mr. President, I have a summary of the bill here, and I ask unanimous consent that it be printed after this statement in the RECORD.

I will have a lot more to say about the Biomaterials provisions and the entire bill when we return from recess. For now, let me just once again congratulate Senator GORTON, Senator ROCKEFELLER and the President for their success in forging this compromise bill. I urge my colleagues to support it.

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

SUMMARY OF BIOMATERIALS ACCESS ASSURANCE ACT

Title II of the Product Liability Reform Act of 1998 contains the provisions of the Lieberman-McCain Biomaterials Access Assurance Act.

Need For The Biomaterials Bill: The Biomaterials bill responds to a looming crisis affecting more than 7 million patients annually who rely on implantable life-saving or life-enhancing medical devices such as pacemakers, heart valves, artificial blood vessels, hydrocephalic shunts, and hip and knee joints. These patients are at risk of losing access to the devices because many suppliers are refusing to sell biomaterial device manufacturers the raw materials and component parts that are necessary to make the devices. The reason: suppliers no longer want to risk having to pay enormous legal fees to defend against meritless product liability suits when those legal fees far exceed any profit they make from supplying the raw materials for use in implantable devices. Although not a single biomaterials supplier has thus far been held liable, the actual and potential costs of defending lawsuits has caused them to leave this market. A study by Aronoff Associates found that 75 percent of suppliers surveyed were not willing to sell their raw materials to implant manufacturers under current conditions. That study predicts that unless this trend is reversed, patients whose lives rely on implantable devices may no longer have access to them.

What The Bill Does: To alleviate these problems, the Biomaterials bill would do two things. First, with an important exception noted below, the bill would immunize suppliers of raw materials and component parts

from product liability suits, unless (a) the supplier also manufactured the implant alleged to have caused harm; (b) the supplier sold the implant alleged to have caused harm; or (c) the supplier furnished raw materials or component parts that failed to meet applicable contractual requirements or specifications. Second, the bill would provide raw materials and component parts suppliers with a mechanism for making that immunity meaningful by obtaining early dismissal from lawsuits.

What The Bill Does Not Do: The bill does not keep injured plaintiffs from gaining compensation for their injuries. First, it leaves lawsuits against those involved in the design, manufacture or sale of medical devices untouched. Second, it provides a fallback rule if the manufacturer or other responsible party is bankrupt or judgment-proof. In such cases, a plaintiff may bring the raw materials supplier back into a lawsuit if a court concludes that evidence exists to warrant holding the supplier liable. Finally, the bill does not cover lawsuits involving silicone gel breast implants.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 25, 1998, the federal debt stood at $5,504,168,372,205.11 (Five trillion, five hundred four billion, one hundred sixty-eight million, three hundred seventy-two thousand, two hundred five dollars and eleven cents).

One year ago, June 25, 1997, the federal debt stood at $5,339,644,000,000 (Five trillion, three hundred thirty-nine billion, six hundred forty-four million).

Five years ago, June 25, 1993, the federal debt stood at $4,305,269,000,000 (Four trillion, three hundred five billion, two hundred sixty-nine million).

Twenty-five years ago, June 25, 1973, the federal debt stood at $452,652,000,000 (Four hundred fifty-two billion, six hundred fifty-two million) which reflects a debt increase of more than $5 trillion—$5,051,516,372,205.11 (Five trillion, fifty-one billion, five hundred sixteen million, three hundred seventy-two thousand, two hundred five dollars and eleven cents) during the past 25 years.

HONORING THE PHILLIPS, SWONS, AND YOUNTS ON THEIR 30TH WEDDING ANNIVERSARIES

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

For these important reasons, I rise today along with the senior Senator from Missouri, Senator BOND, to honor Kathy and John Phillips, Alma and Larry Swon, and Kathy and Mike Yount of Mexico, Missouri, who on July 3, 1998, will celebrate their 30th wedding anniversaries. Many things have changed in the 30 years these couples have been married, but the values, principles, and commitment these marriages demonstrate are timeless.

My wife, Janet, and I had the privilege of celebrating our 30th wedding anniversary just one year ago. I can attest, like these fine couples, to the remarkable love and appreciation that has grown out of my own marriage. As these couples gather together in Mexico on July 3, surrounded by friends and family, it will be apparent that the lasting legacy of these marriages will be the time, energy, and resources invested in their children, church, and community.

The Phillips, Swons, and Younts exemplify the highest commitment to relentless dedication and sacrifice. Their commitment to the principles and values of their marriages deserve to be saluted and recognized.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, upon our return in July, it is my hope that the Senate will turn to full and open debate of patient protection legislation at the earliest appropriate time. The American people are concerned about the state of our health care system. Earlier this month, a survey by the Pew Research Center showed HMO regulation at the top of the list of issues important to individuals and the country.

We have a proposal, the Patients' Bill of Rights (S. 1890), which would restore confidence in our system. A critical provision in our bill would allow patients who receive their benefits through their employer to hold their plans accountable for medical or coverage decisions that result in injury or death. Currently, approximately 123 million Americans are precluded from seeking any meaningful redress when they are permanently disabled or when they lose a loved one because of insurance company abuses that put profits ahead of patients.

Patients who purchase in the individual market can hold their plans accountable. Patients enrolled in plans that serve state or local employees can hold their plans accountable. But people insured through ERISA covered plans cannot. No industry deserves to be exempt from liability for their actions. Last week, William Welch, a reporter with USA Today, wrote an article that eloquently outlines this issue and how it affects families across the country. I ask unanimous consent that this article be printed in the RECORD.

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

[From USA Today, June 19–21, 1998]

1974 PENSIONS LAW SPARKS POLITICAL FIRE

(By William M. Welch)

WASHINGTON—When a doctor's mistake causes death or injury to the patient, a malpractice suit frequently follows. But what if fault lies with a managed care plan that denies treatment?

Chances of a successful suit for damages are slim, many Americans are finding, because a federal law makes it practically impossible to collect from an employer-provided health care plan.

As more people get into health maintenance organizations and other types of managed-care plans, that 25-year old law has become an election-year issue. Both parties propose regulating managed-care plans and making HMOs more accountable. Knocking down legal barriers to suits has emerged as the most contentious issue in the debate.

"The American public doesn't realize that the managed-care industry is the only industry in the country that has a congressionally mandated shield from liability," says Rep. Charlie Norwood, R–Ga, a dentist who is sponsoring one of several bills that would open the door to suits against health plans. "I want these accountants to think twice before they overrule the physician who says your child needs to go to the hospital."

Sen. Edward M. Kennedy, D-Mass., is sponsoring a similar version in the Senate and vows to attach it to spending bills or other must-pass legislation, perhaps as early as next week. "We will use whatever parliamentary means," he says, "because the American people expect it."

The bills would remove the barrier to suits by changing a federal law that says decisions made by employer-provided health plans in most cases cannot be the subject of suits in state courts. It also greatly limits potential awards in federal courts.

Norwood and Kennedy say the change would instantly make healthcare plan managers more accountable for their decisions about coverage and put authority for treatment decisions back in the hands of doctors.

Opponents say it would bring a flood of expensive lawsuits and lead to higher health insurance costs for average Americans. In the House of Representatives, Majority Leader Dick Armey, R-Texas, is a leading opponent. He says the change would "drive up premiums and drive down coverage by letting trial lawyers sue health plans for malpractice."

MY CHILD WAS CHEATED

Advocates of changing the federal law point to people like Bill Beaver of Pollock Pines, Calif. Beaver, 52, says his HMO misdiagnosed a brain tumor for two years, then told him his condition was inoperable and hopeless. He cashed in a retirement account to visit specialists at Johns Hopkins University Hospital in Baltimore. They began radiation treatment.

The tumor receded, and Beaver is alive three years later. The HMO refused to pay for the treatment at Johns Hopkins. He wanted to sue but was told federal law would make it impossible for him to win.

"When I needed support, my HMO gave me the door," Beaver says, "Unless HMOs are forced to give quality care, they will continue to deny costly treatments that can prolong or in my case even save a life."

Melody Louise Johnson of Norco, Calif., died at age 16 of cystic fibrosis, a genetic disease that attacks the lungs. Her mother, Terry Johnson, says the family's HMO delayed their request for referral to specialists

and overruled the specialists once she saw them. The family has sued, and their HMO is citing the federal law in seeking dismissal.

"I don't want another parent to have to go through what I went through," she says. "It is devastating enough to have a child with this disease. . . . My child was cheated."

Privacy laws prevent health-care companies from commenting on individual cases, says Richard Smith, vice president of the American Association of Health Plans, whose members include the nation's major HMOs and managed-care plans.

"It is nearly impossible for the plans that are being accused to respond," Smith says. "I think that most people understand there's often more than one side to a story."

SUPPORT FOR CHANGE

Armed with stories like these, supporters of change have tapped strong chords of unhappiness with managed care among voters.

More than half the House, including members in both parties, has signed on as supporters of Norwood's bill. House and Senate Democratic leaders have introduced similar bills. President Clinton has called for passage of the legislation, and Congress is expected to act this year.

A poll released this week by the Pew Research Center found that 69% say the debate over HMO regulation is very important, and 60% said it was very important to them personally.

Senate GOP leaders and Armey in the House have blocked the bills, although some Republicans are calling for action. House Speaker Newt Gingrich, R-Ga., has named a task force of GOP lawmakers to come up with a more limited bill. But he rejected their initial attempt.

The issue is already being used by Democrats in House and Senate campaigns in states as diverse as North Carolina and Montana. Some GOP lawmakers worry that their leaders are handing a powerful issue to Democrats that threatens their 11-vote House majority.

"In my opinion this will be one of the top two or three issues in this fall campaign," says Rep. Greg Ganske, R-Iowa, a physician. "We will only see legislation passed when it becomes apparent to the Republican leadership that they could lose their majority based on this issue."

WHY SUITS ARE BARRED

The obstacle to suits is a 1974 law, the Employee Retirement Income Security Act, or ERISA. It was designed to protect pensions and simplify rules for employers by preempting state regulation of benefit plans and covering them with a single federal law.

Many experts say the law was never intended to shield health care decisions from malpractice suits, but court interpretations and the changing nature of the U.S. health care system have had that effect. Because of the law, managed-care plans can argue that they are extensions of employer-provided benefit plans and thus protected from state laws and regulations on health insurance.

The law also makes it relatively futile to sue in federal court. It prohibits plaintiffs from seeking punitive or compensatory damages. They can sue only to recover the cost of the procedure that was denied.

A decade ago, when HMOs and managed care covered relatively few Americans, denial of coverage meant an insurance company didn't pay a bill after treatment, and the law wasn't a big issue. But there has been a revolution in the way health care is provided, and now 138 million people, or three-quarters of Americans with private health insurance, rely on managed-care plans.

Those plans limit costs by tightly controlling access to many types of care. Decisions authorizing or denying care may be made by claims clerks and managers. For patients in those plans, denial of coverage can mean they don't see the doctor or specialist they want or don't get a medical procedure their doctor recommended. They may not even be informed of expensive treatments or clinical trials that hold promise for life-threatening illnesses such as cancer. A health plan can limit the options its doctors discuss with patients.

"In non-managed care, it's not an issue because the physician makes the decision and is accountable," says Dr. Thomas Reardon, president of the American Medical Association. "It's when you have a third party second-guessing the physician that this becomes a problem."

Jerry Cannon of Newcastle, Okla., learned about the limits on accountability when his wife, Phyllis, contracted leukemia. Her HMO denied the bone marrow transplant that her doctor recommended until it was too late. She died in 1992 at 46. When Cannon sued, a federal court ruled that the federal law prevented any award.

A three-judge panel of the 10th U.S. Circuit Court of Appeals upheld the ruling and said the law was clear, however wrong the result may seem. The Supreme Court refused the case.

"Although moved by the tragic circumstances of this case and the seemingly needless loss of life that resulted, we conclude the law gives us no choice," the appeals court said.

Cannon recalls taking the phone call and relaying word to his wife that the HMO wasn't going to provide the transplant she needed: "It just devastated her. She gave up after that. Oh, it was horrible. Once I got off the phone, I could see all hope leave her."

RADICAL PROPOSAL

Concerned about growing calls for change, employers, insurers and health care companies have begun an aggressive advertising and lobbying campaign against the bills. They contend that changing the law could open the door to expensive lawsuits against employers as well as health plans, drive up costs for consumers, and ultimately reduce the quality of health care.

"This kind of radical proposal to expand the current flawed medical liability system is not going to generate better medical care. It's going to generate lower quality medical care," says Smith, of the health plans association.

Kennedy and Norwood dispute the industry view and say their bills would not permit suits against employers unless they actually participated in the decisions leading to injury.

But industry groups say higher costs and the potential for suits could cause some big employers to stop offering health plans for their workers.

"There is no question, we believe, that this would cause a lot of employers to drop coverage. They just couldn't take the risk," says Dan Danner, chairman of the Health Benefits Coalition, made up of business groups organized to fight the bills.

His group has run ads in selected congressional districts attacking the bills as protecting "fat cat trial lawyers" rather than the sick. Danner says his group's spending is approaching $2 million, and individual companies are spending more.

Fighting for the bills are consumer groups and an unusual alliance of doctors and trial lawyers, who are traditionally adversaries in malpractice cases. The lawyers have let groups with more sympathetic public images, such as doctors, wage the visible campaign while the lawyers lobby aggressively inside Congress.

THERE ARE PROBLEMS

Industry officials say their decisions are protected because they are not, strictly speaking, medical decisions. Instead, they say the decisions revolve around what treatments are or are not covered by a plan. Doctors, who are liable to lawsuits for their decisions, dismiss that claim.

"That's absurd because they are making medical decisions," says the AMA's Reardon. "They're hiding behind the facade that it is not medical, that it's a coverage decision."

Some industry officials agree that some new regulation of managed care plans is needed, short of dropping the prohibition on suits.

"There are problems with managed care," says Danner. "Hopefully the debate will focus on the best way to solve those problems without significant unintended consequences."

Advocates from Norwood to the AMA say that accountability is at the heart of the issue. Making HMOs liable for their decisions would bring dramatic change for all patients, not just those inclined to sue, they say.

"If the plans are held as accountable as I am for the medical decision-making," Reardon says, "it will benefit the patient."

ABOUT THE MANAGED-CARE BILL

Here are key provisions in a managed-care regulation bill proposed by Rep. Charlie Norwood, R-Ga.

A Democrat-sponsored bill is similar.

Gag rule. Plans may not restrict discussions between their doctors and patients, including treatment options.

Legal liability. Eliminates federal law blocking individuals from suing managed-care companies for malpractice.

Emergency care. Requires plans to pay for emergency care in most cases without prior authorization.

Information. Plans must provide information about policies and appeals procedures in a uniform and understandable manner.

Access. Plans must have enough doctors or other providers to ensure that patients have timely access to benefits.

Choice. Patients can choose a doctor or other health provider within the plan.

Appeals. An independent outside third-party appeals board must be available to hear appeals of treatment denials.

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 three treaties and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on June 26, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 2646. An act to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 2236. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

The following bill was discharged from the Committee on Armed Services, and ordered placed on the calendar:

S. 2052. An act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Retirement and Disability System, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 26, 1998, he had presented to the President of the United States, the following enrolled bill:

S. 2069. An act to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GORTON, from the Committee on Appropriations, without amendment:

S. 2237: An original bill making appropriations for the Department of the Interior related agencies for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–227).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 1683) to transfer administrative jurisdiction over part of the Lake Chelan National Recreation Area from the Secretary of the Interior to the Secretary of Agriculture for inclusion in the Wenatchee National Forest (Rept. No. 105–228).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources with an amendment in the nature of a substitute:

S. 638: A bill to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes (Rept. No. 105–229).

S. 1403: A bill to amend the National Historic Preservation Act for purposes of establishing a national historic lighthouse preservation program (Rept. No. 105–230).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1439: A bill to facilitate the sale of certain land in Tahoe National Forest, in the State of California to Placer County, California (Rept. No. 105–231).

H.R. 1779: A bill to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements (Rept. No. 105–232).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. GORTON:

S. 2237. An original bill making appropriations for the Department of the Interior related agencies for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LOTT (for Mr. MCCAIN (for himself and Mr. BRYAN)):

S. 2238. A bill to reform unfair and anticompetitive practices in the professional boxing industry; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI:

S. 2239. A bill to revise the boundary of Fort Matanzas Monument and for other purposes; to the Committee on Energy and Natural Resources.

S. 2240. A bill to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2241. A bill to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. KOHL, Mr. ABRAHAM, Mr. SESSIONS, and Mr. COVERDELL):

S. 2242. A bill to amend the Controlled Substances Import and Export Act to place limitations on controlled substances brought into the United States from Canada and Mexico; to the Committee on the Judiciary.

By Mrs. HUTCHISON:

S. 2243. A bill to authorize the repayment of amounts due under a water reclamation project contract for the Canadian River Project, Texas; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. ALLARD, Mr. DASCHLE, Ms. COLLINS, Mr. GRAHAM, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. SMITH of Oregon, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. BOND, Mr. DEWINE, and Mr. SMITH of New Hampshire):

S. 2244. A bill to amend the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefit of national wildlife refuges, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 2245. A bill to require employers to notify local emergency officials, under the appropriate circumstances, of workplace emergencies, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MURKOWSKI:

S. 2246. A bill to amend the Act which establised the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary and for other purposes; to the Committee on Energy and Natural Resources.

S. 2247. A bill to permit the payment of medical expenses incurred by the U.S. Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2248. A bill to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. BINGAMAN, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. REID, Mr. DURBIN, Mr. INOUYE, and Mr. TORRICELLI):

S. 2249. A bill to provide retirement security for all Americans; to the Committee on Finance.

By Mr. COVERDELL:

S. 2250. A bill to protect the rights of the States and the people from abuse by the Federal Government, to strengthen the partnership and the intergovernmental relationship between State and Federal Governments, to restrain Federal agencies from exceeding their authority, to enforce the Tenth Amendment of the United States Constitution, and for other purposes; to the Committee on the Judiciary.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2251. A bill to establish the Lackawanna Valley American Heritage Area; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM:

S. 2252. A bill to amend the Sherman Act and the Federal Trade Commission Act with respect to commerce with foreign nations; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 2253. A bill to establish a matching grant program to help State and local jurisdictions purchase bullet resistant equipment for use by law enforcement departments; to the Committee on the Judiciary.

By Mr. REED:

S. 2254. A bill to provide for the establishment of an assistance program for health insurance consumers; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD:

S. 2255. A bill to amend the Agricultural Market Transition Act to prohibit the Secretary of Agriculture from including any storage charges in the calculation of loan deficiency payments or loans made to producers for loan commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERRY (for himself, Ms. SNOWE, Mr. HOLLINGS, and Mr. STEVENS):

S. 2256. A bill to provide an authorized strength for commissioned officers of the National Oceanic and Atmospheric Administration Corps, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 2257. A bill to reauthorize the National Historic Preservation Act; to the Committee on Energy and Natural Resources.

By Mr. GLENN:

S. 2258. A bill to provide for review on case-by-case basis of the effectiveness of country sanctions mandated by statute; to the Committee on Foreign Relations.

By Mr. MURKOWSKI:

S. 2259. A bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. WARNER (for himself, Mr. FORD, Mr. STEVENS, and Mr. MOYNIHAN):

S. Res. 255. A resolution to commend the Library of Congress for 200 years of outstanding service to Congress and the Nation, and to encourage activities to commemorate the bicentennial anniversary of the Library of Congress; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT (for Mr. MCCAIN (for himself and Mr. BRYAN)):

S. 2238. A bill to reform unfair and anticompetitive practices in the professional boxing industry; to the Committee on Commerce, Science, and Transportation.

MUHAMMAD ALI BOXING REFORM ACT

• Mr. MCCAIN. Mr. President, I am pleased today to introduce a new bipartisan proposal to improve several aspects of the professional boxing industry in the U.S. I am joined by Senator BRYAN of Nevada in offering this legislation. He has been a great partner in my efforts to improve the safety and integrity of this major industry in the public interest.

This bill is intended to protect boxers from some of the most egregious and onerous business practices which they have been subjected to across the U.S. over the last several decades. It will also help State officials provide more effective public oversight of boxing events held in their jurisdiction, so that they can better prevent business practice abuses and unethical conduct. Furthermore, this legislation will improve integrity and open competition in professional boxing, by curbing its most restrictive and anti-competitive business practices. This is a limited and modest proposal in many respects, but it is the product of months of consultation with experienced State athletic officials and the most respected and knowledgeable members of the boxing industry.

Let me say a few words about the title of this legislation. I thought it would be a fitting tribute to name an important new reform measure on professional boxing after Muhammad Ali. Mr. Ali had perhaps the most impressive and exciting career in the history of professional boxing, and his many championships and achievements are legendary in the sport. Of course, Muhammad Ali's character, integrity, and personal charm appealed to tens of millions of Americans who did not even consider themselves to be boxing fans. His entire life has been a story of tremendous determination, accomplishment, and perseverance against daunting odds. I feel it most appropriate for the Congress to pass a measure to protect the interests of boxers, encourage fair competition, and vastly improve the overall integrity of the boxing industry, that is named in his honor. I want to thank Mr. Ali for his graciousness in letting this legislation be so named.

I have been deeply involved in exploring ways to improve the professional boxing industry for most of this decade. It is a complex task. Many of the steps that need to be taken to permanently end the disreputable and abusive business practices which have long marred the sport must be taken either by members of the industry, or by State officials. I firmly believe that State boxing commissioners and industry leaders must be the primary agents of reform in this sport. It is they who I have continually turned to for advice and recommendations on how the federal government might be of help, albeit in a limited and supportive role.

This proposal seeks to remedy many of the anti-competitive, oppressive, and unethical business practices which have cheated professional boxers and denied the public the benefits of a truly honest and legitimate sport. This reform measure is designed to prohibit the harmful and arbitrary business practices which have clearly hurt the welfare of professional boxers, without imposing unnecessary restrictions or federal intrusions into the sport. I want to emphasize that this proposal requires no State or federal funding; creates no federal bureaucracy; imposes no mandates on State commissions; and requires no new regulatory actions by State boxing commissioners. It is a modest and practical measure that will establish several "fair contracting" standards to protect professional boxers, and enhance important financial disclosures that are made to State commissions by business entities in the industry.

This bill also would establish certain federal standards with which boxing's "sanctioning organizations" must comply. These entities are notorious in the sport for engaging in arbitrary and manipulative activity with respect to their ratings of professional boxers. Though often foreign-based, these entities operate on an interstate basis in the U.S. with virtually no oversight at the State or federal level. For several decades they have been repeatedly and credibly criticized by boxers and sportswriters for business practices that are highly questionable. Their inconsistent and subjective methods of rating boxers, often in apparent collusion with powerful promoters in the sport, clearly has had negative consequences for boxers. A boxer's career can be effectively stalled or crippled by these entities' arbitrary decisions. This legislation would establish a series of prudent business conduct standards and financial disclosure requirements on sanctioning organizations to ensure they are subject to legitimate public oversight by State officials.

I want to note the vital need for these reforms at the federal level, Mr. President. Boxing in the U.S. is regulated by individual State boxing commissions, many of which are severely underfunded and understaffed. Many do not have more than a single employee. Though many State commissions have extremely knowledgeable and dedicated members, they do not have the capacity to prevent the indefensible interstate business abuses which this legislation address. Indeed, when a small group of states boxing commissions tries to crack down on the promoters and others who are engaged in fraudulent or unethical activity, State officials face the prospect of losing all their professional boxing events to another jurisdiction. Promoters and sanctioning bodies can avoid State reforms by seeking out new forums where public interest protections are fewer and weaker. That is not good for the boxers who bear all the risks of this punishing profession, and it not good for the ticket-buying fans, either.

Decades of scandals, controversy, and corruption have shown professional boxing to be an industry where public oversight is absolutely critical, Mr. President. Therefore, this limited series of national fair business standards and public disclosure requirements will be of tremendous service to the State officials and general public concerned about this industry. This bill will in no way interfere with any legitimate, good faith business practices in the sport.

Senator BRYAN and the many industry members that I have worked with over the past five months to develop this bill have come up with a solid, practical, and no-cost way to protect the interests of the athletes and the public in the boxing industry. The sole objectives of this bill are to ensure that boxers are not cheated of their fair earnings in the sport; that State officials are given better information with which to supervise major boxing

events, and take corrective actions when necessary; and to encourage integrity and honest business practices by the business interests which dominate professional boxing. I have attached a one page summary of this proposal, and ask unanimous consent to print the bill and summary in the RECORD. I look forward to comments on this proposal by members of the industry and State commissioners across the U.S., and ask my colleagues for their support.

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

S. 2238

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 "Muhammad Ali Boxing Reform Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Professional boxing differs from other major, interstate professional sports industries in the United States in that it operates without any private sector association, league, or centralized industry organization to establish uniform and appropriate business practices and ethical standards. This has led to repeated occurrences of disreputable and coercive business practices in the boxing industry, to the detriment of professional boxers nationwide.

(2) Professional boxers are vulnerable to exploitative business practices engaged in by certain promoters and sanctioning bodies which dominate the sport. Boxers do not have an established representative group to advocate for their interests and rights in the industry.

(3) State officials are the proper regulators of professional boxing events, and must protect the welfare of professional boxers and serve the public interest by closely supervising boxing activity in their jurisdiction. State boxing commissions do not currently receive adequate information to determine whether boxers competing in their jurisdiction are being subjected to contract terms and business practices which may be violative of State regulations, or are onerous and confiscatory.

(4) Promoters who engage in illegal, coercive, or unethical business practices can take advantage of the lack of equitable business standards in the sport by holding boxing events in states with weaker regulatory oversight.

(5) The sanctioning organizations which have proliferated in the boxing industry have not established credible and objective criteria to rate professional boxers, and operate with virtually no industry or public oversight. Their ratings are susceptible to manipulation, have deprived boxers of fair opportunities for advancement, and have undermined public confidence in the integrity of the sport.

(6) Open competition in the professional boxing industry has been significantly interfered with by restrictive and anti-competitive business practices of certain promoters and sanctioning bodies, to the detriment of the athletes and the ticket-buying public. Common practices of promoters and sanctioning organizations represent restraints of interstate trade in the United States.

(7) It is necessary and appropriate to establish national contracting reforms to protect professional boxers and prevent exploitative business practices, and to require enhanced financial disclosures to State athletic commissions to improve the public oversight of the sport.

(8) Whereas the Congress seeks to improve the integrity and ensure fair practices of the professional boxing industry on a nationwide basis, it deems it appropriate to name this reform in honor of Muhammad Ali, whose career achievements and personal contributions to the sport, and positive impact on our society, are unsurpassed in the history of boxing.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to protect the rights and welfare of professional boxers by preventing certain exploitative, oppressive, and unethical business practices they may be subject to on an interstate basis;

(2) to assist State boxing commissions in their efforts to provide more effective public oversight of the sport; and

(3) to promoting honorable competition in professional boxing and enhance the overall integrity of the industry.

SEC. 4. PROTECTING BOXERS FROM EXPLOITATION.

The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.) is amended by—

(1) redesignating section 15 as 16; and

(2) inserting after section 14 the following:

"SEC. 15. PROTECTION FROM EXPLOITATION.

"(a) CONTRACT REQUIREMENTS.—

"(1) IN GENERAL.—Any contract between a boxer and a promoter or manager shall—

"(A) be reasonable;

"(B) include mutual obligations between the parties; and

"(C) specify a minimum number of professional boxing matches per year for the boxer.

"(2) 1-YEAR LIMIT ON COERCIVE PROMOTIONAL RIGHTS.—The period of time for which promotional rights to promote a boxer may be granted under a contract between the boxer and a promoter, or between promoters with respect to a boxer, may not be greater than 12 months in length if the boxer is required to grant such rights, or a boxer's promoter is required to grant such rights with respect to a boxer, as a condition precedent to the boxer's participation in a professional boxing match. Nothing in this paragraph shall be construed as pre-empting any State statute or common law rule against interference with contract.

"(3) PROMOTIONAL RIGHTS UNDER MANDATORY BOUT CONTRACTS.—Neither a promoter nor a sanctioning organization may require a boxer, in a contract arising from a professional boxing match that is a mandatory bout under the rules of the sanctioning organization, to grant promotional rights to any promoter for a future professional boxing match.

"(b) EMPLOYMENT AS CONDITION OF PROMOTING, ETC.—No person who is a licensee, manager, matchmaker, or promoter may require a boxer to employ, retain, or provide compensation to any individual or business enterprise (whether operating in corporate form or not) recommended or designated by that person as a condition of—

"(1) such person's working with the boxer as a licensee, manager, matchmaker, or promoter;

"(2) such person's arranging for the boxer to participate in a professional boxing match; or

"(3) such boxer's participation in a professional boxing match.

"(c) ENFORCEMENT.—

"(1) PROMOTION AGREEMENT.—A provision in a contract between a promoter and a boxer, or between promoters with respect to a boxer, that violates subsection (a) is contrary to public policy and unenforceable at law.

"(2) EMPLOYMENT AGREEMENT.—In any action brought against a boxer to recover money (whether as damages or as money owed) for acting as a licensee, manager, matchmaker, or promoter for the boxer, the court, arbitrator, or administrative body before which the action is brought may deny recovery in whole or in part under the contract as contrary to public policy if the employment, retention, or compensation that is the subject of the action was obtained in violation of subsection (b).".

(b) CONFLICTS OF INTEREST.—Section 9 of such Act (15 U.S.C. 6308) is amended by—

(1) striking "No member" and inserting "(a) REGULATORY PERSONNEL.—No member"; and

(2) adding at the end thereof the following:

"(b) FIREWALL BETWEEN PROMOTERS AND MANAGERS.—

"(1) IN GENERAL.—It is unlawful for—

"(A) a promoter to have a direct or indirect financial interest in the management of a boxer; or

"(B) a manager to have a direct or indirect financial interest in the promotion of a boxer.

"(2) EXCEPTION FOR SELF-PROMOTION AND MANAGEMENT.—Paragraph (1) does not prohibit a boxer from acting as his own promoter or manager.".

SEC. 5. SANCTIONING ORGANIZATION INTEGRITY REFORMS.

(a) IN GENERAL.—The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.), as amended by section 4 of this Act, is amended by—

(1) redesignating section 16, as redesignated by section 4 of this Act, as section 17; and

(2) by inserting after section 15 the following:

"SEC. 16. SANCTIONING ORGANIZATIONS.

"(a) OBJECTIVE CRITERIA.—A sanctioning organization that sanctions professional boxing matches on an interstate basis shall establish objective and consistent written criteria for the ratings of professional boxers.

"(b) APPEALS PROCESS.—A sanctioning organization shall establish and publish an appeals procedure that affords a boxer rated by that organization a reasonable opportunity to submit information to contest its rating of the boxer. Under the procedure, the sanctioning organization shall, within 14 days after receiving a request from a boxer questioning that organization's rating of the boxer—

"(1) provide to the boxer a written explanation of the organization's criteria and its rating of the boxer; and

"(2) submit a copy of its explanation to the President of the Association of Boxing Commissions of the United States.

"(c) NOTIFICATION OF CHANGE IN RATING.—If a sanctioning organization changes its rating of a boxer who is included, before the change, in the top 10 boxers rated by that organization, then it shall provide a written explanation of the reasons for its change in that boxer's rating to the boxer within 14 days after changing the boxer's rating.

"(d) PUBLIC DISCLOSURE.—

"(1) FTC FILING.—Not later than January 31st of each year, a sanctioning organization shall submit to the Federal Trade Commission—

"(A) a complete description of the organization's ratings criteria, policies, and general sanctioning fee schedule;

"(B) the bylaws of the organization;

"(C) the appeals procedure of the organization; and

"(D) a list and business address of the organization's officials who vote on the ratings of boxers.

"(2) FORMAT; UPDATES.—A sanctioning organization shall—

"(A) provide the information required under paragraph (1) in writing, and, for any document greater than 2 pages in length, also in electronic form; and

"(B) promptly notify the Federal Trade Commission of any material change in the information submitted.

"(3) FTC TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Federal Trade Commission shall make information received under this subsection available to the public. The Commission may assess sanctioning organizations a fee to offset the costs it incurs in processing the information and making it available to the public.

"(4) INTERNET ALTERNATIVE.—In lieu of submitting the information required by paragraph (1) to the Federal Trade Commission, a sanctioning organization may provide the information to the public by maintaining a website on the Internet that—

"(A) is readily accessible by the general public using generally available search engines and does not require a password or payment of a fee for full access to all the information;

"(B) contains all the information required to be submitted to the Federal Trade Commission by paragraph (1) in a easy to search and use format; and

"(C) is updated whenever there is a material change in the information.".

(b) CONFLICT OF INTEREST.—Section 9 of such Act (15 U.S.C. 6308), as amended by section 4 of this Act, is amended by adding at the end thereof the following:

"(c) SANCTIONING ORGANIZATIONS.—

"(1) PROHIBITION ON RECEIPTS.—Except as provided in paragraph (2), no officer or employee of a sanctioning organization may receive any compensation, gift, or benefit directly or indirectly from a promoter, boxer, or manager.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the receipt of payment by a promoter, boxer, or manager of a sanctioning organization's published fee for sanctioning a professional boxing match or reasonable expenses in connection therewith if the payment is reported to the responsible boxing commission under section 17; or

"(B) the receipt of a gift or benefit of *de minimis* value.".

(c) SANCTIONING ORGANIZATION DEFINED.—Section 2 of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301) is amended by adding at the end thereof the following:

"(11) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization that sanctions professional boxing matches in the United States—

"(A) between boxers who are residents of different States; or

"(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.".

SEC. 6. PUBLIC INTEREST DISCLOSURES TO STATE BOXING COMMISSIONS.

(a) IN GENERAL.—The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.), as amended by section 5 of this Act, is amended by—

(1) redesignating section 17, as redesignated by section 5 of this Act, as section 18; and

(2) by inserting after section 16 the following:

"SEC. 17. REQUIRED DISCLOSURES TO STATE BOXING COMMISSIONS.

"(a) SANCTIONING ORGANIZATIONS.—Before sanctioning a professional boxing match in a State, a sanctioning organization shall provide to the boxing commission of, or responsible for sanctioning matches in, that State a written statement of—

"(1) all charges, fees, and costs the organization will assess any boxer participating in that match;

"(2) all payments, benefits, complimentary benefits, and fees the organization will receive for its affiliation with the event, from the promoter, host of the event, and all other sources; and

"(3) such additional information as the commission may require.

"(b) PROMOTERS.—Before a professional boxing match organized, promoted, or produced by a promoter is held in a State, the promoter shall provide a statement in writing to the boxing commission of, or responsible for sanctioning matches in, that State—

"(1) a copy of any agreement in writing to which the promoter is a party with any boxer participating in the match;

"(2) a statement made under penalty of perjury that there are no other agreements, written or oral, between the promoter and the boxer with respect to that match; and

"(3) a statement in writing of—

"(A) all fees, charges, and expenses that will be assessed by or through the promoter on the boxer pertaining to the event, including any portion of the boxer's purse that the promoter will receive, and training expenses; and

"(B) all payments, gift, or benefits the promoter is providing to any sanctioning organization affiliated with the event.

"(c) STATE BOXING COMMISSION TO ESTABLISH REQUIREMENTS.—The boxing commission of each State, or the responsible boxing commission for a State that has no boxing commission, shall determine how far in advance of a professional boxing match the documents described in subsections (a) and (b) shall be provided to the boxing commission, and may prescribe such additional requirements relative to the required submission as may be necessary.

"(d) INFORMATION TO BE AVAILABLE TO STATE ATTORNEY GENERAL.—A State boxing commission shall make information received under this section available to the chief law enforcement officer of the State in which the match is to be held upon request.

"(e) EXCEPTION.—The requirements of this section do not apply in connection with a professional boxing match scheduled to last less than 10 rounds.".

SEC. 7. ENFORCEMENT.

Section 10 of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6309) is amended by—

(1) inserting a comma and "other than section 9(b), 15, 16, or 17," after "this Act" in subsection (b)(1);

(2) redesignating paragraphs (2) and (3) of subsection (b) as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) VIOLATION OF ANTI-EXPLOITATION, SANCTIONING ORGANIZATION, OR DISCLOSURE PROVISIONS.—Any person who knowing violates any provision of section 9(b), 15, 16, or 17 of this Act shall, upon conviction, be imprisoned for not more than 1 year or fined not more than—

"(A) $100,000; and

"(B) if the violations occur in connection with a professional boxing match the gross revenues for which exceed $2,000,000, such additional amount as the court finds appropriate,

or both."; and

(3) adding at the end thereof the following:

"(c) ACTIONS BY STATES.—Whenever the chief law enforcement officer of any State has reason to believe that a person or organization is engaging in practices which violate any requirement of this Act, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States—

"(1) to enjoin the holding of any professional boxing match which the practice involves;

"(2) to enforce compliance with this Act;

"(3) to obtain the fines provided under subsection (b) or appropriate restitution; or

"(4) to obtain such other relief as the court may deem appropriate.

"(d) PRIVATE RIGHT OF ACTION.—Any boxer who suffers economic injury as a result of a violation of any provision of this Act may bring an action in the appropriate Federal or State court and recover the damages suffered, court costs, and reasonable attorneys fees and expenses.".

S. 2238—SUMMARY

PROTECTING BOXERS FROM EXPLOITATION

(a) Declares that all contracts between boxers and promoters must be based on a mutuality of obligation, be reasonable in length and terms, and contain terms specifying a minimum number of bouts per year for the boxer.

(b) Limits certain "option" contracts between boxers and promoters to one year. (Those where a boxer was required to provide options to a promoter, as a condition of getting a particular fight.)

(c) Prohibits promoters and sanctioning bodies from requiring "options" from a boxer who is considered by a sanctioning body to be the "mandatory challenger."

(d) No promoter can require a boxer to hire an associate, relative, or any other individual, as the boxer's manager, or in any other employment capacity.

(e) Prohibits conflicts of interest between managers of a boxer, and the promoter. No promoter can have a financial interest in the management of a boxer, or vice versa.

SANCTIONING ORGANIZATION INTEGRITY REFORMS

(a) Sanctioning organizations conducting business in the U.S. on an interstate basis must establish objective and consistent criteria for the ratings of professional boxers.

(b) On an annual basis, sanctioning organizations must provide the following information to the Federal Trade Commission (or make it publicly available on the "internet"): (a) their bylaws, ratings criteria, and (b) roster of officials who vote on their ratings decisions.

(c) When sanctioning organizations change their rating of a U.S. boxer, the organization must inform the boxer in writing of the reason for the change.

(d) Each sanctioning organization must establish an appeals process for boxers in the U.S. to contest their ranking in writing, and receive a written response from the organization explaining its decision. Copies of their decision shall be provided to the ABC.

(e) No sanctioning organization can receive payments or compensation from a promoter, boxer, or manager, except for the established sanctioning fee and expenses they receive for sanctioning a bout, and which are reported to the relevant State commission.

PUBLIC INTEREST DISCLOSURES TO STATE BOXING COMMISSIONS

(a) Sanctioning organizations must disclose to a state boxing commission, in advance of the event, all charges and fees they will impose on the boxer(s) competing in the event.

(b) Sanctioning bodies must also disclose all payments, fees, and complimentary services they will receive from promoters, the host of the boxing event, and any other sources affiliated with the event. Services or benefits of minor value are excluded.

(c) The promoter and matchmakers affiliated with each event shall file a complete and accurate copy of all contracts they have with the boxer pertaining to the event, with the boxing commission prior to the event, and disclose in writing all fees, charges, and costs they will assess on the boxer(s). The promoter shall also disclose all payments and benefits made to sanctioning organization affiliated with the event. Promoters of "club" boxing events—those bouts of less than 10 rounds—are excluded from these reporting requirements.

(d) Require that disclosures made under this Act to a State Commission shall be provided upon request to the State Attorney General's Office, upon request.

ENFORCEMENT

Civil and Criminal penalties similar to new federal boxing law, but fines are higher to deter major promoters from violations. Also, allow enforcement by State Attorney Generals.

By Mr. MURKOWSKI:

S. 2239. A bill to revise the boundary of Fort Matanzas Mounment and for other purposes; to the Committee on Energy and Natural Resources.

FORT MATANZAS NATIONAL MONUMENT LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to revise the boundary of Fort Matanzas National Monument, and for other purposes. I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

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

DEPARTMENT OF INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, February 23, 1998.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill, "to revise the boundary of Fort Matanzas National Monument, and for other purposes." Also enclosed is a section-by-section analysis of the bill. We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The enclosed bill would revise the boundary of Fort Matanzas National Monument in Florida to clarify long-standing boundary and acquisition issues involving a total of approximately 70 acres. The first issue involves two tracts of land, 01–102 and 01–103 which are currently adjacent to the park's boundary. These two tracts were donated to the United States in 1963 and 1965. At the time of the donations, no attempt was made to seek authority to include these tracts within the park's boundary.

The second issue involves Tract 01–107, which was originally intended to be donated as part of Tract 01–102 on January 1, 1965. However, a regional Solicitor's opinion of September 14, 1984, indicated that an error in the legal description omitted this tract and the United States does not hold title to this parcel.

The purpose of this bill is to include the three tracts within the boundary of Fort Matanzas National Monument. This would ensure that the National Park Service could legally protect the resources on the tracts and ensure visitor safety.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS

Section 1 of this legislation revises the boundary of Fort Matanzas National Monument in Florida by adding three small tracts of land totaling approximately 70 acres. The boundary adjustments are depicted on the map entitled "Fort Matanzas National Monument", numbered 347/80004, and dated February 1991.

Section 2 authorizes the Secretary to acquire the lands by donation, purchase, transfer or exchange.

Section 3 states that the lands will be administered as part of Fort Matanzas National Monument and will be subject to the laws that are applicable to the monument.•

By Mr. MURKOWSKI:

S. 2240. A bill to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

ADAMS NATIONAL PARK LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to establish the Adams National Historical Park in the Commonwealth of Massachusetts and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

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

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC. February 23, 1998.

Hon. ALBERT GORE, Jr.
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To establish the Adams National Historical Park in the Commonwealth of Massachusetts and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee, and enacted.

The legislation would establish the Adams National Historical Park in Quincy, Massachusetts. Currently the proposed Adams National Historical Park is designated as a National Historic Site. It was established by Secretarial Order in 1935 based on the Historic Sites Act. It was expanded in 1952 again by Secretarial Order. In 1972, 1978 and 1980, Congress added more acreage to the site and authorized the addition of two separate properties to the historic site. The continued expansion of the historic site with the addition of separate properties all focused on the life and history of John Adams, Abigail Adams, John Quincy Adams, and their descendants, qualifies the existing National Park System unit for designation as a national historical park.

The legislation would authorize the acquisition of ten additional acres for development of visitor and administrative facilities to protect the historical setting and integrity of the historical park. The legislation directs that the historical park be managed in accord with the laws applicable to units of the National Park System, in particular the National Park Service Organic Act of 1916 and the Historic Sites Act of 1935. The legislation also provides specific cooperative agreement authority to the historical park to work with outside entities and individuals on the preservation, development, interpretation, and use of the site.

The redesignation of Adams National Historic Site to Adams National Historical Park is the important recognition that the collection of sites in Quincy, Massachusetts, related to the lives of John Adams, 2nd President of the United States, his wife Abigail and their descendants, including their son, John Quincy Adams, 6th President of the United States, properly deserves. The authorities for land acquisition and cooperative agreements are critical for the successful protection, development, interpretation and use of the Adams National Historical Park.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS—ADAMS NATIONAL HISTORICAL PARK

Section 1.—Provides a short title for the Act—"Adams National Historical Park Act of 1998."

Section 2. (a) Findings.—Provides the references including Secretarial Orders and Public Laws which created the Adams National Historic Site in Quincy, Massachusetts and expanded it from a single site to three separate sites in Quincy plus additional acreage at the original site. No single piece of legislation or Executive Order provides overarching authority or guidance for managing the multiple sites.

Section 2. (b) Purpose.—States the purpose of the legislation, to establish the "Adams National Historical Park."

Section 3.—Provides definitions.

Section 4.—Establishes the boundary of the historical park which is made up of the properties currently owned by the National Park Service and managed as part of the Adams National Historic Site or property identified in Executive Orders or Public Laws related to Adams National Historic Site that are to be acquired or conveyed to the National Park Service for inclusion in the historic site but that have not yet been acquired or conveyed. Also provides for the acquisition of up to ten additional acres for the development of administrative and visitor services.

Section 5.—Provides the authorities under which the historical park is to be administered, including cooperative agreement authority.

Section 6.—Authorities that funds necessary for the development, operation, and maintenance of the park be provided.•

By Mr. MURKOWSKI:

S. 2241. A bill to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes; to the Committee on Energy and Natural Resources.

FRANKLIN D. ROOSEVELT FAMILY HISTORIC SITE LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 26, 1998.

Hon. ALBERT GORE Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee, and enacted.

The purpose of the legislation is to allow the Secretary of the Interior to acquire lands and interests therein that were owned by Franklin Delano Roosevelt or his family at the time of his death, as depicted on the map referenced in the bill, by means of purchase using appropriated or donated funds, by donation, or exchange. The lands would be added to and managed as part of the Home of Franklin D. Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site.

This would expand the current acquisition authority at the Home of Franklin D. Roosevelt National Historic Site. Currently the Secretary's authority to acquire land owned by FDR or his family at the time of his death is by means of donation only. The National Park Service's priority at the site would continue to be land acquisition by donation. With regard to the property where Roosevelt's Top Cottage is situated, the National Park Service would acquire such property by donation only. This bill, upon enactment, would allow the use of appropriated funds for purchase of lands where donation is infeasible.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS—FRANKLIN DELANO ROOSEVELT NATIONAL HISTORIC SITE/ELEANOR ROOSEVELT NATIONAL HISTORIC SITE

Section 1. Provides the Secretary of the Interior authority to acquire lands and/or interests in lands owned by Franklin Delano Roosevelt or his family at the time of his death. The property may be acquired by purchase using donated or appropriated funds, by donation or otherwise. This revises current authority that only allows acquisition by donation.

Section 2. States that any land acquired will be administered as part of the Home of Franklin D. Roosevelt National Historic Site or as part of the Eleanor Roosevelt National Historic Site, as appropriate.

Section 3. Provides authority for funds to be appropriated to carry out the Act.•

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. KOHL, Mr. ABRAHAM, Mr. SESSIONS, and Mr. COVERDELL):

S. 2242. A bill to amend the Controlled Substances Import and Export Act to place limitations on controlled substances brought into the United States from Canada and Mexico; to the Committee on the Judiciary.

CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT AMENDMENTS

Mr. DEWINE. One of the key priorities for America today is protecting our young people from drugs. We need to stay on the lookout for new and different ways that we can make even a small difference in this important fight. This morning, along with Senators, GRASSLEY, KOHL, ABRAHAM, SESSIONS, and COVERDELL, I am introducing a bill that is neither monumental in approach nor grandiose in scope—but it will break one of the links in the chain of the drug trade.

There is now a loophole in Federal law that permits large quantities of a certain class of drugs known as controlled substances to pour into our country at an alarming rate. Included among these are some dangerous hallucinogenics and so-called date-rape drugs.

The reason for this current loophole is that, under present law, an individual is permitted to transport a 90-day supply of a controlled substance into the United States. By "controlled substance" we mean a substance that is either banned or regulated by the Drug Enforcement Agency. This "personal use exception," as it is called, is well intentioned. It was created to allow Americans who become ill or injured abroad to carry their necessary medication back to the United States. I want to emphasize that this bill would by no means end that very legitimate practice. That is not our intention at all. However, this legislation would stop the blatant exploitation of that exemption which is allowing some drug traffickers to operate freely in the United States.

Let me explain. Specifically, these narcotics are being legally purchased in another country without any sort of documentation of medical need, then brought across our border, and then illegally sold on our streets in this country. By closing this loophole, we will empower our law enforcement to stop what amounts to nothing more than another form of drug trafficking in the United States.

The remedy we seek today is both effective and sensible. It would limit the amount of these controlled substances that can be carried back to the United States by Americans to 50 doses. According to the DEA, that is about a 2-week supply, enough time to go get a new prescription before running out of that medication.

I would also like to note some things that this legislation will not do, so we can explain it very clearly to Members. It will not change the law with respect to noncontrolled prescription drugs, drugs such as insulin or Premarin, and it would not affect the ability of people to obtain drugs to treat heart disease or cancer or AIDS or other serious illnesses, because these medication are not on the Controlled Substances List at all. I also indicate to my colleagues that there is support for this among the Office of National Drug Control Policy, the Drug Enforcement Administration, U.S. Customs—they all support this approach. They recognize the problem and would like to see it resolved.

Let me again emphasize, this legislation is not complex. All we are really doing is closing a loophole to stop this illegal trafficking of controlled substances in the United States. If we are really going to make drug interdiction a priority, then it makes a great deal of sense to take this relatively small but effective and meaningful step. We need to take this step today.

Before closing, I would like to compliment my friend and colleague from the State of Ohio, Congressman STEVE CHABOT, from Cincinnati, who has shown great leadership on this issue, and many issues. It was through his active and tireless efforts in raising the profile on this issue that I was first made aware of the problem. I look forward to work with him and my other colleagues on this very important new initiative. It is my hope the Senate will act quickly and decisively to approve this very commonsense piece of legislation.

Mr. President, in conclusion, I ask unanimous consent a recent article that appeared in USA Today entitled "Medications from Mexico" that explains this and illustrates the problem be printed in the RECORD.

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

MEDICATIONS FROM MEXICO

(By Tim Friend)

Millions of tablets of prescription sedatives, amphetamines and narcotic painkillers are being brought into the U.S. from

Mexico, and most appear destined for recreational use or sale on the street, a new study shows.

The 12-month study of U.S. Customs declaration forms suggests serious abuse of federal laws that permit individuals to buy prescription drugs in Mexico and bring them back for personal use, the authors say.

It also suggests U.S. Customs enforcement of controlled substances at the border at Laredo, Texas, is limited.

"It is remarkable what is being brought back across the border," says Marvin Shepherd of the College of Pharmacy at the University of Texas at Austin. "It's a prescription mill down there."

Shepherd set out to determine how many prescription drugs elderly people are buying in Mexico because of the cheaper prices. The study was funded by the National Association of Chain Drug Stores and the Texas Pharmacy Association. They were concerned that unapproved drugs were entering the U.S. and that many elderly were skirting safeguards provided by U.S. pharmacies.

Shepherd says he and the study sponsors were shocked to learn that drugs declared by people over age 50 accounted for only 9.4% of 5,624 claims. The median age of men purchasing drugs was 24 and of women it was 35.

In some cases, individuals declared as many as 25 bottles of Valium containing 90 pills each and 29 boxes of Percodan containing 10 pills each.

Most people declaring the drugs obtained prescriptions in Nuevo Laredo from Mexican doctors' offices, usually for $20 to $30, without seeing a doctor.

Federal law permits prescriptions written and filled in Mexico to pass through customs, says Judy Turner, U.S. Customs spokeswoman. However, the policy is to allow only a 90-day supply of drugs.

"They do see a huge amount of Valium in Laredo," says Turner. "But it's possible people are declaring large amounts of drugs and that agents are not permitting them to keep more than the limit."

Customs records show agents at Laredo seized 330,089 tablets of Valium and 14 other drugs in 1995. But Shepherd estimates from June 1994 to July 1995, 8.7 million tablets of the top 15 drugs were brought into the U.S. from Nuevo Laredo.

Kristin McKeithan, who collected data for the study, says agents sometimes enforce limits on the drugs and at other times allow individuals to bring in large quantities.

"When a person came through it was a really random process," McKeithan says.

Leticia Moran, port director for U.S. Customs at Laredo, says the situation there is complicated by large numbers of people crossing the border.

"There is no way my officers would allow someone to bring in 25 boxes of Valium," Moran says. But on Saturdays, 25,000 people visit Nuevo Laredo. It is impossible for customs to check everyone, she says. People will get through with more drugs than are allowed.

Ronald Ziegler, president of the chain drug association, says the amounts of drugs many individuals were declaring far exceed amounts considered medically appropriate.

"The study cries out with the potential for abuse in almost every section," says Ziegler. "You can imagine that if you take this from one border and expand it to other border crossings across the state, it's quite profound. Within this system, something has gone haywire."

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. ALLARD, Mr. DASCHLE, Ms. COLLINS, Mr. GRAHAM, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. SMITH of Oregon, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. BOND, Mr. DEWINE, and Mr. SMITH of New Hampshire):

S. 2244. A bill to amend the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefit of national wildlife refugees, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL WILDLIFE REFUGE SYSTEMS VOLUNTEER AND PARTNERSHIP ENHANCEMENT ACT

• Mr. CHAFEE. Mr. President, I am extremely pleased to introduce a bill that has tremendous potential to improve management and operations of the National Wildlife Refuge System. This bill—the National Wildlife Refuge System Volunteer and Partnership Enhancement Act—will supplement scarce Federal dollars with outside services and donations by local groups and individuals. I am joined by 13 of our colleagues on both sides of the aisle, including Senators KEMPTHORNE, BAUCUS, ALLARD, DASCHLE, COLLINS, GRAHAM, FEINSTEIN, JEFFORDS, GORDON SMITH, D'AMATO, DEWINE, BOND, and FAIRCLOTH.

The National Wildlife Refuge System consists of 93 million acres in 513 units. This is the land set aside by the Federal Government to protect fish and wildlife. The Refuge System historically has received less funding acre-for acre than its larger and older sibling, the National Park System. Despite the recent passage of the National Wildlife Refuge System Improvement Act of 1997, the refuge system remains poorly funded, and has a significant backlog of construction and maintenance projects totaling approximately $1 billion.

As budgets continue to shrink, the Federal Government must look at alternative sources of funding and assistance. Volunteer services have long helped the Refuge System, and are becoming increasingly important as a means of supplement decreasing Federal dollars. Indeed, the very first refuge on Pelican Island, Florida, was staffed by volunteer wardens. Since 1982, when the Fish and Wildlife Service [FWS] established a formal volunteer program, the program has grown from 4,251 volunteers donating 128,440 hours of time to 25,000 volunteers donating more than one million hours in 1996. This 1996 figure represents almost 20 percent of all work done by the FWS on the Refuge System, amounting to about $11 million worth of services, compared with a cost of $1.7 million for maintaining the volunteer program.

The five refuges in my own State of Rhode Island, which are managed as a single complex, provide a wonderful illustration of how important these effort are. Last year, volunteers donated 4,500 hours of service to Rhode Islands refuges. With only five full-time employers working among the five Rhode Island refuges, volunteers contributed 36 percent of all work performed on these refuges. At several of our refuges, the typical visitor often will only interact with volunteer staff.

The "National Wildlife Refuge System Vounterer and Partnership Enhancement Act" lends much needed support to the efforts of the FWS to maintain and operate the Refuge System. This bill will accomplish four goals: (1) encourage financial contributions and donations to refuges; (2) increase opportunities and incentives for volunteers on refuges; (3) promote community partnerships with local refuges; and (4) establish a refuge education program to use refuges as outdoor classrooms.

Mr. President, let me give you some of the highlights in the bill. Section 3 of the bill allows gifts and donations to be made to individual refuges without further appropriations. While this is similar to current law, the bill provides new authority for the FWS to match these gifts. This will allow refuge managers to leverage the precious few dollars over which they have discretion for operations and maintenance with money from local residents and groups.

Section 4 directs the FWS to carry out a pilot project at 2 or more refuges in each region, but no more than 20 nationwide, to hire a volunteer coordinator for the refuge. This coordinator will manage and supervise the volunteers, and service as the liaison between the volunteers, the partnership organizations, and the refuge. It also establishes a Senior Volunteer Corps for individuals 50 years or older. These older citizens comprise the majority of volunteer efforts throughout the refuge system. This new corps will recognize and foster that effort.

Section 5 provides for community partner organizations to enter into agreements with the FWS to implement projects consistent with the purposes of the refuge. The projects may improve habitat, support operations, promote educational materials, or encourage donations. Non-Federal funding may be matched by the FWS. Section 6 directs the Secretary of the Interior to develop guidance for education programs that promotes understanding of refuge resources, improves scientific literacy, and provides outdoor classroom experiences. It also authorizes the Secretary to develop or enhance refuge education programs based on this guidance.

This bill is similar to a House bill, H.R. 1856, introduced by Congressman SAXTON on June 10, 1997, and subsequently passed by the House. I have been pleased to work with Congressman SAXTON on this wonderful initiative, and I urge all of our colleagues to support it.•

• Mr. BAUCUS. Mr. President, I am pleased to join my colleague Senator CHAFEE, the chairman of the Senate Environment and Public Works Committee, in introducing the National Wildlife Refuge System Volunteer and Partnership Enhancement Act of 1998.

This bill will promote volunteerism on our national wildlife refuges. By encouraging volunteers to work with the U.S. Fish and Wildlife Service to improve our national wildlife refuges, this bill will not only benefit fish and wildlife but enhance the outdoor recreation and education experience for thousands of visitors.

The National Wildlife Refuge System is a sanctuary for our nation's fish and wildlife, many species of which are threatened or endangered. It is a sanctuary for people too, who use refuges for many purposes. Comprising some 93 million acres spread across the country in over 500 individual refuges, the system is an invaluable natural resource.

To ensure that the resource is conserved for future generations of Americans, the Congress recently enacted legislation to guide the management of the National Wildlife Refuge System. But even improved management cannot make up for the lack of money. The refuge system is underfunded. Without adequate financial and staff resources, we will not realize the full potential of the refuge system, as envisioned by the National Wildlife Refuge System Improvement Act of 1997.

One way to address this need is through the use of volunteers, ordinary citizens who care enough about our refuges to contribute their time.

To encourage volunteers to take a more active role in improving our wildlife refuges, this bill would authorize the Secretary of the Interior to enter into cooperative agreements with partner organizations to undertake conservation and education projects. In addition, the bill would authorize the Secretary to develop refuge education programs and provide for staff to assist partner organizations and coordinate volunteer activities.

Mr. President, I believe that this is a good bill and that it deserves our support. It will benefit fish and wildlife, provide unique opportunities for citizens to donate their valuable time and expertise to refuges in their local communities, and enhance the refuge experience for the many people who visit our refuges each year.

I intend to work closely with my colleague, Senator CHAFEE, and other members of our Committee, to help ensure that it is enacted this year.•

By Mr. LAUTENBERG:

S. 2245. A bill to require employers to notify local emergency officials, under the appropriate circumstances, of workplace emergencies, and for other purposes; to the Committee on Labor and Human Resources.

INDUSTRIAL EMERGENCY NOTIFICATION ACT OF 1998

• Mr. LAUTENBERG. Mr. President, I introduce the Industrial Emergency Notification Act of 1998. The bill will require the U.S. Occupational Safety and Health Administration [OSHA] to require that employers notify local emergency officials, like police and fire departments, in the event of workplace emergencies. Passage of this bill will help prevent accidents such as the explosion that took the lives of five men three years ago at Napp Technologies in Lodi, New Jersey.

One mark of our progress as a society is the extent to which we can guarantee every working man and woman a safe, healthy workplace. No one should have to risk their health and safety to make a decent living. Sadly, the Napp explosion showed us how far we have to go.

Among other things, the Napp explosion showed the loopholes that exist in current OSHA regulations. On the day of the explosion, after the chemical mixture started smoking, Napp management clearly knew they had a chemical emergency on their hands, yet they ordered the evacuation by word of mouth rather than by alarm, resulting in a lack of notification to the fire department. Then, still without notifying local emergency officials, which even common sense would have dictated, they sent the workers back in to their deaths. After all this, one would think OSHA would have had the basis for a strong enforcement action against Napp. Yet after the explosion, OSHA officials were unable to cite Napp for not contacting local emergency officials because there was no clear enforceable requirement to do so.

Current OSHA standards on workplace emergencies and emergency response require employers to coordinate with local response authorities, leaving the final decision for notification to employers' discretion—rather than specifying clear minimum criteria for notification. The compliance directive recently released by OSHA on this standard elaborates on this requirement, but fails to close this gap.

The Industrial Emergency Notification Act of 1998 will require OSHA to require that employers notify local emergency officials in the event of workplace emergencies. OSHA shall specify, as appropriate, the circumstances under which emergency notification is required, such as workplace evacuation. Also, the legislation will codify OSHA's recent compliance directive, which requires employers to develop emergency response procedures in cooperation with local emergency officials.

It is both possible and important to list the circumstances under which local emergency officials should be notified, rather than leaving such notification to the discretion of a potentially harried business manager. Also it is vital that OSHA's authority include the ability to take appropriate enforcement action against negligence, after inadequate notification and the resulting workplace injuries or deaths. Finally, in addition to the importance of this legislation in improving workplace safety, to the extent that local emergency officials can help control the chemical releases associated with workplace emergencies, this legislation will provide important environmental protection benefits as well.

The bill is endorsed by the American Federation of Labor, Congress of Industrial Organizations, the Union of Needletrades, Industrial and Textile Employees, the Oil, Chemical and Atomic Workers International Union, the International Chemical Workers Union Council of the United Food and Commercial Workers, the International Union of Operating Engineers, the Environmental Defense Fund, and the U.S. Public Interest Research Group.

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. 2245

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 "Industrial Emergency Notification Act of 1998."

SEC. 2. NOTIFICATION OF EMERGENCY OFFICIALS.

(a) Notwithstanding any other provision of law, the Occupational Safety and Health Administration shall issue as a final rule, not later than 18 months of the enactment of this act, a regulation that requires employers to:

(1) notify outside emergency responders when the conditions and circumstances occur which require outside emergency response, including workplace evacuations and other conditions specified in the rule;

(2) describe with specificity in their emergency response plans developed under 29 CFR 1919.120 or 1926.65, or in their emergency action plans under 29 CFR 1910.38, the conditions and circumstances that require outside emergency response in addition to those specified under paragraph (1); and

(3) obtain the agreement, in writing, of the outside responders as to which conditions and circumstances require outside response in addition to those specified under paragraph (1).•

By Mr. MURKOWSKI:

S. 2246. A bill to amend the Act which established the Frederick Law Olmsted National Historic Site, in the commonwealth of Massachusetts, by modifying the boundary and for other purposes; to the Committee on Energy and Natural Resources.

FREDERICK LAW OLMSTED NATIONAL HISTORIC SITE LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I

introduce legislation to amend the Act which established the Frederick Law Olmstead National Historic Site, in the commonwealth of Massachusetts, by modifying the boundary and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

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

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 22, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee, and enacted. The purpose of the legislation is to allow the Secretary of the Interior to acquire, by donation only, lands owned by the Brookline Conservation Land Trust which are situated adjacent to the historic site. These lands remain much as they were during Olmsted's life and acquisition will help preserve the setting of the historic site. The Brookline Conservation Land Trust desires to donate the property to the National Park Service to help preserve the setting of the historic site and to make it available for educational purposes.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD J. BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

Enclosures.

SECTION-BY-SECTION ANALYSIS—FREDERICK LAW OLMSTED NATIONAL HISTORIC SITE

Amends the Act of October 12, 1979, which originally established the historic site, by providing the Secretary of the Interior authority to acquire lands adjacent to the historic site. The lands may be acquired only by means of donation from a private land trust. The land trust wishes to donate the subject property to the historic site to help preserve and maintain the historic setting of the site.•

By Mr. MURKOWSKI:

S. 2247. A bill to permit the payment medical expenses incurred by the U.S. Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

U.S. PARK POLICE LEGISLATION

Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directly by the National Park service, and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 11, 1998.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "to permit the payment of medical expenses incurred by the U.S. Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The District of Columbia (District) is currently charged with paying all medical bills for services rendered for National Park Police members who become injured or ill in the performance of their duties. Subsequently, the National Park Service reimburses the District for medical payments made on behalf of the Park Police. Fiscal constraints experienced by the District have resulted in untimely payments of these expenses. Consequently, some Park Police members have been denied treatment and others have had their credit ratings adversely affected. This situation is untenable. It compromises the law enforcement capability of the Park Police and places an undue burden on Park Police employees. The enclosed draft legislation would amend the Act of September 1, 1916, section 12(e), to allow the National Park Service to make these payments directly to the medical providers. Amended language is urgently needed. We respectfully request that this draft legislation be expedited.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS

This bill amends the Act of September 1, 1916, section 12(e), to allow the National Park Service to pay medical providers directly for expenses incurred by the U.S. Park Police while on official duty.

By Mr. MURKOWSKI:

S. 2248. A bill to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL PARK SERVICE LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to allow for wavier and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

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

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 18, 1998.

Hon. ALBERT GORE, Jr.
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee for consideration, and enacted.

This amendment would provide express authority for the National Park Service to enter into mutual aid agreements with adjacent law enforcement agencies. Pursuant to statutory authorities, the Park Police have maintained memoranda of understandings with local law enforcement agencies in Maryland and Virginia. These agreements specify the circumstances under which these agencies will assist the Park Police. Both Maryland and Virginia laws require that each party must agree to indemnify and hold harmless the assisting agency from all claims by third parties for property damage or personal injury, which may arise out of the assisting agency's activities outside its respective jurisdiction.

The Comptroller General issued a decision on August 16, 1991, which stated that such indemnification clauses violate the Anti-deficiency Act (31 U.S.C. 1341(a)). The Comptroller General stated:

"[O]pen-ended indemnification agreements should not be entered into regardless of the existence of language of limitations except with express congressional acquiescence. . . . Thus we recommend that the Park Police obtain congressional approval for this type of arrangement."

The Comptroller General further recognized the importance of memoranda of understandings between the Park Police and local authorities for effective law enforcement, and stated, ". . . we will not object to the Park Police temporarily entering into revised agreements with the required indemnification clauses while congressional approval is being sought."

Although the opinions of the Comptroller General are not binding on Executive Branch departments, they often provide useful guidance on appropriations matters and related issues. Because it raises questions as to Interior's indemnification authority, the Comptroller General's opinion may impede Interior's efforts to maintain intergovernmental cooperation in the policing of national parks. The amendment that we have proposed would eliminate this potential impediment.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS

Section 1: This section renumbers paragraphs and adds a new section c(3), which would provide express statutory authority for the National Park Service to use indemnification clauses in their mutual aid agreements with a state or political subdivision for law enforcement purposes, when required by state law.

Section 2: This section makes a technical correction.•

By Mr. DASCHLE (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. BINGAMAN, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. REID, Mr. DURBIN, Mr. INOUYE, and Mr. TORRICELLI):

S. 2249. A bill to provide retirement security for all Americans; to the Committee on Finance.

RETIREMENT ACCESSIBILITY, SECURITY AND PORTABILITY ACT OF 1998

Mr. DASCHLE. Mr. President, today, Democrats are offering identical bills in the House and the Senate—the "Retirement Accessibility, Security and Portability Act of 1998"—to make the prospect of retirement less frightening for millions of American workers. Right now, just under half of all American workers have pension plans, and the number is far worse for women and low- and moderate-income workers.

Our plan would increase the number of Americans with pensions by making it easier and cheaper for small businesses to set up pension funds. It would create a new system to help workers who have no pension coverage to build their own retirement savings through direct contributions from their paychecks into an IRA.

Our plan would make it easier for workers to take their pensions with them from one job to the next. This is incredibly important in an economy where the average worker will change careers an average of 7 times.

Our plan would increase pension security to ensure retirees will actually have a pension when they leave the work force. And, it would help close the huge pension gap that now exists between men and women and that leaves far too many older women who are widowed or divorced living in near-poverty.

Mr. President, I talk frequently to people all the time who are worried they won't be able to afford the "luxury" of retirement. I say, we can't afford the luxury of ignoring the coming retirement crisis. Retirement shouldn't mean an economic freefall. And it doesn't have to.

The first of the baby boomers turns 50 this year. We still have time to make the changes that will allow us to enjoy a secure retirement. But it will take change from individuals, employers and from the government.

That's what this bill provides.

This bill would expand pension coverage and access to more Americans by establishing an easy-to-administer defined benefit plan option for small businesses known as the SMART Plan; providing a maximum credit of $1,000 to help small business cover the cost of setting up new pension plans; and modifying new rules for the "SIMPLE" and 401(k) plans to encourage the provision of pensions to low-to-moderate income employees.

This bill would encourage pension portability by requiring faster vesting of employers' matching contributions under defined contribution plans, including 401(k) plans, so that employees would have rights to the contributions after the least 3 years of employment; allowing rollovers between 401(k) and similar plans set up by non-profit organizations, including 403(b) plans; and allowing participants in plans set up by state and local governments to roll over their account balances to IRAs.

This bill would protect and strengthen pensions by establishing greater safeguards to prevent corporations from raiding their employees' pension plans; creating stricter requirements for audits of plan assets and how companies are investing these assets; prohibiting employers from making credit card loans against pension assets; and providing pension plan participants with regular and informative benefit statements so they can monitor the activity and value of their pension assets.

In addition, this bill would reduce the wide gap in pension coverage between men and women, as well as provide greater protections for older women by creating new safeguards to ensure that pension benefits are not overlooked when a couple divides assets upon divorce; a new option for federal workers to provide a greater benefit for women who outlive their husbands; protections for low-income women against the loss of their Social Security benefits; a new women's pension information hotline; and a requirement that additional hours taken under the Family and Medical leave Act are credited to one's pension plan for purposes of participation and vesting in their plan benefits.

In 1994, President Clinton signed a bill protecting the pensions of more than 40 million American workers and retirees against risky investments and corporate raids. In 1996, he signed additional legislation cutting red tape and start-up costs for pension plans, so more small businesses could create retirement plans for their workers.

Before 1998 is over, we intend to give the President another retirement security bill to sign.

This Congress has done precious little so far to address the concerns of America's working families. passing this bill—increasing Americans' retirement security—would do a lot to fill that void. We urge our Republican colleagues to join us in passing it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2249

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 "Retirement Accessibility, Security and Portability Act of 1998".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—PENSION ACCESS AND COVERAGE

Sec. 100. Amendment of 1986 Code.

Subtitle A—Improved Access to Individual Retirement Savings

Sec. 101. Credit for pension plan startup costs of small employers.
Sec. 102. Exclusion for payroll deduction contributions to IRAs.
Sec. 103. Nonrefundable tax credit for contributions to individual retirement plans.
Sec. 104. Distributions from certain plans may be used without penalty during periods of unemployment.

Subtitle B—Secure Money Annuity or Retirement (SMART) Trusts

Sec. 111. Secure money annuity or retirement (SMART) trusts.

Subtitle C—Improved Fairness in Retirement Plan Benefits

Sec. 121. Amendments to SIMPLE retirement accounts.
Sec. 122. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
Sec. 123. Definition of highly compensated employees.
Sec. 124. Treatment of multiemployer plans under section 415.
Sec. 125. Exemption of mirror plans from section 457 limits.
Sec. 126. Immediate participation in the thrift savings plan for Federal employees.
Sec. 127. Full funding limitation for multiemployer plans.
Sec. 128. Elimination of partial termination rules for multiemployer plans.
Sec. 129. Repeal of 150 percent of current liability funding limit.

TITLE II—SECURITY

Sec. 200. Amendment of ERISA.

Subtitle A—General Provisions

Sec. 201. Periodic pension benefits statements.
Sec. 202. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
Sec. 203. Information required to be provided to investment managers of 401(k) plans.
Sec. 204. Study on investments in collectibles.
Sec. 205. Qualified employer plans prohibited from making loans through credit cards and other intermediaries.

Sec. 206. Multiemployer plan benefits guaranteed.
Sec. 207. Prohibited transactions.
Sec. 208. Substantial owner benefits.
Sec. 209. Reversion report.
Subtitle B—ERISA Enforcement
Sec. 211. Civil penalties for breach of fiduciary responsibilities made discretionary, etc.
Sec. 212. Reporting and enforcement requirements for employee benefit plans.
Sec. 213. Additional requirements for qualified public accountants.
Sec. 214. Inspector General study.
Subtitle C—Increase in Excise Tax on Employer Reversions
Sec. 221. Increase in excise tax.
TITLE III—PORTABILITY
Sec. 301. Faster vesting of employer matching contributions.
Sec. 302. Rationalization of the restrictions on distributions from 401(k) plans.
Sec. 303. Treatment of transfers between defined contribution plans.
Sec. 304. Missing participants.
Sec. 305. Allowance of rollovers from and to 403(b) plans.
Sec. 306. Rollover contributions from deferred compensation plans of State and local governments.
Sec. 307. Extension of 60-day rollover period in the case of Presidentially declared disasters and service in combat zone.
Sec. 308. Purchase of service credit in governmental defined benefit plans.
TITLE IV—COMPREHENSIVE WOMEN'S PENSION PROTECTION
Subtitle A—Pension Reform
Sec. 401. Pension right to know proposals.
Sec. 402. Women's pension toll-free phone number.
Sec. 403. Modification of government pension offset.
Sec. 404. Family leave provisions.
Sec. 405. Pension integration rules.
Sec. 406. Division of pension benefits upon divorce.
Sec. 407. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.
Sec. 408. Effective dates.
Subtitle B—Protection of Rights of Former Spouses to Pension Benefits Under Certain Government and Government-Sponsored Retirement Programs
Sec. 411. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
Sec. 412. Survivor annuities for widows, widowers, and former spouses of Federal employees who die before attaining age for deferred annuity under civil service retirement system.
Sec. 413. Payment of lump-sum benefits to former spouses of Federal employees.
Subtitle C—Modifications of Joint and Survivor Annuity Requirements
Sec. 421. Modifications of joint and survivor annuity requirements.
Sec. 422. Spousal consent required for distributions from defined contribution plans.
TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS
Sec. 501. Date for adoption of plan amendments.

TITLE I—PENSION ACCESS AND COVERAGE

SEC. 100. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Improved Access to Individual Retirement Savings

SEC. 101. CREDIT FOR PENSION PLAN STARTUP COSTS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan startup cost credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified startup costs paid or incurred by the taxpayer during the taxable year.

"(b) DOLLAR LIMITATION.—The amount of the credit determined under this section for any taxable year shall not exceed—

"(1) $1,000 for the first credit year,

"(2) $500 for each of the 2 taxable years immediately following the first credit year, and

"(3) zero for any other taxable year.

"(c) ELIGIBLE EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employer' has the meaning given such term by section 408(p)(2)(C)(i).

"(2) EMPLOYERS MAINTAINING QUALIFIED PLANS DURING 1997 NOT ELIGIBLE.—Such term shall not include an employer if such employer (or any predecessor employer) maintained a qualified plan (as defined in section 408(p)(2)(D)(ii)) with respect to which contributions were made, or benefits were accrued, for service in 1997. If only individuals other than employees described in subparagraph (A) or (B) of section 410(b)(3) are eligible to participate in the qualified employer plan referred to in subsection (d)(1), then the preceding sentence shall be applied without regard to any qualified plan in which only employees so described are eligible to participate.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED STARTUP COSTS.—

"(A) IN GENERAL.—The term 'qualified startup costs' means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

"(i) the establishment or administration of an eligible employer plan, or

"(ii) the retirement-related education of employees with respect to such plan.

"(B) PLAN MUST HAVE AT LEAST 2 PARTICIPANTS.—Such term shall not include any expense in connection with a plan that does not have at least 2 individuals who are eligible to participate.

"(C) PLAN MUST BE ESTABLISHED BEFORE JANUARY 1, 2001.—Such term shall not include any expense in connection with a plan established after December 31, 2000.

"(2) ELIGIBLE EMPLOYER PLAN.—The term 'eligible employer plan' means a qualified employer plan within the meaning of section 4972(d), or a qualified payroll deduction arrangement within the meaning of section 408(q)(1) (whether or not an election is made under section 408(q)(2)). A qualified payroll deduction arrangement shall be treated as an eligible employer plan only if all employees of the employer who—

"(A) have been employed for 90 days, and

"(B) are not described in subparagraph (A) or (C) of section 410(b)(3),

are eligible to make the election under section 408(q)(1)(A).

"(3) FIRST CREDIT YEAR.—The term 'first credit year' means—

"(A) the taxable year which includes the date that the eligible employer plan to which such costs relate becomes effective, or

"(B) at the election of the eligible employer, the taxable year preceding the taxable year referred to in subparagraph (A).

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

"(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of the qualified startup costs paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

"(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year."

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit) 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) in the case of an eligible employer (as defined in section 45D(c)), the small employer pension plan startup cost credit determined under section 45D(a)."

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF SMALL EMPLOYER PENSION PLAN STARTUP COST CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan startup cost credit determined under section 45D may be carried back to a taxable year ending on or before the date of the enactment of section 45D."

(2) Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", and", and by adding at the end the following new paragraph:

"(9) the small employer pension plan startup cost credit determined under section 45D(a)."

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Small employer pension plan startup costs."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years ending after the date of the enactment of this Act.

SEC. 102. EXCLUSION FOR PAYROLL DEDUCTION CONTRIBUTIONS TO IRAS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) QUALIFIED PAYROLL DEDUCTION ARRANGEMENT FOR IRA CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this title, the term 'qualified payroll deduction arrangement' means a written arrangement of an employer under which—

"(A) an employee eligible to participate in the arrangement may elect to have the employer make payments—

"(i) to the employee directly in cash, or

"(ii) as elective employer contributions to an individual retirement plan (as defined in section 7701(a)(37)), other than an individual retirement plan described in section 408(k), 408(p), or 408A(b), on behalf of the employee for the taxable year in which the payments otherwise would have been made to the employee directly in cash,

"(B) the amount which the employee may elect under subparagraph (A) for any year may not exceed a total of $2,000,

"(C) no other contributions may be made other than contributions described in subparagraph (A),

"(D) the employee's rights to any contributions made to an individual retirement plan are nonforfeitable (for this purpose, rules similar to the rules of subsection (k)(4) shall apply), and

"(E) the employer makes the elective employer contributions under subparagraph (A) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made.

"(2) ELECTION NOT TO HAVE SUBSECTION APPLY.—An employer that maintains an arrangement otherwise described in paragraph (1) may elect to have contributions treated as though they were not made under such an arrangement. If an employer does not make an election described in the preceding sentence, an employee may elect, before any contributions are made for the calendar year, to have contributions on behalf of the employee treated as though they were not made under an arrangement described in paragraph (1). An employer shall be deemed to have made an election under this paragraph for a year if the employer maintained a qualified plan with respect to which contributions were made or benefits were accrued for such year. For purposes of the preceding sentence, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).".

(b) TAX TREATMENT OF EMPLOYER CONTRIBUTIONS MADE UNDER A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—

(1) COORDINATION WITH DEDUCTION UNDER SECTION 219.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR CONTRIBUTIONS UNDER A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—This section shall not apply with respect to any amount contributed under a qualified payroll deduction arrangement described in section 408(q)(1) (for which an election has not been made under section 408(q)(2)).".

(B) Section 219(g)(1) (relating to the limitation on deduction for active participants) is amended to read as follows:

"(1) IN GENERAL.—If (for any part of any plan year ending with or within a taxable year) an individual is an active participant, each of the dollar limitations contained in subsections (b)(1)(A) and (c)(1)(A) for such taxable year shall be reduced (but not below zero) by the sum of—

"(A) the amount determined under paragraph (2), and

"(B) the amount contributed for the taxable year under a qualified payroll deduction arrangement described in section 408(q)(1) (for which an election has not been made under section 408(q)(2)).".

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc., plans) is amended by adding at the end the following new subsection:

"(n) SPECIAL RULES FOR CONTRIBUTIONS UNDER A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—Rules similar to the rules of subsection (m) shall apply to employer contributions made under a qualified payroll deduction arrangement described in section 408(q)(1) (for which an election has not been made under section 408(q)(2)).".

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(l) TREATMENT OF CONTRIBUTIONS AND DISTRIBUTIONS UNDER A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions made with respect to an individual retirement plan under a qualified payroll deduction arrangement described in section 408(q)(1) (for which an election has not been made under section 408(q)(2)), except that contributions made by an employer on behalf of an employee for a taxable year shall be excluded from income only to the extent such contributions would have been deductible for such taxable year under section 219, if such section applied, without regard to section 219(g)(1)(B). Contributions that are not excluded from income under the preceding sentence shall be treated as designated nondeductible contributions under section 408(o).".

(c) EXEMPTION FROM WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) for any payment made for the benefit of the employee to an individual retirement plan if the amount of such payment was deducted and withheld under section 408(q).".

(d) EXCLUSION SHOWN ON W-2.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by inserting after paragraph (11) the following new paragraph:

"(12) the total amount deducted and withheld pursuant to section 408(q).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1998.

SEC. 103. NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

"SEC. 25B. RETIREMENT SAVINGS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter so much of the qualified retirement contributions of the taxpayer for the taxable year as does not exceed the applicable amount of the adjusted gross income of the taxpayer for such year.

"(b) APPLICABLE AMOUNT.—For purposes of subsection (a), the applicable amount is determined in accordance with the following table:

"If adjusted gross income is:	The applicable amount is:
Not over $15,000	$450.
Over $15,000 but not over $20,000.	$400.
Over $20,000 but not over $25,000.	$350.
Over $25,000 but not over $30,000.	$300.
Over $30,000	$0.

"(c) SECTION NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—This section shall not apply with respect to—

"(1) an employer contribution to a simplified employee pension,

"(2) any amount contributed to a simple retirement account established under section 408(p),

"(3) any amount contributed to a Roth IRA, and

"(4) any designated nondeductible contribution (as defined in section 408(o)(2)(C)).

"(d) OTHER LIMITATIONS AND RESTRICTIONS.—

"(1) BENEFICIARY MUST BE UNDER AGE 70½.—No credit shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

"(2) RECONTRIBUTED AMOUNTS.—No credit shall be allowed under this section with respect to a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

"(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no credit shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(4) DENIAL OF CREDIT FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No credit shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).

"(5) NO DOUBLE BENEFIT.—No credit shall be allowed under this section for any taxable year with respect to the amount of any qualified retirement contribution for the benefit of an individual if such individual takes a deduction with respect to such amount under section 219 for such taxable year.

"(e) QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section, the term 'qualified retirement contribution' means—

"(1) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

"(2) any amount contributed on behalf of any individual to a plan described in section 501(c)(18).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' has the meaning given in section 219(f)(1).

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on

the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(4) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a credit for such payment is allowable under this section to the employee."

(b) CONFORMING AMENDMENTS.—

(1) Section 86(f) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) section 25B(f)(1) (defining compensation),".

(2) Clause (i) of section 501(c)(18)(D) is amended by inserting "which may be taken into account in computing the credit allowable under section 25B or" before "with respect".

(3) Section 6047(c) is amended by inserting "section 25B or" before "section 219".

(4) Section 6652(g) is amended by inserting "CREDITABLE" before "DEDUCTIBLE" in the heading thereof.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

"Sec. 25B. Retirement savings."

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1998.

SEC. 104. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY DURING PERIODS OF UNEMPLOYMENT.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) ADDITIONAL DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—

"(i) IN GENERAL.—Distributions from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii), to an individual after separation from employment if—

"(I) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(II) such distributions are made during the 1-year period beginning on the date of such separation.

"(ii) DISTRIBUTIONS AFTER REEMPLOYMENT.—Clause (i) shall not apply to any distribution made after the individual has been employed for at least 60 days after the separation from employment to which clause (i) applies.

"(iii) COORDINATION WITH SUBPARAGRAPH (D).—Distributions during the 1-year period described in clause (i)(II) shall not be taken into account in applying the limitation under subparagraph (D)(i)(III)."

(b) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which a period referred to in section 72(t)(2)(G) begins, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for distributions to which section 72(t)(2)(G) applies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

Subtitle B—Secure Money Annuity or Retirement (SMART) Trusts

SEC. 111. SECURE MONEY ANNUITY OR RETIREMENT (SMART) TRUSTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 is amended by inserting after section 408A the following new section:

"SEC. 408B. SMART PLANS.

"(a) EMPLOYER ELIGIBILITY.—

"(1) IN GENERAL.—An employer may establish and maintain a SMART annuity or a SMART trust for any year only if—

"(A) the employer is an eligible employer (as defined in section 408(p)(2)(C)), and

"(B) the employer does not maintain (and no predecessor of the employer maintains) a qualified plan (other than a permissible plan) with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such annuity or trust became effective and ending with the year for which the determination is being made.

The period described in subparagraph (B) shall include the period of 5 years before the year such trust or annuity became effective with respect to qualified plans which are defined benefit plans or money purchase pension plans.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) QUALIFIED PLAN.—The term 'qualified plan' has the meaning given such term by section 408(p)(2)(D)(ii).

"(B) PERMISSIBLE PLAN.—The term 'permissible plan' means—

"(i) a SIMPLE plan described in section 408(p),

"(ii) a SIMPLE 401(k) plan described in section 401(k)(11),

"(iii) an eligible deferred compensation plan described in section 457(b),

"(iv) a collectively bargained plan but only if the employees eligible to participate in such plan are not also entitled to a benefit described in subsection (b)(5) or (c)(5), or

"(v) a plan under which there may be made only—

"(I) elective deferrals described in section 402(g)(3), and

"(II) employer matching contributions not in excess of the amounts described in subclauses (I) and (II) of section 401(k)(12)(B)(i).

"(b) SMART ANNUITY.—

"(1) IN GENERAL.—For purposes of this title, the term 'SMART annuity' means an individual retirement annuity (as defined in section 408(b) without regard to paragraph (2) thereof and without regard to the limitation on aggregate annual premiums contained in the flush language of section 408(b)) if—

"(A) such annuity meets the requirements of paragraphs (2) through (8), and

"(B) the only contributions to such annuity are employer contributions.

Nothing in this section shall be construed as preventing an employer from using a group annuity contract which is divisible into individual retirement annuities for purposes of providing SMART annuities.

"(2) PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met for any year only if all employees of the employer who—

"(i) received at least $5,000 in compensation from the employer during any 2 consecutive preceding years, and

"(ii) received at least $5,000 in compensation during the year,

are entitled to the benefit described in paragraph (5) for such year.

"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirements under subparagraph (A) employees described in subparagraph (A) or (C) of section 410(b)(3).

"(3) VESTING.—The requirements of this paragraph are met if the employee's rights to any benefits under the annuity are nonforfeitable.

"(4) BENEFIT FORM.—The requirements of this paragraph are met if the only form of benefit is—

"(A) a benefit payable annually in the form of a single life annuity with monthly payments (with no ancillary benefits) beginning at age 65, or

"(B) any other form of benefit which is the actuarial equivalent (based on the assumptions specified in the SMART annuity) of the benefit described in subparagraph (A).

"(5) AMOUNT OF ANNUAL ACCRUED BENEFIT.—

"(A) IN GENERAL.—The requirements of this paragraph are met for any plan year if the accrued benefit of each participant derived from employer contributions for such year, when expressed as a benefit described in paragraph (4)(A), equals the applicable percentage of the participant's compensation for such year.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable percentage' means 2 percent.

"(ii) ELECTION OF DIFFERENT PERCENTAGE.—An employer may elect to apply an applicable percentage of 1 percent for any year for all employees eligible to participate in the plan for such year, if the employer notifies the employees of such percentage within a reasonable period before the beginning of such year. An employer may also elect to apply an applicable percentage of 3 percent for any of the first 5 years that the plan is effective for all employees eligible to participate in the plan for such year, if the employer so notifies the employees.

"(C) COMPENSATION LIMIT.—

"(i) IN GENERAL.—The compensation taken into account under this paragraph for any year shall not exceed $100,000.

"(ii) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust annually the $100,000 amount in clause (i) for increases in the cost-of-living at the same time and in the same manner as adjustments under section 415(d); except that the base period shall be the calendar quarter beginning October 1, 1998, and any increase which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

"(6) FUNDING.—

"(A) IN GENERAL.—The requirements of this paragraph are met only if the employer is required to contribute to the annuity for each plan year the amount necessary to purchase a SMART annuity in the amount of the benefit accrued for such year for each participant entitled to such benefit. Such

contribution must be made no later than 8½ months after the end of the plan year.

"(B) PENALTY FOR FAILURE TO MAKE REQUIRED CONTRIBUTION.—The taxes imposed by section 4971 shall apply to a failure to make the contribution required by this paragraph in the same manner as if the amount of the failure were an accumulated funding deficiency to which such section applies.

"(7) LIMITATION ON DISTRIBUTIONS.—

"(A) IN GENERAL.—The requirements of this paragraph are met only if distributions may be paid only when the employee attains age 65, separates from service, dies, or becomes disabled (within the meaning of section 72(m)(7)).

"(B) LIMITATION ON DISTRIBUTIONS ON SEPARATION FROM SERVICE OF EMPLOYEES WHO HAVE NOT ATTAINED AGE 65.—Subparagraph (A) shall apply to a distribution on separation of service of an employee who has not attained age 65 only if—

"(i) the aggregate cash value of an employee's SMART annuities does not exceed the dollar limit in effect under section 411(a)(11)(A), or

"(ii) the distribution is a direct trustee-to-trustee transfer of the entire balance to the credit of the employee to a SMART trust described in subsection (c), a SMART rollover plan, or a SMART annuity for the benefit of such employee.

"(8) JOINT AND SURVIVOR ANNUITY RULES APPLICABLE.—The requirements of this paragraph are met only if the annuity satisfies section 401(a)(11).

"(9) DEFINITIONS AND SPECIAL RULE.—

"(A) DEFINITIONS.—The definitions in section 408(p)(6) shall apply for purposes of this subsection.

"(B) USE OF DESIGNATED FINANCIAL INSTITUTIONS.—A rule similar to the rule of section 408(p)(7) (without regard to the last sentence thereof) shall apply for purposes of this subsection.

"(C) SMART ROLLOVER PLAN.—For purposes of this section, the term 'SMART rollover plan' means an individual retirement plan for the benefit of the employee to which a rollover was made from a SMART Annuity, SMART trust, or another SMART Rollover plan.

"(c) SMART TRUST.—

"(1) IN GENERAL.—For purposes of this title, the term 'SMART trust' means a trust forming part of a defined benefit plan if—

"(A) such trust meets the requirements of section 401(a) as modified by subsection (d),

"(B) such plan meets the requirements of paragraphs (2) through (8), and

"(C) the only contributions to such trust are employer contributions.

"(2) PARTICIPATION REQUIREMENTS.—A plan meets the requirements of this paragraph for any year only if the requirements of subsection (b)(2) are met for such year.

"(3) VESTING.—A plan meets the requirements of this paragraph for any year only if the requirements of subsection (b)(3) are met for such year.

"(4) BENEFIT FORM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a plan meets the requirements of this paragraph only if the trustee distributes a SMART annuity that satisfies subsection (b)(4) where the annual benefit described in subsection (b)(4)(A) is no less than the accrued benefit determined under paragraph (5).

"(B) DIRECT TRANSFERS TO INDIVIDUAL RETIREMENT PLAN OR SMART ANNUITY.—A plan shall not fail to meet the requirements of this paragraph by reason of permitting, as an optional form of benefit, the distribution of the entire balance to the credit of the employee. If the employee is under age 65, such distribution must be in the form of a direct trustee-to-trustee transfer to a SMART annuity, another SMART trust, or a SMART rollover plan (or, in the case of a distribution that does not exceed the dollar limit in effect under section 411(a)(11)(A), any other individual retirement plan).

"(5) AMOUNT OF ANNUAL ACCRUED BENEFIT.—A plan meets the requirements of this paragraph for any year only if the requirements of subsection (b)(5) are met for such year.

"(6) FUNDING.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph for any year only if—

"(i) the requirements of subparagraph (A) of subsection (b)(6) are met for such year,

"(ii) in the case of a plan which has an unfunded annuity amount with respect to the account of any participant, the plan requires that the employer make an additional contribution to such plan (at the time the annuity contract to which such amount relates is purchased) equal to the unfunded annuity amount, and

"(iii) in the case of a plan which has an unfunded prior year liability as of the close of such plan year, the plan requires that the employer make an additional contribution to such plan for such year equal to the amount of such unfunded prior year liability no later than 8½ months following the end of the plan year.

"(B) UNFUNDED ANNUITY AMOUNT.—For purposes of this paragraph, the term 'unfunded annuity amount' means, with respect to the account of any participant for whom an annuity is being purchased, the excess (if any) of—

"(i) the amount necessary to purchase an annuity contract which meets the requirements of subsection (b)(4) in the amount of the participant's accrued benefit determined under paragraph (5), over

"(ii) the balance in such account at the time such contract is purchased.

"(C) UNFUNDED PRIOR YEAR LIABILITY.—For purposes of this paragraph, the term 'unfunded prior year liability' means, with respect to any plan year, the excess (if any) of—

"(i) the aggregate of the present value under the plan as of the close of the prior plan year, over

"(ii) the value of the plan's assets determined under section 412(c)(2) as of the close of the plan year (determined without regard to any contributions for such plan year).

Such present value shall be determined using the assumptions specified in subparagraph (D).

"(D) ACTUARIAL ASSUMPTIONS.—In determining the amount required to be contributed under subparagraph (A)—

"(i) the assumed interest rate shall be 5 percent per year,

"(ii) the assumed mortality shall be determined under the applicable mortality table (as defined in section 417(e)(3), as modified by the Secretary so that it does not include any assumption for preretirement mortality), and

"(iii) the assumed retirement age shall be 65.

"(E) CHANGES IN MORTALITY TABLE.—If the applicable mortality table under section 417(e)(3) for any plan year is not the same as such table for the prior plan year, the Secretary shall prescribe regulations which phase in the effect of the changes over a reasonable period of plan years determined by the Secretary.

"(F) PENALTY FOR FAILURE TO MAKE REQUIRED CONTRIBUTION.—The taxes imposed by section 4971 shall apply to a failure to make the contribution required by this paragraph in the same manner as if the amount of the failure were an accumulated funding deficiency to which such section applies.

"(7) SEPARATE ACCOUNTS FOR PARTICIPANTS.—A plan meets the requirements of this paragraph for any year only if the plan provides—

"(A) for an individual account for each participant, and

"(B) for benefits based solely on—

"(i) the amount contributed to the participant's account,

"(ii) any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account, and

"(iii) the amount of any unfunded annuity amount with respect to the participant.

"(8) TRUST MAY NOT HOLD SECURITIES WHICH ARE NOT READILY TRADABLE.—A plan meets the requirements of this paragraph only if the plan prohibits the trust from holding directly or indirectly securities which are not readily tradable on an established securities market. Nothing in this paragraph shall prohibit the trust from holding insurance company products regulated by State law.

"(9) DEFINITIONS.—The definitions applicable under subsection (b)(8) shall apply for purposes of this subsection.

"(d) SPECIAL RULES FOR SMART ANNUITIES AND TRUSTS.—For purposes of section 401(a), a SMART annuity and a SMART trust shall be treated as meeting the requirements of the following provisions:

"(1) Section 401(a)(4) (relating to nondiscrimination rules).

"(2) Section 401(a)(26) (relating to minimum participation).

"(3) Section 410 (relating to minimum participation and coverage requirements).

"(4) Section 411(b) (relating to accrued benefit requirements).

"(5) Section 416 (relating to special rules for top-heavy plans)."

(b) DEDUCTION RULES.—

(1) IN GENERAL.—Section 404 is amended by adding at the end the following new subsection:

"(n) SPECIAL RULES FOR SMART ANNUITIES AND TRUSTS.—

"(1) IN GENERAL.—Employer contributions to a SMART annuity shall be treated as if they are made to a plan described in paragraph (1) of subsection (a).

"(2) DEDUCTIBLE LIMIT.—For purposes of section 404(a)(1)(A)(i), the amount necessary to satisfy the minimum funding requirement of section 408B (b)(6) or (c)(6) shall be treated as the amount necessary to satisfy the minimum funding requirement of section 412."

(2) COORDINATION WITH DEDUCTION UNDER SECTION 219.—

(A) Section 219(b) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR SMART ANNUITIES.—This section shall not apply with respect to any amount contributed to a SMART annuity established under section 408B(b)."

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (v) and by adding at the end the following new clause:

"(vii) any SMART annuity (within the meaning of section 408B), or".

(c) CONTRIBUTIONS AND DISTRIBUTIONS.—

(1) Section 402 is amended by adding at the end the following new subsection:

"(l) TREATMENT OF SMART ANNUITIES.—Rules similar to the rules of paragraphs (1)

and (3) of subsection (h) shall apply to contributions and distributions with respect to SMART annuities under section 408B."

(2) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

"(H) SMART ANNUITIES.—This paragraph shall not apply to any amount paid or distributed out of a SMART annuity (as defined in section 408B) unless it is paid in a trustee-to-trustee transfer into a SMART rollover plan."

(3)(A) Section 412(h) is amended by striking "or" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", or", and by inserting after paragraph (6) the following new paragraph:

"(7) any plan providing for the purchase of any SMART annuity or any SMART plan."

(B) Section 301(a) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1081) is amended by striking "or" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting "; or", and by adding at the end the following new paragraph:

"(11) any plan providing for the purchase of any SMART annuity or any SMART plan (as such terms are defined in section 408B of such Code)."

(4) Section 415(b) is amended by adding at the end the following new paragraph:

"(12) TREATMENT OF SMART ANNUITIES AND TRUSTS.—A SMART annuity and a SMART trust shall be treated as meeting the requirements of this section, but distributions from such an annuity or trust shall be taken into account in determining whether any other plan satisfies the requirements of this section."

(d) INCREASED PENALTY ON EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax on early distributions) is amended by adding at the end the following new paragraph:

"(9) SPECIAL RULES FOR SMART ANNUITIES AND TRUSTS.—In the case of any amount received from a SMART annuity, a SMART trust, or a SMART rollover plan (within the meaning of section 408B), paragraph (1) shall be applied by substituting '20 percent' for '10 percent' and paragraph (2) shall be applied by substituting 'age 65' for 'age 59½'."

(e) SIMPLIFIED EMPLOYER REPORTS.—

(1) SMART ANNUITIES.—Section 408(l) (relating to simplified employer reports) is amended by adding at the end the following new paragraph:

"(3) SMART ANNUITIES.—

"(A) SIMPLIFIED REPORT.—The employer maintaining any SMART annuity (within the meaning of section 408B) shall file a simplified annual return with the Secretary containing only the information described in subparagraph (B).

"(B) CONTENTS.—The return required by subparagraph (A) shall set forth—

"(i) the name and address of the employer,

"(ii) the date the plan was adopted,

"(iii) the number of employees of the employer,

"(iv) the number of such employees who are eligible to participate in the plan,

"(v) the total amount contributed by the employer to each such annuity for such year and the minimum amount required under section 408B to be so contributed,

"(vi) the percentage elected under section 408B(b)(5)(B),

"(vii) the name of the issuer,

"(viii) the employer identification number,

"(ix) the name of the plan, and

"(x) the date of the contribution.

"(C) REPORTING BY ISSUER OF SMART ANNUITY.—

"(i) IN GENERAL.—The issuer of each SMART annuity shall provide to the owner of the annuity for each year a statement setting forth as of the close of such year—

"(I) the benefits guaranteed at age 65 under the annuity, and

"(II) the cash surrender value of the annuity.

"(ii) SUMMARY DESCRIPTION.—The issuer of any SMART annuity shall provide to the employer maintaining the annuity for each year a description containing the following information:

"(I) The name and address of the employer and the issuer.

"(II) The requirements for eligibility for participation.

"(III) The benefits provided with respect to the annuity.

"(IV) The procedures for, and effects of, withdrawals (including rollovers) from the annuity.

"(D) TIME AND MANNER OF REPORTING.—Any return, report, or statement required under this paragraph shall be made in such form and at such time as the Secretary shall prescribe."

(2) SMART TRUSTS.—Section 6059 (relating to actuarial reports) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SMART TRUSTS.—In the case of a SMART trust (within the meaning of section 408B), the Secretary shall require a simplified actuarial report which contains—

"(1) information similar to the information required in section 408(l)(3)(B),

"(2) the fair market value of the assets of the trust,

"(3) the amounts distributed directly to participants,

"(4) the amounts transferred to SMART rollover plans, and

"(5) the present value of the annual accrued benefits under the plan to which the trust relates."

(f) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 219(g)(5) is amended by striking "or" at the end of clause (v) and by inserting after clause (vi) the following new clause:

"(vii) any SMART trust or SMART annuity (within the meaning of section 408B), or".

(2) Section 280G(b)(6) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or" and by adding after subparagraph (D) the following new subparagraph:

"(E) a SMART annuity described in section 408B."

(3) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408B," after "408(p),".

(4) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding after clause (iv) the following new clause:

"(v) any SMART annuity (within the meaning of section 408B)."

(g) REPORTING REQUIREMENTS UNDER ERISA.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SMART ANNUITIES.—

"(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a SMART annuity under section 408B(b) of the Internal Revenue Code of 1986.

"(2) SUMMARY DESCRIPTION.—The issuer of any SMART annuity shall provide to the employer maintaining the annuity for each year a description containing the following information:

"(A) The name and address of the employer and the issuer.

"(B) The requirements for eligibility for participation.

"(C) The benefits provided with respect to the annuity.

"(D) The procedures for, and effects of, withdrawals (including rollovers) from the annuity."

"(3) EMPLOYEE NOTIFICATION.—The employer shall provide each employee eligible to participate in the SMART annuity with the description described in paragraph (2) at the same time as the notification required under section 408B(b)(5)(B) of the Internal Revenue Code of 1986."

(h) $5 PER PARTICIPANT PBGC PREMIUM.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306) is amended—

(1) by inserting "not described in clause (iv)" after "in the case of a single-employer plan" in clause (i),

(2) by striking the period at the end of clause (iii) and inserting "; and", and

(3) by inserting after clause (iii) the following new clause:

"(iv) in the case of a single-employer plan described in section 408B(c) of the Internal Revenue Code of 1986, an amount equal to $5 for each participant.".

(i) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408A the following new item:

"Sec. 408B. SMART plans."

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1998.

Subtitle C—Improved Fairness in Retirement Plan Benefits

SEC. 121. AMENDMENTS TO SIMPLE RETIREMENT ACCOUNTS.

(a) MINIMUM CONTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Paragraph (2) of section 408(p) (defining qualified salary reduction arrangement) is amended—

(A) by striking clauses (iii) and (iv) of subparagraph (A) and inserting the following new clauses:

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to—

"(I) so much of the amount the employee elects under clause (i)(I) as does not exceed 3 percent of compensation for the year, and

"(II) a uniform percentage (which is at least 50 percent but not more than 100 percent) of the amount the employee elects under clause (i)(I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

"(iv) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year, and

"(v) no contributions may be made other than contributions described in clause (i), (iii), or (iv).", and

(B) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) CONTRIBUTION RULES.—

"(i) EMPLOYER MAY ELECT 3-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall

be treated as meeting the requirements of clauses (iii) and (iv) of subparagraph (A) for any year if, in lieu of the contributions described in such clauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this clause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

"(ii) DISCRETIONARY CONTRIBUTIONS.—A plan shall not be treated as failing to meet the requirements of subparagraph (A)(v) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions under subparagraph (A)(iv) or clause (i) of this subparagraph in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear a uniform relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee.

"(iii) COMPENSATION LIMITATION.—The compensation taken into account under this paragraph for any year shall not exceed the limitation in effect for such year under section 401(a)(17)."

(2) MATCHING CONTRIBUTIONS.—Subparagraph (B) of section 401(k)(11) (relating to adoption of simple plan to meet nondiscrimination tests) is amended—

(A) by striking subclauses (II) and (III) of clause (i) and inserting the following new subclauses:

"(II) the employer is required to make a matching contribution to the trust for any year in an amount equal to—

"(aa) so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

"(bb) a uniform percentage (which is at least 50 percent but not more than 100 percent) of the amount the employee elects under subclause (I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

"(III) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year, and

"(IV) no other contributions may be made other than contributions described in subclause (I), (II), or (III).", and

(B) by striking clause (ii) and inserting the following new clause:

"(ii) CONTRIBUTION RULES.—

"(I) EMPLOYER MAY ELECT 3-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of subclauses (II) and (III) of clause (i) for any year if, in lieu of the contributions described in such subclauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subclause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

"(II) DISCRETIONARY CONTRIBUTIONS.—A plan shall not be treated as failing to meet the requirements of clause (i)(IV) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions under clause (i)(III) or subclause (I) of this clause in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear a uniform relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee."

(b) OPTION TO SUSPEND CONTRIBUTIONS.—Section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following new paragraph:

"(10) SUSPENSION OF PLAN.—Except as provided by the Secretary, a plan shall not be treated as failing to meet the requirements of this subsection if, under the plan, the employer may suspend all elective, matching, and nonelective contributions under the plan after notifying employees eligible to participate in the arrangement of such suspension in writing at least 30 days in advance. Such suspension shall apply to contributions with respect to compensation earned after the effective date of the suspension. Only 1 suspension under this paragraph may take effect during any year."

(c) CONFORMING AMENDMENTS.—Section 408(p)(2)(C) is amended—

(1) by striking clause (ii),

(2) by striking "DEFINITIONS" in the heading and inserting "ELIGIBLE EMPLOYER",

(3) by striking "(i) ELIGIBLE EMPLOYER.—", and

(4) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) DELAYED EFFECTIVE DATE FOR PLANS ESTABLISHED IN 1997 OR 1998.—In the case of plans established in 1997 or 1998 under section 408(p) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 122. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Subparagraph (B) of section 401(k)(12) (relating to alternative methods of meeting nondiscrimination requirements) is amended to read as follows:

"(B) NONELECTIVE AND MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) NONELECTIVE CONTRIBUTIONS.—The requirements of this clause are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 1 percent of the employee's compensation.

"(iii) MATCHING CONTRIBUTIONS.—The requirements of this clause are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(iv) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of clause (iii) are not met if, under the arrangement, the rate of matching contribution with respect to any rate of elective contribution of a highly compensated employee is greater than that with respect to an employee who is not a highly compensated employee. For purposes of this clause, to the extent provided in regulations, the last sentences of paragraph (3)(A) and subsection (m)(2)(B) shall not apply.

"(v) ALTERNATIVE PLAN DESIGNS.—If the rate of matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (iii), an arrangement shall not be treated as failing to meet the requirements of clause (iii) if—

"(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contribution increase, and

"(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (iii)."

(b) CONTRIBUTIONS PART OF QUALIFIED CASH OR DEFERRED ARRANGEMENT.—Subparagraph (E)(ii) of section 401(k)(12) is amended to read as follows:

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, an arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), and determining whether contributions provided under a plan satisfy subsection (a)(4) on the basis of equivalent benefits, employer contributions under subparagraph (B) or (C) shall not be taken into account."

(c) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m)(11) (relating to alternative method of satisfying tests) is amended—

(1) by striking "subparagraph (B)" in subparagraph (A)(iii) and inserting "subparagraphs (B) and (C)",

(2) by adding at the end of subparagraph (B) the following new flush sentence:

"To the extent provided in regulations, the last sentences of paragraph (2)(B) and subsection (k)(3)(A) shall not apply for purposes of clause (iii).", and

(3) by adding at the end the following new subparagraph:

"(C) TEST MUST BE MET SEPARATELY.—If this paragraph applies to any matching contributions, such contributions shall not be taken into account in determining whether employee contributions satisfy the requirements of this subsection."

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—Subparagraph (E) of section 401(k)(3) is amended to read as follows:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) the actual deferral percentage of nonhighly compensated employees determined for such first plan year in the case of—

"(I) an employer who elects to have this clause apply, or

"(II) except to the extent provided by the Secretary, a successor plan."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1998.

SEC. 123. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Subparagraph (B) of section 414(q)(1) (defining highly compensated employee) is amended to read as follows:

"(B) for the preceding year had compensation from the employer in excess of $80,000."

(b) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (3), (5), and (7) and by redesignating paragraphs (4), (6), (8), and (9) as paragraphs (3) through (6), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(4)" and inserting "section 414(q)(3)".

(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(5)" and inserting "section 414(r)(9)".

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of paragraph (2)(A), the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work during not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(5)" and inserting "paragraph (9)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1998.

SEC. 124. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply."

(b) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Subparagraph (I) of section 415(b)(2) (relating to limitation for defined benefit plans) is amended—

(1) by inserting "or a multiemployer plan (as defined in section 414(f))" after "section 414(d))" in clause (i),

(2) by inserting "or multiemployer plan" after "governmental plan" in clause (ii), and

(3) by inserting "AND MULTIEMPLOYER" after "GOVERNMENTAL" in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1998.

SEC. 125. EXEMPTION OF MIRROR PLANS FROM SECTION 457 LIMITS.

(a) IN GENERAL.—Subsection (e) of section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended by adding at the end the following new paragraph:

"(16) EXEMPTION FOR MIRROR PLANS.—

"(A) IN GENERAL.—Amounts of compensation deferred under a mirror plan shall not be taken into account in applying this section to amounts of compensation deferred under any other deferred compensation plan.

"(B) MIRROR PLAN.—The term 'mirror plan' means a plan, program, or arrangement maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by section 401(a)(17) or section 415, or both."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 126. IMMEDIATE PARTICIPATION IN THE THRIFT SAVINGS PLAN FOR FEDERAL EMPLOYEES.

(a) ELIMINATION OF CERTAIN WAITING PERIODS FOR PURPOSES OF EMPLOYEE CONTRIBUTIONS.—Paragraph (4) of section 8432(b) of title 5, United States Code, is amended to read as follows:

"(4) The Executive Director shall prescribe such regulations as may be necessary to carry out the following:

"(A) Notwithstanding subparagraph (A) of paragraph (2), an employee or Member described in such subparagraph shall be afforded a reasonable opportunity to first make an election under this subsection beginning on the date of commencing service or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

"(B) An employee or Member described in subparagraph (B) of paragraph (2) shall be afforded a reasonable opportunity to first make an election under this subsection (based on the appointment or election described in such subparagraph) beginning on the date of commencing service pursuant to such appointment or election or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

"(C) Notwithstanding the preceding provisions of this paragraph, contributions under paragraphs (1) and (2) of subsection (c) shall not be payable with respect to any pay period before the earliest pay period for which such contributions would otherwise be allowable under this subsection if this paragraph had not been enacted.

"(D) Sections 8351(a)(2), 8440a(a)(2), 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be applied in a manner consistent with the purposes of subparagraphs (A) and (B), to the extent those subparagraphs can be applied with respect thereto.

"(E) Nothing in this paragraph shall affect paragraph (3)."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 8432(a) of title 5, United States Code, is amended—

(A) in the first sentence by striking "(b)(1)" and inserting "(b)"; and

(B) by amending the second sentence to read as follows: "Contributions under this subsection pursuant to such an election shall, with respect to each pay period for which such election remains in effect, be made in accordance with a program of regular contributions provided in regulations prescribed by the Executive Director."

(2) Section 8432(b)(1)(B) of such title is amended by inserting "(or any election allowable by virtue of paragraph (4))" after "subparagraph (A)".

(3) Section 8432(b)(3) of such title is amended by striking "Notwithstanding paragraph (2)(A), an" and inserting "An".

(4) Section 8432(i)(1)(B)(ii) of such title is amended by striking "either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or".

(5) Section 8439(a)(1) of such title is amended by inserting "who makes contributions or" after "for each individual" and by striking "section 8432(c)(1)" and inserting "section 8432".

(6) Section 8439(c)(2) of such title is amended by adding at the end the following: "Nothing in this paragraph shall be considered to limit the dissemination of information only to the times required under the preceding sentence."

(7) Sections 8440a(a)(2) and 8440d(a)(2) of such title are amended by striking all after "subject to" and inserting "subject to this chapter."

(c) EFFECTIVE DATE.—This section shall take effect 6 months after the date of the enactment of this Act or such earlier date as the Executive Director may by regulation prescribe.

SEC. 127. FULL FUNDING LIMITATION FOR MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO CODE.—

(1) FULL FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full funding limitation) is amended—

(A) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(B) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(2) VALUATION.—Section 412(c)(9) (relating to annual valuation) is amended—

(A) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(B) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(b) AMENDMENTS TO ERISA.—

(1) FULL FUNDING LIMITATION.—Section 302(c)(7)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is amended—

(A) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(B) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(2) VALUATION.—Section 302(c)(9) of such Act (29 U.S.C. 1082(c)(9)) is amended—

(A) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(B) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1998.

SEC. 128. ELIMINATION OF PARTIAL TERMINATION RULES FOR MULTIEMPLOYER PLANS.

(a) PARTIAL TERMINATION RULES FOR MULTIEMPLOYER PLANS.—Section 411(d)(3) (relating to termination or partial termination; discontinuance of contributions) is amended by adding at the end the following new sentence: "This paragraph shall not apply in the case of a partial termination of a multiemployer plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partial terminations beginning after December 31, 1998.

SEC. 129. REPEAL OF 150 PERCENT OF CURRENT LIABILITY FUNDING LIMIT.

(a) IN GENERAL.—Section 412(c)(7) (relating to full-funding limitation) is amended—

(1) by striking "150 percent" in subparagraph (A)(i)(I) and inserting "the applicable percentage", and

(2) by adding at the end the following new subparagraph:

"(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage is determined according to the following table:

"In the case of any plan year beginning in—	The applicable percentage is—
1998	155
1999	160
2000	165
2001	170
2002 and succeeding years	0."

(b) SPECIAL AMORTIZATION RULE.—

(1) IN GENERAL.—Section 412(c)(7), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(G) SPECIAL AMORTIZATION RULE.—Contributions that would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I) shall be amortized over a 20-year period."

(2) CONFORMING AMENDMENT.—Section 412(c)(7)(D) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any unamortized bases with respect to plan years beginning before, on, or after December 31, 1998.

TITLE II—SECURITY

SEC. 200. AMENDMENT OF ERISA.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Employee Retirement Income Security Act of 1974.

Subtitle A—General Provisions

SEC. 201. PERIODIC PENSION BENEFITS STATEMENTS.

(a) IN GENERAL.—Subsection (a) of section 105 (29 U.S.C. 1025) is amended—

(1) by striking "shall furnish to any plan participant or beneficiary who so requests in writing," and inserting "shall furnish at least once every 3 years, in the case of a participant in a defined benefit plan who has attained age 35, and annually, in the case of a defined contribution plan, to each plan participant, and shall furnish to any plan participant or beneficiary who so requests,", and

(2) by adding at the end the following flush sentence:

"Information furnished under the preceding sentence to a participant in a defined benefit plan (other than at the request of the participant) may be based on reasonable estimates determined under regulations prescribed by the Secretary."

(b) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 (29 U.S.C. 1025) is amended to read as follows:

"(d) Each administrator of a plan to which more than 1 unaffiliated employer is required to contribute shall furnish to any plan participant or beneficiary who so requests in writing, a statement described in subsection (a)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the later of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025), or

(2) December 31, 1998.

SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVESTMENT REPORTS APPLIED TO CERTAIN 401(k) PLANS.

(a) IN GENERAL.—Section 104(b)(3) (29 U.S.C. 1024(b)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) If, for any plan year, a plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2) of the Internal Revenue Code of 1986) and such plan covers less than 100 participants, the administrator shall furnish (within 60 days after the end of such plan year) to each participant and to each beneficiary receiving benefits under the plan an annual investment report detailing such information as the Secretary by regulation shall require.

"(ii) Clause (i) shall not apply with respect to any participant described in section 404(c)."

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Labor, in prescribing regulations required under section 104(b)(3)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)), as added by subsection (a), shall consider including in the information required in an annual investment report the following:

(A) Total plan assets and liabilities as of the beginning and ending of the plan year.

(B) Plan income and expenses and contributions made and benefits paid for the plan year.

(C) Any transaction between the plan and the employer, any fiduciary, or any 10-percent owner during the plan year, including the acquisition of any employer security or employer real property.

(D) Any noncash contributions made to or purchases of nonpublicly traded securities made by the plan during the plan year without an appraisal by an independent third party.

(2) ELECTRONIC TRANSFER.—The Secretary of Labor in prescribing such regulations shall also make provision for the electronic transfer of the required annual investment report by a plan administrator to plan participants and beneficiaries.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 203. INFORMATION REQUIRED TO BE PROVIDED TO INVESTMENT MANAGERS OF 401(k) PLANS.

(a) IN GENERAL.—Section 105 (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

"(e) If—

"(1) the administrator of an individual account plan described in section 401(k) of the Internal Revenue Code of 1986 provides for investment of the plan assets by means of a contractual arrangement with another party, and

"(2) such other party is not required under such arrangement to separately account for benefits accrued with respect to each participant and beneficiary under this plan,

such administrator shall be treated as failing to meet the requirements of subsection (a) unless, under such contractual arrangement, such administrator provides to such other party such information as is necessary to enable such party to separately account at any time for benefits accrued with respect to each participant and beneficiary."

(b) CIVIL PENALTY FOR VIOLATIONS.—Paragraph (1) of section 502(c) (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(e)(1)" and inserting ", section 101(e)(1), or section 105(e)".

SEC. 204. STUDY ON INVESTMENTS IN COLLECTIBLES.

(a) STUDY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall study the extent to which pension plans invest in collectibles and whether such investments present a risk to the pension security of the participants and beneficiaries of such plans.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Labor shall submit a report to the Congress containing the findings of the study described in subsection (a) and any recommendations for legislative action.

SEC. 205. QUALIFIED EMPLOYER PLANS PROHIBITED FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by adding after paragraph (34) the following new paragraph:

"(35) PROHIBITION OF LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.—A trust shall not constitute a qualified trust under this section if the plan makes any loan to any beneficiary under the plan through the use of any credit card or any other intermediary."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 206. MULTIEMPLOYER PLAN BENEFITS GUARANTEED.

(a) IN GENERAL.—Section 4022A(c) (29 U.S.C. 1322a(c)) is amended—

(1) by striking "$5" each place it appears in paragraph (1) and inserting "$11",

(2) by striking "$15" in paragraph (1) and inserting "$33", and

(3) by striking paragraphs (2), (5), and (6) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any multiemployer plan that has not received financial assistance (within the meaning of section 4261 of the Employee Retirement Income Security Act of 1974) within the 1-year period ending on the date of the enactment of this Act.

SEC. 207. PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 502(i) (29 U.S.C. 1132(i)) is amended by striking "5 percent" and inserting "15 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 208. SUBSTANTIAL OWNER BENEFITS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Subparagraphs (B) and (C) of section 4022(b)(5) (29 U.S.C. 1322(b)(5)) are amended to read as follows:

"(B) For purposes of this title, the term 'majority owner' has the same meaning as substantial owner under subparagraph (A), except that subparagraph (A) shall be applied by substituting '50 percent or more' for 'more than 10 percent' each place it appears.

"(C) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall not exceed the product of—

"(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 30, and

"(ii) the amount of the majority owner's monthly benefits guaranteed under subsection (a) (as limited by paragraph (3) of this subsection)."

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) (29 U.S.C. 1344(a)(4)(B)) is amended by striking "section 4022(b)(5)" and inserting "section 4022(b)(5)(C)".

(2) Section 4044(b) (29 U.S.C. 1344(b)) is amended—

(A) by striking "(5)" in paragraph (2) and inserting "(4), (5),", and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to subparagraph (B). If assets allocated to subparagraph (B) are insufficient to satisfy in full the benefits in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan terminations—

(1) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) on or after the date of the enactment of this Act, or

(2) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation on or after such date.

SEC. 209. REVERSION REPORT.

(a) IN GENERAL.—Section 4008 (29 U.S.C. 1308) is amended by adding at the end the following new subsection:

"(b) REVERSION REPORT.—As soon as practicable after the close of each fiscal year, the Secretary of Labor (acting in the Secretary's capacity as chairman of the corporation's board) shall transmit to the President and the Congress a report providing information on plans from which residual assets were distributed to employers pursuant to section 4044(d)."

(b) CONFORMING AMENDMENT.—Section 4008 (29 U.S.C. 1308) is amended by striking "SEC. 4008." and inserting "SEC. 4008. (a) ANNUAL REPORT.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after September 30, 1998.

Subtitle B—ERISA Enforcement

SEC. 211. CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITIES MADE DISCRETIONARY, ETC.

(a) IMPOSITION AND AMOUNT OF PENALTY MADE DISCRETIONARY.—Section 502(l)(1) (29 U.S.C. 1132(l)) is amended—

(1) by striking "shall" and inserting "may", and

(2) by striking "equal to" and inserting "not greater than".

(b) APPLICABLE RECOVERY AMOUNT.—Section 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1), the term 'applicable recovery amount' means any amount which is recovered from (or on behalf of) any fiduciary or other person with respect to a breach or violation described in paragraph (1) on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under paragraph (2) or (5) of subsection (a). The Secretary may, in the Secretary's sole discretion, extend the 30-day period described in the preceding sentence.".

(c) OTHER RULES.—Section 502(l) is amended by adding at the end the following new paragraphs:

"(5) A person shall be jointly and severally liable for the penalty described in paragraph (1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

"(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation and applicable recovery amount."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any breach of fiduciary responsibility or other violation of part 4 of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of the enactment of this Act.

(2) TRANSITION RULE.—In applying the amendment made by subsection (b), a breach or other violation occurring before the date of the enactment of this Act which continues after the 180th day after such date (and which may be discontinued at any time during its existence) shall be treated as having occurred on the day after such date of enactment.

SEC. 212. REPORTING AND ENFORCEMENT REQUIREMENTS FOR EMPLOYEE BENEFIT PLANS.

(a) IN GENERAL.—Part 1 of subtitle B of title I (29 U.S.C. 1021 et seq.) is amended—

(1) by redesignating section 111 as section 112, and

(2) inserting after section 110 the following new section:

"DIRECT REPORTING OF CERTAIN EVENTS

"SEC. 111. (a) REQUIRED NOTIFICATIONS.—

"(1) NOTIFICATIONS BY PLAN ADMINISTRATOR.—Within 5 business days after an administrator of an employee benefit plan determines that there is evidence (or after the administrator is notified under paragraph (2)) that an irregularity may have occurred with respect to the plan, the administrator shall—

"(A) notify the Secretary of the irregularity in writing; and

"(B) furnish a copy of such notification to the accountant who is currently engaged under section 103(a)(3)(A).

"(2) NOTIFICATIONS BY ACCOUNTANT.—

"(A) IN GENERAL.—Within 5 business days after an accountant engaged by the administrator of an employee benefit plan under section 103(a)(3)(A) determines in connection with such engagement that there is evidence that an irregularity may have occurred with respect to the plan, the accountant shall—

"(i) notify the plan administrator of the irregularity in writing, or

"(ii) if the accountant determines that there is evidence that the irregularity may have involved an individual who is the plan administrator or who is a senior official of the plan administrator, notify the Secretary of the irregularity in writing.

"(B) NOTIFICATION UPON FAILURE OF PLAN ADMINISTRATOR TO NOTIFY.—If an accountant who has provided notification to the plan administrator pursuant to subparagraph (A)(i) does not receive a copy of the administrator's notification to the Secretary required in paragraph (1) within the 5-business day period specified therein, the accountant shall furnish to the Secretary a copy of the accountant's notification made to the plan administrator on the next business day following such period.

"(3) IRREGULARITY DEFINED.—

"(A) For purposes of this subsection, the term 'irregularity' means—

"(i) a theft, embezzlement, or a violation of section 664 of title 18, United States Code (relating to theft or embezzlement from an employee benefit plan);

"(ii) an extortion or a violation of section 1951 of title 18, United States Code (relating to interference with commerce by threats or violence);

"(iii) a bribery, a kickback, or a violation of section 1954 of title 18, United States Code (relating to offer, acceptance, or solicitation to influence operations of an employee benefit plan);

"(iv) a violation of section 1027 of title 18, United States Code (relating to false statements and concealment of facts in relation to employee benefit plan records); or

"(v) a violation of section 411, 501, or 511 of this title (relating to criminal violations).

"(B) The term 'irregularity' does not include any act or omission described in this paragraph involving less than $1,000 unless there is reason to believe that the act or omission may bear on the integrity of plan management.

"(b) NOTIFICATION UPON TERMINATION OF ENGAGEMENT OF ACCOUNTANT.—

"(1) NOTIFICATION BY PLAN ADMINISTRATOR.—Within 5 business days after the termination of an engagement of an accountant under section 103(a)(3)(A) with respect to an employee benefit plan, the administrator of such plan shall—

"(A) notify the Secretary in writing of such termination, giving the reasons for such termination, and

"(B) furnish the accountant whose engagement was terminated with a copy of the notification sent to the Secretary.

"(2) NOTIFICATION BY ACCOUNTANT.—If the accountant referred to in paragraph (1)(B) has not received a copy of the administrator's notification to the Secretary as required under paragraph (1)(B), or if the accountant disagrees with the reasons given in the notification of termination of the engagement for auditing services, the accountant shall notify the Secretary in writing of the termination, giving the reasons for the termination, within 10 business days after the termination of the engagement.

"(c) DETERMINATION OF PERIODS REQUIRED FOR NOTIFICATION.—In determining whether a notification required under this section with respect to any act or omission has been made within the required number of business days—

"(1) the day on which such act or omission begins shall not be included; and

"(2) Saturdays, Sundays, and legal holidays shall not be included.

For purposes of this subsection, the term 'legal holiday' means any Federal legal holiday and any other day appointed as a holiday by the State in which the person responsible

for making the notification principally conducts business.

"(d) IMMUNITY FOR GOOD FAITH NOTIFICATION.—No accountant or plan administrator shall be liable to any person for any finding, conclusion, or statement made in any notification made pursuant to subsection (a)(2) or (b)(2), or pursuant to any regulations issued under those subsections, if the finding, conclusion, or statement is made in good faith."

(b) CIVIL PENALTY.—

(1) IN GENERAL.—Section 502(c) (29 U.S.C. 1132(c)) is amended by inserting after paragraph (6) the following new paragraph:

"(8)(A) The Secretary may assess a civil penalty of up to $50,000 against any administrator who fails to provide the Secretary with any notification as required under section 111.

"(B) The Secretary may assess a civil penalty of up to $50,000 against any accountant who knowingly and willfully fails to provide the Secretary with any notification as required under section 111."

(2) CONFORMING AMENDMENT.—Section 502(a)(6) (29 U.S.C. 1132(a)(6)) is amended by striking "or (6)" and inserting "(6), or (8)".

(c) CLERICAL AMENDMENTS.—

(1) Section 514(d) (29 U.S.C. 114(d)) is amended by striking "111" and inserting "112".

(2) The table of contents in section 1 is amended by striking the item relating to section 111 and inserting the following new items:

"Sec. 111. Direct reporting of certain events.
"Sec. 112. Repeal and effective date."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any irregularity or termination of engagement described in the amendments only if the 5-day period described in the amendments in connection with the irregularity or termination commences at least 90 days after the date of the enactment of this Act.

SEC. 213. ADDITIONAL REQUIREMENTS FOR QUALIFIED PUBLIC ACCOUNTANTS.

(a) IN GENERAL.—Section 103(a)(3)(D) (29 U.S.C. 1023(a)(3)(D)) is amended—

(1) by inserting "(i)" after "(D)";

(2) by inserting ", with respect to any engagement of an accountant under subparagraph (A)" after "means";

(3) by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively;

(4) by striking the period at the end of subclause (III) (as so redesignated) and inserting a comma;

(5) by adding after and below subclause (III) (as so redesignated), the following: "but only if such person meets the requirements of clauses (ii) and (iii), with respect to such engagement."; and

(6) by adding at the end the following new clauses:

"(ii) A person meets the requirements of this clause with respect to an engagement of the person as an accountant under subparagraph (A) if the person—

"(I) has in operation an appropriate internal quality control system;

"(II) has undergone a qualified external quality control review of the person's accounting and auditing practices, including such practices relevant to employee benefit plans (if any), during the 3-year period immediately preceding such engagement; and

"(III) has completed, within the 2 calendar years immediately preceding such engagement, such continuing education or training as the Secretary in regulations determines is necessary to maintain professional proficiency in connection with employee benefit plans.

"(iii) A person meets the requirements of this clause with respect to an engagement of the person as an accountant under subparagraph (A) if the person meets such additional requirements and qualifications of regulations which the Secretary deems necessary to ensure the quality of plan audits.

"(iv) For purposes of clause (ii)(II), an external quality control review shall be treated as qualified with respect to a person referred to in clause (ii) if—

"(I) such review is performed in accordance with the requirements of external quality control review programs of recognized auditing standard setting bodies, as determined in regulations of the Secretary, and

"(II) in the case of any such person who has, during the peer review period, conducted 1 or more previous audits of employee benefit plans, such review includes the review of an appropriate number (determined as provided in such regulations, but in no case less than 1) of plan audits in relation to the scale of the person's auditing practice.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section apply with respect to plan years beginning on or after the date which is 3 years after the date of the enactment of this Act.

(2) RESTRICTIONS ON CONDUCTING EXAMINATIONS.—Clause (iii) of section 103(a)(1)(D) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)(6)) takes effect on the date of enactment of this Act.

(3) REGULATIONS.—The Secretary shall issue regulations under this section no later than December 31, 1999.

SEC. 214. INSPECTOR GENERAL STUDY.

(a) STUDY.—The Inspector General of the Department of Labor shall conduct a study on the need for regulatory standards and procedures to authorize the Secretary, in appropriate cases, to prohibit persons from serving as qualified accountants for purposes of section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023).

(b) MATTERS TO BE STUDIED.—In conducting the study under this section, the Inspector General shall address whether standards and procedures to prohibit persons from serving as qualified public accountants are likely to improve the quality of employee benefit plan audits, and the potential for increased costs to plans. If the Inspector General concludes that regulations incorporating standards and procedures would be appropriate, the study shall include recommended standards and procedures.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General shall submit a report on the results of the study conducted pursuant to this section to each house of Congress and the Secretary of Labor.

Subtitle C—Increase in Excise Tax on Employer Reversions

SEC. 221. INCREASE IN EXCISE TAX.

(a) IN GENERAL.—Section 4980 of the Internal Revenue Code of 1986 (relating to tax on reversion of qualified plan assets to employer) is amended—

(1) in subsection (a), by striking "20 percent" and inserting "35 percent"; and

(2) in subsection (d)(1), by striking "substituting '50 percent' for '20 percent' with respect to any employer reversion" and inserting "substituting '65 percent' for '35 percent' with respect to any employer reversion".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to reversions occurring after December 31, 1998.

(2) EXCEPTION.—The amendment made by this section shall not apply to any reversion after December 31, 1998, if—

(A) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before June 25, 1998,

(B) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before June 25, 1998,

(C) in the case of plans not subject to title I or IV of such Act, a request for a determination letter with respect to the termination was filed with the Secretary of the Treasury or the Secretary's delegate before June 25, 1998, or

(D) in the case of plans not subject to title I or IV of such Act and having only 1 participant, a resolution terminating the plan was adopted by the employer before June 25, 1998.

TITLE III—PORTABILITY

SEC. 301. FASTER VESTING OF EMPLOYER MATCHING CONTRIBUTIONS.

(a) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to employer contributions) is amended—

(1) by inserting ", and, if applicable, (C)" after "or (B)", and

(2) by adding at the end the following new subparagraph:

"(C) MATCHING CONTRIBUTIONS.—In the case of a plan that includes an accrued benefit derived from matching contributions (as defined in section 401(m)(4)(A)), the plan satisfies the requirements of this subparagraph if—

"(i) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from such matching contributions, or

"(ii) an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer matching contributions (as so defined) determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100."

(b) AMENDMENT OF ERISA.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by inserting ", and, if applicable, (C)" after "or (B)", and

(2) by adding at the end the following new subparagraph:

"(C) MATCHING CONTRIBUTIONS.—In the case of a plan that includes an accrued benefit derived from matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986), the plan satisfies the requirements of this subparagraph if—

"(i) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from such matching contributions, or

"(ii) an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer matching contributions (as so defined) determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 1998.

(2) APPLICATION TO CURRENT EMPLOYEES.—The amendments made by this section shall not apply to any employee who does not have at least 1 hour of service in any plan year beginning after December 31, 1998.

(3) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to employees covered by any such agreement in plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 1999, or

(B) January 1, 2003.

SEC. 302. RATIONALIZATION OF THE RESTRICTIONS ON DISTRIBUTIONS FROM 401(k) PLANS.

(a) IN GENERAL.—Section 401(k)(2)(B)(i)(I) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking "separation from service" and inserting "severance from employment".

(b) BUSINESS SALE REQUIREMENTS DELETED.—

(1) IN GENERAL.—Section 401(k)(2)(B)(i)(II) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking "an event" and inserting "a plan termination".

(2) CONFORMING AMENDMENTS.—Section 401(k)(10) of such Code is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—A plan termination is described in this paragraph if the termination of the plan is without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).",

(B) by striking subparagraph (C), and

(C) by striking "OR DISPOSITION OF ASSETS OR SUBSIDIARY" in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1998.

SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED CONTRIBUTION PLANS.

(a) IN GENERAL.—Section 411(d)(6) of the Internal Revenue Code of 1986 (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new subparagraph:

"(D) PLAN TRANSFERS.—A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this paragraph merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

"(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i),

"(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)(2), and

"(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution."

(b) CONFORMING AMENDMENT.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

"(4) A defined contribution plan (in this paragraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this paragraph referred to as the 'transferor plan') to the extent that—

"(A) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(B) the terms of both the transferor plan and the transferee plan authorize the transfer described in subparagraph (A),

"(C) the transfer described in subparagraph (A) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(D) the election described in subparagraph (C) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(E) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 205, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 205(c)(2), and

"(F) the transferee plan allows the participant or beneficiary described in subparagraph (C) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1998.

SEC. 304. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

"(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

"(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4)."

(b) CONFORMING AMENDMENTS.—

(1) Section 206(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(f)) is amended—

(A) by striking "title IV" and inserting "section 4050", and

(B) by striking "the plan shall provide that,".

(2) Section 401(a)(34) of the Internal Revenue Code of 1986 (relating to benefits of missing participants on plan termination) is amended by striking "title IV" and inserting "section 4050".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 305. ALLOWANCE OF ROLLOVERS FROM AND TO 403(b) PLANS.

(a) ROLLOVERS FROM SECTION 403(b) PLANS.—Section 403(b)(8)(A)(ii) of the Internal Revenue Code of 1986 (relating to rollover

amounts) is amended by striking "such distribution" and all that follows and inserting "such distribution to an eligible retirement plan described in section 402(c)(8)(B), and".

(b) ROLLOVERS TO SECTION 403(b) PLANS.—Section 402(c)(8)(B) of such Code (defining eligible retirement plan) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following:

"(v) an annuity contract described in section 403(b)."

(c) CONFORMING AMENDMENTS.—

(1) Section 72(o)(4) of such Code is amended by striking "and 408(d)(3)" and inserting "403(b)(8), and 408(d)(3)".

(2) Section 401(a)(31)(B) of such Code is amended by striking "and 403(a)(4)" and inserting ", 403(a)(4), and 403(b)(8)".

(3) Subparagraph (B) of section 403(b)(8) of such Code is amended by inserting "and (9)" after "through (7)".

(4) Subparagraphs (A) and (B) of section 415(b)(2) of such Code are each amended by striking "and 408(d)(3)" and inserting "403(b)(8), and 408(d)(3)".

(d) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1998.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

SEC. 306. ROLLOVER CONTRIBUTIONS FROM DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) ROLLOVERS FROM SECTION 457 PLANS.—

(1) IN GENERAL.—Section 457(e) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following:

"(16) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—In the case of an eligible deferred compensation plan of an eligible employer described in paragraph (1)(A), if—

"(i) any portion of the balance to the credit of an employee in such plan is paid to such employee in a rollover distribution (other than a distribution described in subsection (d)(1)(A)(iii) or in subparagraph (A) or (B) of section 402(c)(4)),

"(ii) the employee transfers any portion of the property such employee receives in such distribution to an individual retirement plan (as defined in section 7701(a)(37), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 401(a)(31), paragraphs (2), (3), (5), (6), (7), and (9) of section 402(c), and section 402(f) shall apply for purposes of subparagraph (A)."

(2) DISTRIBUTION REQUIREMENTS.—Section 457(d)(1)(A) of such Code (relating to distribution requirements) is amended by inserting "except as provided in subsection (e)(16)," after "(A)".

(3) CONFORMING AMENDMENTS.—

(A) Section 72(o)(4) of such Code is amended—

(i) by striking "and 408(d)(3)" and inserting "408(d)(3), and 457(e)(16)",

(ii) by inserting "or excludable" after "deductible" each place it appears, and

(iii) in the heading by inserting "OR EXCLUDABLE" after "DEDUCTIBLE".

(B) Section 219(d)(2) of such Code is amended by striking "or 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)".

(C) Section 401(a)(31)(B) of such Code is amended by striking "and 403(b)(8)" and inserting ", 403(b)(8), and 457(e)(16)".

(D) Paragraph (4) of section 402(c) of such Code is amended by inserting "or in an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A)" after "qualified trust".

(E) Section 408(a)(1) of such Code is amended by striking "or 403(b)(8)" and inserting ", 403(b)(8), or 457(e)(16)".

(F) Section 408(d)(3)(A)(ii) of such Code is amended by striking "or" after "501(a)" and inserting a comma, and by inserting ", or from an eligible deferred compensation plan described in section 457(b)" after "contribution)".

(G) Subparagraphs (A) and (B) of section 415(b)(2) of such Code are each amended by striking "and 408(d)(3)" and inserting "408(d)(3), and 457(e)(16)".

(H) Section 4973(b)(1)(A) of such Code is amended by striking "or 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)".

(d) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1998.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an individual retirement plan on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

SEC. 307. EXTENSION OF 60-DAY ROLLOVER PERIOD IN THE CASE OF PRESIDENTIALLY DECLARED DISASTERS AND SERVICE IN COMBAT ZONE.

(a) IN GENERAL.—Paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986 (relating to time postponed for performing certain acts) is amended by striking "and" at the end of subparagraph (J), by redesignating subparagraph (K) as subparagraph (L), and by inserting after subparagraph (J) the following new subparagraph:

"(K) Rollover of any distribution within the 60-day period specified in section 402(c)(3) or 408(d)(3)(A); and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after December 31, 1998.

SEC. 308. PURCHASE OF SERVICE CREDIT IN GOVERNMENTAL DEFINED BENEFIT PLANS.

(a) 403(b) PLANS.—Subsection (b) of section 403 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

"(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

"(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof."

(b) 457 PLANS.—Subsection (e) of section 457 of such Code, as amended by section 306, is amended by adding at the end the following new paragraph:

"(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

"(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

"(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to trustee-to-trustee transfers after December 31, 1998.

TITLE IV—COMPREHENSIVE WOMEN'S PENSION PROTECTION

Subtitle A—Pension Reform

SEC. 401. PENSION RIGHT TO KNOW PROPOSALS.

(a) SPOUSE'S RIGHT TO KNOW DISTRIBUTION INFORMATION.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (3) of section 417(a) of the Internal Revenue Code of 1986 (relating to definitions and special rules for purposes of minimum survivor annuity requirements) is amended by adding at the end the following new subparagraph:

"(C) EXPLANATION TO SPOUSE.—At the time a plan provides a participant with a written explanation under subparagraph (A) or (B), such plan shall provide a copy of such explanation to such participant's spouse. If the last known address of the spouse is the same as the last known address of the participant, the requirement of the preceding sentence shall be treated as met if the copy referred to in the preceding sentence is included in a single mailing made to such address and addressed to both such participant and spouse."

(2) AMENDMENT OF ERISA.—Paragraph (3) of section 205(c) of Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subparagraph:

"(C) EXPLANATION TO SPOUSE.—At the time a plan provides a participant with a written explanation under subparagraph (A) or (B), such plan shall provide a copy of such explanation to such participant's spouse. If the last known address of the spouse is the same as the last known address of the participant, the requirement of the preceding sentence shall be treated as met if the copy referred to in the preceding sentence is included in a single mailing made to such address and addressed to both such participant and spouse."

(b) EMPLOYEE'S RIGHT TO KNOW OF OPPORTUNITY FOR ELECTIVE CONTRIBUTIONS UNDER 401(k) PLANS.—Subparagraph (D) of section 401(k)(12) of the Internal Revenue Code of 1986 (relating to notice requirements) is amended—

(1) by striking ", within a reasonable period before any year," and inserting "before the 60th day before the beginning of any year", and

(2) by adding at the end the following new flush sentence:

"The requirements of paragraph (11)(B)(iii) shall apply for purposes of this subparagraph."

SEC. 402. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.

(a) IN GENERAL.—The Secretary of Labor shall contract with an independent organization to create a women's pension toll-free telephone number and contact to serve as—

(1) a resource for women on pension questions and issues;

(2) a source for referrals to appropriate agencies; and

(3) a source for printed information.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of the fiscal years 1999, 2000, 2001, and 2002 to carry out subsection (a).

SEC. 403. MODIFICATION OF GOVERNMENT PENSION OFFSET.

(a) WIFE'S INSURANCE BENEFITS.—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(c) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(d) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(4)(A) of such Act (42 U.S.C. 402(g)(4)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(f) AMOUNT DESCRIBED.—Section 202 of such Act (42 U.S.C. 402) is amended by adding at the end the following:

"(z) The amount described in this subsection is, for months in each 12-month period beginning in December of 1998, and each succeeding calendar year, the greater of—

"(1) $1200; or

"(2) the amount applicable for months in the preceding 12-month period, increased by the cost-of-living adjustment for such period determined for an annuity under section 8340 of title 5, United States Code (without regard to any other provision of law)."

(g) LIMITATIONS ON REDUCTIONS IN BENEFITS.—Section 202 of such Act (42 U.S.C. 402), as amended by subsection (f), is amended by adding at the end the following:

"(aa) For any month after December 1998, in no event shall an individual receive a reduction in a benefit under subsection (b)(4)(A), (c)(2)(A), (e)(7)(A), (f)(2)(A), or (g)(4)(A) for the month that is more than the reduction in such benefit that would have applied for such month under such subsections as in effect on December 1, 1998."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 1998.

SEC. 404. PERIODS OF FAMILY AND MEDICAL LEAVE TREATED AS HOURS OF SERVICE FOR PENSION PARTICIPATION AND VESTING.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) PARTICIPATION.—

(A) IN GENERAL.—Paragraph (3) of section 410(a) of the Internal Revenue Code of 1986 (relating to minimum participation standards) is amended by adding at the end the following new subparagraph:

"(E) FAMILY AND MEDICAL LEAVE TREATED AS SERVICE.—

"(i) IN GENERAL.—For purposes of this subsection, in the case of an individual who is absent from work on leave required to be given to such individual under the Family and Medical Leave Act of 1993, the plan shall treat as hours of service—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence.

"(ii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (i) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would have a year of service solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year."

(B) COORDINATION WITH TREATMENT OF MATERNITY AND PATERNITY ABSENCES UNDER BREAK IN SERVICE RULES.—Subparagraph (E) of section 410(a)(5) of such Code is amended—

(i) by inserting "NOT UNDER FAMILY AND MEDICAL LEAVE ACT OF 1993" after "ABSENCES" in the heading, and

(ii) by adding at the end of clause (i) the following new sentence: "The preceding sentence shall apply to an absence from work only if no part of such absence is required to be given under the Family and Medical Leave Act of 1993."

(2) VESTING.—

(A) IN GENERAL.—Paragraph (5) of section 411(a) of such Code (relating to minimum vesting standards) is amended by adding at the end the following new subparagraph:

"(E) FAMILY AND MEDICAL LEAVE TREATED AS SERVICE.—

"(i) IN GENERAL.—For purposes of this subsection, in the case of an individual who is absent from work on leave required to be given to such individual under the Family and Medical Leave Act of 1993, the plan shall treat as hours of service—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence.

"(ii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (i) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would have a year of service solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year."

(B) COORDINATION WITH TREATMENT OF MATERNITY AND PATERNITY ABSENCES UNDER BREAK IN SERVICE RULES.—Subparagraph (E) of section 411(a)(6) of such Code is amended—

(i) by inserting "NOT UNDER FAMILY AND MEDICAL LEAVE ACT OF 1993" after "ABSENCES" in the heading, and

(ii) by adding at the end of clause (i) the following new sentence: "The preceding sentence shall apply to an absence from work only if no part of such absence is required to be given under the Family and Medical Leave Act of 1993."

(b) AMENDMENTS OF ERISA.—

(1) PARTICIPATION.—

(A) IN GENERAL.—Paragraph (3) of section 202(a) of the Employee Retirement Income Security Act of 1974 (relating to minimum participation standards) is amended by adding at the end the following new subparagraph:

"(E)(i) For purposes of this subsection, in the case of an individual who is absent from work on leave required to be given to such individual under the Family and Medical Leave Act of 1993, the plan shall treat as hours of service—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence.

"(ii) The hours described in clause (i) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would have a year of service solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year."

(B) COORDINATION WITH TREATMENT OF MATERNITY AND PATERNITY ABSENCES UNDER BREAK IN SERVICE RULES.—Subparagraph (A) of section 202(b)(5) of such Act is amended by adding at the end of clause (i) the following new sentence: "The preceding sentence shall apply to an absence from work only if no part of such absence is required to be given under the Family and Medical Leave Act of 1993."

(2) VESTING.—

(A) IN GENERAL.—Paragraph (2) of section 203(b) of such Act (relating to minimum vesting standards) is amended by adding at the end the following new subparagraph:

"(E)(i) For purposes of this subsection, in the case of an individual who is absent from work on leave required to be given to such individual under the Family and Medical Leave Act of 1993, the plan shall treat as hours of service—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence.

"(ii) The hours described in clause (i) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would

have a year of service solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year."

(B) COORDINATION WITH TREATMENT OF MATERNITY AND PATERNITY ABSENCES UNDER BREAK IN SERVICE RULES.—Clause (i) of section 203(b)(3)(E) of such Act is amended by adding at the end of clause (i) the following new sentence: "The preceding sentence shall apply to an absence from work only if no part of such absence is required to be given under the Family and Medical Leave Act of 1993."

SEC. 405. PENSION INTEGRATION RULES.

(a) APPLICABILITY OF NEW INTEGRATION RULES EXTENDED TO ALL EXISTING ACCRUED BENEFITS.—Notwithstanding subsection (c)(1) of section 1111 of the Tax Reform Act of 1986 (relating to effective date of application of nondiscrimination rules to integrated plans) (100 Stat. 2440), effective for plan years beginning after the date of the enactment of this Act, the amendments made by subsection (a) of such section 1111 shall also apply to benefits attributable to plan years beginning on or before December 31, 1988.

(b) INTEGRATION DISALLOWED FOR SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Subparagraph (D) of section 408(k)(3) of the Internal Revenue Code of 1986 (relating to permitted disparity under rules limiting discrimination under simplified employee pensions) is repealed.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of such section 408(k)(3) is amended by striking "and except as provided in subparagraph (D),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to taxable years beginning on or after January 1, 1998.

(c) EVENTUAL REPEAL OF INTEGRATION RULES.—Effective for plan years beginning on or after January 1, 2004—

(1) subparagraphs (C) and (D) of section 401(a)(5) of the Internal Revenue Code of 1986 (relating to pension integration exceptions under nondiscrimination requirements for qualification) are repealed, and subparagraph (E) of such section 401(a)(5) is redesignated as subparagraph (C); and

(2) subsection (*l*) of section 401 of such Code (relating to nondiscriminatory coordination of defined contribution plans with OASDI) is repealed.

SEC. 406. DIVISION OF PENSION BENEFITS UPON DIVORCE.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 414(p) of the Internal Revenue Code of 1986 (relating to qualified domestic relations order defined) is amended by redesignating paragraph (12) as paragraph (13) and by adding at the end the following new paragraph:

"(12) SPECIAL RULES AND PROCEDURES FOR DOMESTIC RELATIONS ORDERS NOT SPECIFYING DIVISION OF PENSION BENEFITS.—

"(A) IN GENERAL.—If—

"(i) a domestic relations order (including an annulment or other order of marital dissolution) relates to provision of marital property with respect to a marriage of at least 5 years duration between the participant and the former spouse,

"(ii)(I) such order (and any prior order) does not specifically provide that pension benefits were considered by the parties and no division is intended, and

"(II) such order is not a qualified domestic relations order without regard to this paragraph and there is no other prior qualified domestic relations order issued in connection with the dissolution of the marriage to which such order relates, and

"(iii) the former spouse notifies a plan within the period prescribed under subparagraph (C) that the former spouse is entitled to benefits under the plan in accordance with the provisions of this paragraph,

then such domestic relations order shall be treated as a qualified domestic relations order for purposes of this subsection and section 401(a)(13).

"(B) AMOUNT OF BENEFIT.—

"(i) IN GENERAL.—Any domestic relations order treated as a qualified domestic relations order under subparagraph (A) shall be treated as specifying that the former spouse is entitled to the applicable percentage of the marital share of the participant's accrued benefit.

"(ii) MARITAL SHARE.—For purposes of clause (i), the marital share of a participant's accrued benefit is an amount equal to the product of—

"(I) such benefit as of the date of the first payment under the plan (to the extent such accrued benefit is vested at the date of the divorce or any later date), and

"(II) a fraction the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

"(iii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage is—

"(I) except as provided in subclause (II), 50 percent, and

"(II) in the case of a participant who fails to provide the plan with notice of a domestic relations order within the time prescribed under subparagraph (C), 67 percent.

"(C) NOTICE REQUIREMENTS.—

"(i) NOTICE BY EMPLOYEE.—Each employee who is a participant in a pension plan shall, within 60 days after the dissolution of the marriage of the employee—

"(I) notify the plan administrator of the plan of such dissolution, and

"(II) provide to the plan administrator a copy of the domestic relations order (including an annulment or other order of marital dissolution) providing for such dissolution and the last known address of the employee's former spouse.

"(ii) NOTICE BY PLAN ADMINISTRATOR.—Each plan administrator receiving notice under clause (i) shall promptly notify the former spouse of a participant of such spouse's rights under this paragraph, including the time period within which such spouse is required to notify the plan of the spouse's intention to claim rights under this paragraph.

"(iii) NOTICE BY FORMER SPOUSE.—A former spouse may notify the plan administrator of such spouse's intent to claim rights under this paragraph at any time before the last day of the 1-year period following receipt of notice under clause (ii).

"(iv) COORDINATION WITH PLAN PROCEDURES.—The determination under paragraph (6)(A)(ii) with respect to a domestic relations order to which this paragraph applies shall be made within a reasonable period of time after the plan administrator receives the notice described in clause (iii).

"(D) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies paragraphs (2) through (4) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules—

"(i) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment,

"(ii) may allow the former spouse to be paid out immediately,

"(iii) shall permit the former spouse to be paid not later than the earliest retirement age under the plan or the participant's death,

"(iv) may require the submitter of the divorce decree to present a marriage certificate or other evidence of the marriage date to assist in benefit calculations, and

"(v) may conform to the rules applicable to qualified domestic relations orders regarding form or type of benefit."

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 206(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(d)(3)) is amended by redesignating subparagraph (N) as subparagraph (O) and by inserting after subparagraph (M) the following new subparagraph:

"(N) SPECIAL RULES AND PROCEDURES FOR DOMESTIC RELATIONS ORDERS NOT SPECIFYING DIVISION OF PENSION BENEFITS.—

"(i) IN GENERAL.—If—

"(I) a domestic relations order (including an annulment or other order of marital dissolution) relates to provision of marital property with respect to a marriage of at least 5 years duration between the participant and the former spouse,

"(II)(aa) such order (and any prior order) does not specifically provide that pension benefits were considered by the parties and no division is intended, or

"(bb) such order is a qualified domestic relations order without regard to this subparagraph or there is no other prior qualified domestic relations order issued in connection with the dissolution of the marriage to which such order relates, and

"(III) the former spouse notifies a plan within the period prescribed under clause (iii) that the former spouse is entitled to benefits under the plan in accordance with the provisions of this subparagraph,

then such domestic relations order shall be treated as a qualified domestic relations order for purposes of this paragraph.

"(ii) AMOUNT OF BENEFIT.—

"(I) IN GENERAL.—Any domestic relations order treated as a qualified domestic relations order under clause (i) shall be treated as specifying that the former spouse is entitled to the applicable percentage of the marital share of the participant's accrued benefit.

"(II) MARITAL SHARE.—For purposes of subclause (I), the marital share of a participant's accrued benefit is an amount equal to the product of—

"(aa) such benefit as of the date of the first payment under the plan (to the extent such accrued benefit is vested at the date of the divorce or any later date), and

"(bb) the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

"(III) APPLICABLE PERCENTAGE.—For purposes of this clause, the applicable percentage is—

"(aa) except as provided in item (bb), 50 percent, and

"(bb) in the case of a participant who fails to provide the plan with notice of a domestic relations order within the time prescribed under clause (iii), 67 percent.

"(iii) NOTICE REQUIREMENTS.—

"(I) NOTICE BY EMPLOYEE.—Each employee who is a participant in a pension plan shall, within 60 days after the dissolution of the marriage of the employee—

"(aa) notify the plan administrator of the plan of such dissolution, and

"(bb) provide to the plan administrator a copy of the domestic relations order (including an annulment or other order of marital dissolution) providing for such dissolution and the last known address of the employee's former spouse.

"(II) NOTICE BY PLAN ADMINISTRATOR.—Each plan administrator receiving notice under subclause (I) shall promptly notify the former spouse of a participant of such spouse's rights under this subparagraph, including the time period within which such spouse is required to notify the plan of the spouse's intention to claim rights under this subparagraph.

"(III) NOTICE BY FORMER SPOUSE.—A former spouse may notify the plan administrator of such spouse's intent to claim rights under this subparagraph at any time before the last day of the 1-year period following receipt of notice under subclause (II).

"(IV) COORDINATION WITH PLAN PROCEDURES.—The determination under subparagraph (G)(i)(II) with respect to a domestic relations order to which this subparagraph applies shall be made within a reasonable period of time after the plan administrator receives the notice described in subclause (III).

"(iv) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies subparagraphs (C) through (E) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules—

"(I) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment,

"(II) may allow the former spouse to be paid out immediately,

"(III) shall permit the former spouse to be paid not later than the earliest retirement age under the plan or the participant's death,

"(IV) may require the submitter of the divorce decree to present a marriage certificate or other evidence of the marriage date to assist in benefit calculations, and

"(V) may conform to the rules applicable to qualified domestic relations orders regarding form or type of benefit."

SEC. 407. ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE.

Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended—

(1) in subsection (c)(4)(i), by striking "(A) is entitled to an annuity under subsection (a)(1) and (B)"; and

(2) in subsection (e)(5), by striking "or divorced wife" the second place it appears.

SEC. 408. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle, other than sections 403 and 405, shall apply with respect to plan years beginning on or after January 1, 1999, and the amendments made by section 406 shall apply only with respect to divorces becoming final in such plan years.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 1999" the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2000, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2001.

Subtitle B—Protection of Rights of Former Spouses to Pension Benefits Under Certain Government and Government-Sponsored Retirement Programs

SEC. 411. EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which such annuity is so computed unless such termination is otherwise required by the terms of such court decree."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 412. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS, AND FORMER SPOUSES OF FEDERAL EMPLOYEES WHO DIE BEFORE ATTAINING AGE FOR DEFERRED ANNUITY UNDER CIVIL SERVICE RETIREMENT SYSTEM.

(a) BENEFITS FOR WIDOW OR WIDOWER.—Section 8341(f) of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1) by—

(A) by inserting "a former employee separated from the service with title to deferred annuity from the Fund dies before having established a valid claim for annuity and is survived by a spouse, or if" before "a Member"; and

(B) by inserting "of such former employee or Member" after "the surviving spouse";

(2) in paragraph (1)—

(A) by inserting "former employee or" before "Member commencing"; and

(B) by inserting "former employee or" before "Member dies"; and

(3) in the undesignated sentence following paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting "former employee or" before "Member"; and

(B) in subparagraph (B) by inserting "former employee or" before "Member".

(b) BENEFITS FOR FORMER SPOUSE.—Section 8341(h) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding after the first sentence "Subject to paragraphs (2) through (5) of this subsection, a former spouse of a former employee who dies after having separated from the service with title to a deferred annuity under section 8338(a) but before having established a valid claim for annuity is entitled to a survivor annuity under this subsection, if and to the extent expressly provided for in an election under section 8339(j)(3) of this title, or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree."; and

(2) in paragraph (2)—

(A) in subparagraph (A)(ii) by striking "or annuitant," and inserting "annuitant, or former employee"; and

(B) in subparagraph (B)(iii) by inserting "former employee or" before "Member".

(c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting at the end the following: "The Office shall provide by regulation for the application of this subsection to the widow, widower, or surviving former spouse of a former employee who dies after having separated from the service with title to a deferred annuity under section 8338(a) but before having established a valid claim for annuity."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply only in the case of a former employee who dies on or after such date.

SEC. 413. PAYMENT OF LUMP-SUM BENEFITS TO FORMER SPOUSES OF FEDERAL EMPLOYEES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8342(c), by striking "Lump-sum" and inserting "Except as provided in section 8345(j), lump-sum";

(2) in section 8345(j) by adding at the end of paragraph (1) the following: "Except for purposes of subparagraph (B), the first sentence of this paragraph shall be deemed to be amended by inserting after 'that individual' the following: ', and any lump-sum benefits authorized by section 8342(d) through (f) which would otherwise be paid to any person or persons under section 8342(c),' "; and

(B) by adding at the end the following:

"(4) Any payment under this subsection to a person bars recovery by any other person."

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Chapter 84 of title 5, United States Code, is amended—

(1) in section 8424(d), by striking "Lump-sum" and inserting "Except as provided in section 8467(a), lump-sum"; and

(2) in section 8467—

(A) in subsection (a), by adding at the end the following: "Except for purposes of paragraph (2), the first sentence of this subsection shall be deemed to be amended by inserting after 'that individual' the following: ', and any lump-sum benefits authorized by section 8424(e) through (g) which would otherwise be paid to any individual or individuals under section 8424(d),' "; and

(B) by adding at the end the following:

"(d) Any payment under this section to a person bars recovery by any other person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any amount payable by reason of any death occurring on or after the date of the enactment of this Act.

Subtitle C—Modifications of Joint and Survivor Annuity Requirements

SEC. 421. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS.

(a) AMENDMENTS TO ERISA.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(a)) is amended by inserting "or, at the election of the participant, shall be provided in the form of a qualified joint and ⅔ survivor annuity" after "survivor annuity,".

(B) DEFINITION.—Subsection (d) of section 205 of such Act (29 U.S.C. 1055) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by inserting "(1)" after "(d)", and

(iii) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term "qualified joint and ⅔ survivor annuity" means a joint and survivor annuity under which the survivor annuity for the life of the surviving spouse is equal to at least ⅔ of the amount of the annuity which is payable during the joint lives of the participant and spouse."

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 205(c)(3)(A) of such Act (29 U.S.C. 1055(c)(3)(A)) is amended to read as follows:

"(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and ⅔ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,".

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Clause (i) of section 401(a)(11)(A) of the Internal Revenue Code of 1986 (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is amended by inserting "or, at the election of the participant, shall be provided in the form of a qualified joint and ⅔ survivor annuity" after "survivor annuity,".

(B) DEFINITION.—Section 417 of such Code (relating to definitions and special rules for purposes of minimum survivor annuity requirements), as amended by section 422, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEFINITION OF QUALIFIED JOINT AND ⅔ SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term "qualified joint and ⅔ survivor annuity" means a joint and survivor annuity under which the survivor annuity for the life of the surviving spouse is equal to at least ⅔ of the amount of the annuity which is payable during the joint lives of the participant and spouse."

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 417(a)(3)(A) of such Code (relating to explanation of joint and survivor annuity) is amended to read as follows:

"(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and ⅔ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 1999.

SEC. 422. SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM DEFINED CONTRIBUTION PLANS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 401(a)(11) of the Internal Revenue Code of 1986 (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is amended by striking subparagraphs (B), (C), and (D), by redesignating subparagraphs (E) and (F) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any defined benefit plan and to any defined contribution plan."

(2) EXCEPTION FOR HARDSHIP DISTRIBUTIONS.—Section 417(f) of such Code is amended by adding at the end the following new paragraph:

"(8) HARDSHIP DISTRIBUTIONS.—The requirements of section 401(a)(11) and this section shall not apply to a hardship distribution under section 401(k)(2)(B)(i)(IV)."

(3) SPECIAL RULE FOR CASH-OUTS.—Section 417(e) of such Code is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—In the case of a defined contribution plan, notwithstanding paragraph (2), if the present value of the qualified joint and survivor annuity does not exceed $10,000, the plan may immediately distribute 50 percent of the present value of such annuity to each spouse.

"(B) EXCEPTION.—The plan may distribute a different percentage of the present value of an annuity to each spouse if a court order or contractual agreement provides for such different percentage."

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 205(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(b)) is amended to read as follows:

"(b)(1) This section shall apply to any defined benefit plan and to any individual account plan.

"(2) This section shall not apply to a plan which the Secretary of the Treasury or his delegate has determined is a plan described in section 404(c) of the Internal Revenue Code of 1986 (or a continuation thereof) in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the plan."

(2) HARDSHIP DISTRIBUTION.—Section 205 of such Act (29 U.S.C. 1055) is amended by adding at the end the following new subsection:

"(m) This section shall not apply to a hardship distribution under section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986."

(3) SPECIAL RULE FOR CASH-OUTS.—Section 205(g) of such Act (29 U.S.C. 1055(g)) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—In the case of an individual account plan, notwithstanding paragraph (2), if the present value of the qualified joint and survivor annuity or the qualified preretirement survivor annuity exceeds $10,000, the plan may immediately distribute 50 percent of the present value of such annuity to each spouse.

"(B) EXCEPTION.—The plan may distribute a different percentage of the present value of an annuity to each spouse if a court order or contractual agreement provides for such different percentage."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1999.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

SEC. 501. DATE FOR ADOPTION OF PLAN AMENDMENTS.

(a) IN GENERAL.—Except as otherwise provided in this Act, if any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the last day of the first plan year beginning on or after January 1, 1999, if—

(1) during the period after such amendment takes effect and before the last day of such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

(b) GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subsection (a) shall be applied by substituting for "January 1, 1999" the later of—

(1) January 1, 2000, or

(2) the date which is 90 days after the opening of the first legislative session beginning after January 1, 1999, of the governing body with authority to amend the plan, but only if such governing body does not meet continuously.

(c) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—Notwithstanding any other provision of this Act, in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, any amendment made by this Act which requires an amendment to such plan shall not be required to be made before the last day of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1999, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2000.

By Mr. COVERDELL:

S. 2250. A bill to protect the rights of the States and the people from abuse by the Federal Government, to strengthen the partnership and the intergovernmental relationship between State and Federal Governments, to restrain Federal agencies from exceeding their authority, to enforce the Tenth Amendment of the United States Constitution, and for other purposes; to the Committee on the Judiciary.

TENTH AMENDMENT ENFORCEMENT ACT

Mr. COVERDELL. Mr. President, I rise today to introduce the Tenth Amendment Enforcement Act of 1998. The Tenth Amendment was a promise to the States and to the American people that the Federal Government would be limited, and that the people of the States could, for the most part, govern

themselves as they saw fit. Unfortunately, in the last half century, that promise has been broken. The American people have asked us to start honoring that promise again: To return power to State and local governments which are close to and more sensitive to the needs of the people.

We took an important first step in the 104th Congress by enacting the Unfunded Mandates Reform Act. It began the shift of power out of Washington and back to the States and to the American people. Today we continue that process. The Tenth Amendment Enforcement Act of 1998 will return power to the States and to the people by placing safeguards in the legislative process, by restricting the power of Federal agencies and by instructing the Federal courts to enforce the Tenth Amendment.

The Tenth Amendment Enforcement Act of 1998 enforces the Tenth amendment in five ways. First, it includes a specific congressional finding that the Federal Government has no powers not delegated by the Constitution, and the States may exercise all powers not withheld by the Constitution. In other words, the Tenth Amendment means what it says.

Second, this proposal states that Federal laws may not interfere with State or local powers unless Congress declares its intent to preempt and specifically cites its constitutional authority to act.

Third, it enforces this declaration by establishing a point of order that allows any Congressman or Senator to challenge a bill lacking such a declaration or insufficiently citing constitutional authority. Such a point of order would require a three-fifths majority to be defeated.

Fourth, it requires that Federal agency rules and regulations not interfere with State or local powers without constitutional authority cited by Congress. Agencies must allow States notice and an opportunity to be heard in the rulemaking process.

Fifth, the proposal directs the courts to strictly construe Federal laws and regulations interfering with State powers. It requires a presumption in favor of State authority and against Federal preemption.

Too often in Washington, there is the temptation to weakening our Federal system of government. It has been stated that just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. We have an obligation to take steps to prevent such things from happening and to preserve the freedom and liberties we enjoy. I believe the Tenth Amendment Enforcement Act of 1998 is an important step and urge my colleagues to join me in this effort.

By Mr. CAMPBELL:

S. 2253. A bill to establish a matching grant program to help State and local jurisdictions purchase bullet resistant equipment for use by law enforcement departments; to the Committee on the Judiciary.

OFFICER DALE CLAXTON BULLET RESISTANT POLICE PROTECTIVE EQUIPMENT

Mr. CAMPBELL. Mr. President, today I introduce legislation to help our Nation's State and local law enforcement officers acquire the bullet resistant equipment they need to protect themselves from would-be killers. This bill, the Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 1998, is named after a Cortez, Colorado, police officer who was fatally shot through the windshield of his patrol car on May 29, 1998, after stopping a stolen truck. Officer Claxton was tragically and prematurely taken away from his wife and four children. Today, two of the three suspects are still at large, even after an extensive manhunt.

Unfortunately, this type of incident is far from isolated. All across our Nation law enforcement officers, whether parked on the side of the road or in hot pursuit, are at risk of being shot through their windshields. Another example that many of my colleagues may be aware of is the brutal murder of the District of Columbia's Officer Brian Gibson, who was ambushed and shot while sitting in his patrol car. We must do what we can to prevent tragedies like this.

As a former deputy sheriff, I am personally aware of the dangers which law enforcement officers face on the front lines every day. One way in which the Federal Government can improve their safety is to help them acquire bullet resistant glass and other equipment for patrol cars. These partnership grants are especially crucial for officers who serve in small local jurisdictions that often lack the funds to provide their officers with all of the life saving equipment they may need.

The Officer Dale Claxton bill builds on the impact of the Bulletproof Vest Partnership Grant Act, S. 1605, which I introduced and the President signed into law on June 16, 1998. This new program provides grants to law enforcement agencies to purchase body armor for their officers. The Officer Dale Claxton bill extends this protection to include bullet resistant equipment for the officers' vehicles, shields, and any other equipment that officers may need when they are serving out on the front lines of law enforcement.

The bill I introduce today has two major components. The first is to provide a matching grant program for state, county, local and tribal law enforcement agencies. This legislation would authorize the Department of Justice's Bureau of Justice Assistance to administer a $40 million matching grant program to assist these agencies purchase of bullet resistant equipment for patrol cars, including bullet resistant glass, panels, and other safety devices.

The program will provide 50–50 matching grants to state and local law enforcement agencies and Indian tribes to assist in purchasing bulletproof vests and body armor. To ensure that the funding goes first to those police departments which need it most, the Director of the Bureau of Justice Assistance is given discretion to give preferential consideration to smaller departments whose budgets are scarce.

Additionally, those jurisdictions which do not receive any funding under the local law enforcement block grant program will be given preference. Furthermore, at least half of the funds available under this program will be awarded to jurisdictions with less than 100,000 residents.

The second component of this legislation would launch an expedited and targeted research and development effort to come up with new technologies and products. Promising new lightweight bullet proof materials now being developed could be as revolutionary in the year 2000 as the development of Kevlar was in the 1970s for the manufacture of body armor. These exciting new technologies promise to be lighter, more versatile and hopefully less expensive than traditional heavy bulletproof glass.

The Officer Dale Claxton bill authorizes $3 million over 3 years for the Justice Department's National Institute of Justice (NIJ) to conduct research and development of new bullet resistant technologies, such as bonded acrylic, polymers, polycarbons, aluminized material, and transparent ceramics. This R and D program would focus on specialized equipment, including windshield glass, car panels, police shields and other types of protective gear.

The Officer Dale Claxton bill directs the National Institute of Justice to inventory existing technologies in the private sector, in surplus military property, and in use by other countries. The bill also directs the Institute to conduct: standards development; technology development; technical testing; operational testing; evaluation; and technology transfer.

Under the bill, the Institute would give priority in testing and engineering surveys to law enforcement partnerships developed in coordination with existing High Intensity Drug Trafficking Areas (HIDTAs).

Our nation's police officers, sheriffs and deputies regularly put their lives

in harm's way as they protect the people and preserve the peace. They deserve to have access to the bullet resistant equipment they need. The Officer Dale Claxton bill will both accelerate the development of new life-saving bullet resistant technologies and then help get them deployed into the field where they are needed. Lives will be saved.

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

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

S. 2253

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 "Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 1998".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) Officer Dale Claxton of the Cortez, Colorado, Police Department was shot and killed by bullets that passed through the windshield of his police car after he stopped a stolen truck, and his life may have been saved if his police car had been equipped with bullet resistant equipment;

(2) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had access to additional bullet resistant equipment;

(3) according to studies, between 1985 and 1994, 709 law enforcement officers in the United States were feloniously killed in the line of duty;

(4) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing bullet resistant equipment, such as an armor vest, is 14 times higher than for officers wearing an armor vest;

(5) according to studies, between 1985 and 1994, bullet-resistant materials helped save the lives of more than 2,000 law enforcement officers in the United States; and

(6) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite a decrease in the national crime rate, and has concluded that there is a "public safety crisis in Indian country".

(b) PURPOSE.—The purpose of this Act is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide officers with bullet resistant equipment.

SEC. 3. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT BULLET RESISTANT EQUIPMENT.

(a) IN GENERAL.—Part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking the part designation and part heading and inserting the following:

"PART Y—MATCHING GRANT PROGRAMS FOR LAW ENFORCEMENT

"Subpart A—Grant Program For Armor Vests";

(2) by striking "this part" each place that term appears and inserting "this subpart"; and

(3) by adding at the end the following:

"Subpart B—Grant Program For Bullet Resistant Equipment

"SEC. 2511. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase bullet resistant equipment for use by State, local, and tribal law enforcement officers.

"(b) USES OF FUNDS.—Grants awarded under this section shall be—

"(1) distributed directly to the State, unit of local government, or Indian tribe; and

"(2) used for the purchase of bullet resistant equipment for law enforcement officers in the jurisdiction of the grantee.

"(c) PREFERENTIAL CONSIDERATION.—In awarding grants under this subpart, the Director of the Bureau of Justice Assistance may give preferential consideration, if feasible, to an application from a jurisdiction that—

"(1) has the greatest need for bullet resistant equipment based on the percentage of law enforcement officers in the department who do not have access to a vest;

"(2) has a violent crime rate at or above the national average as determined by the Federal Bureau of Investigation; or

"(3) has not received a block grant under the Local Law Enforcement Block Grant program described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119).

"(d) MINIMUM AMOUNT.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated .25 percent.

"(e) MAXIMUM AMOUNT.—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

"(f) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent. Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

"(g) ALLOCATION OF FUNDS.—At least half of the funds available under this subpart shall be awarded to units of local government with fewer than 100,000 residents.

"SEC. 2512. APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this subpart, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

"(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this subpart, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

"(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) during a fiscal year in which it submits an application under this subpart shall not be eligible for a grant under this subpart unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of bullet resistant equipment, but did not, or does not expect to use such funds for such purpose.

"SEC. 2513. DEFINITIONS.

"For purposes of this subpart—

"(1) the term 'equipment' means windshield glass, car panels, shields, and protective gear;

"(2) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

"(3) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

"(4) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

"(5) the term 'law enforcement officer' means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (23) and inserting the following:

"(23) There are authorized to be appropriated to carry out part Y—

"(A) $25,000,000 for each of fiscal years 1999 through 2001 for grants under subpart A of that part; and

"(B) $40,000,000 for each of fiscal years 1999 through 2001 for grants under subpart B of that part.".

SEC. 4. SENSE OF THE CONGRESS.

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available by this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

SEC. 5. TECHNOLOGY DEVELOPMENT.

Section 202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended by adding at the end the following:

"(e) BULLET RESISTANT TECHNOLOGY DEVELOPMENT.—

"(1) IN GENERAL.—The Institute is authorized to—

"(A) conduct research and otherwise work to develop new bullet resistant technologies (i.e. acrylic, polymers, aluminized material, and transparent ceramics) for use in police equipment (including windshield glass, car panels, shields, and protective gear);

"(B) inventory bullet resistant technologies used in the private sector, in surplus military property, and by foreign countries;

"(C) promulgate relevant standards for, and conduct technical and operational testing and evaluation of, bullet resistant technology and equipment, and otherwise facilitate the use of that technology in police equipment.

"(2) PRIORITY.—In carrying out this subsection, the Institute shall give priority in testing and engineering surveys to law enforcement partnerships developed in coordination with High Intensity Drug Trafficking Areas.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years 1999 through 2001.".

By Mr. REED.

S. 2254. A bill to provide for the establishment of an assistance program for health insurance consumers; to the Committee on Labor and Human Resources.

THE HEALTH CARE CONSUMER ASSISTANCE ACT

• Mr. REED. Mr. President, today I introduce the Health Care Consumer Assistance Act. This legislation creates a consumer assistance program that is key to patient protections in the health insurance market.

President Clinton's Health Quality Commission stated in its recently released Bill of Rights that consumers have the right to receive accurate, easily understood information and get assistance in making informed decisions about health plans and providers. Today, only a loose patchwork of consumer assistance services exists. And, while a number of sources provide assistance, most programs are limited. Many consumer groups have advocated for the establishment of consumer assistance programs to support consumers' growing need of information.

The legislation I am introducing today gives states grants to establish nonprofit, private consumer assistance program designed to help consumers understand and act on their health care choices, rights and responsibilities. Under my bill, the Secretary of Health and Human Services will make available funds for states to select an independent, nonprofit agency to provide the following services to consumers: provide information to consumers relating to their choices, rights and responsibilities within the plans they select; operate 1-800 telephone hotlines to respond to consumer information, advice and assistance requests; produce and disseminate educational materials about patients' rights; provide assistance and representation to people who wish to appeal the denial, termination, or reduction of health care services, or a refusal to pay for health services; and collect and disseminate data about inquiries, problems and grievances handled by the consumer assistance program.

This program has been championed by Ron Pollack of Families USA, a member of the President's Commission on Quality, as well as numerous other consumer advocates.

Mr. President, I have joined with many of my Democratic colleagues in sponsoring S.1890, the Patients' Bill of Rights Act of 1998. I am pleased that S.1890 would establish a consumer assistance program, similar to that established by my legislation. My purpose today is to emphasize the importance of such a consumer protection program. This legislation is not without controversy, but I believe that American consumers deserve protection and assistance as they attempt to navigate the often confusing and complex world of health insurance.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

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

S. 2254

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 "Health Care Consumer Assistance Act".

SEC. 2. GRANTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the "Secretary") shall award grants to States to enable such States to enter into contracts for the establishment of consumer assistance programs designed to assist consumers of health insurance in understanding their rights, responsibilities and choices among health insurance products.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section a 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 a State plan that describes—

(1) the manner in which the State will solicit proposals for, and enter into a contract with, an entity eligible under section 3 to serve as the health insurance consumer office for the State; and

(2) the manner in which the State will ensure that advice and assistance services for health insurance consumers are coordinated through the office described in paragraph (1).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From amounts appropriated under section 5 for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a health insurance plan (as determined by the Secretary) bears to the total number of individuals covered under a health insurance plan in all States (as determined by the Secretary). Any amounts provided to a State under this section that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this paragraph.

(2) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this section for a fiscal year be less than an amount equal to .5 percent of the amount appropriated for such fiscal year under section 5.

SEC. 3. ELIGIBILITY OF STATE ENTITIES.

To be eligible to enter into a contract with a State and operate as the health insurance consumer office for the State under this Act, an entity shall—

(1) be an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers (particularly low income and other consumers who are most in need of consumer assistance);

(2) prepare and submit to the State a proposal containing such information as the State may require;

(3) demonstrate that the entity has the technical, organizational, and professional capacity to operate the health insurance consumer office within the State;

(4) provide assurances that the entity has no real or perceived conflict of interest in providing advice and assistance to consumers regarding health insurance and that the entity is independent of health insurance plans, companies, providers, payers, and regulators of care; and

(5) demonstrate that, using assistance provided by the State, the entity has the capacity to provide assistance and advice throughout the State to public and private health insurance consumers regardless of the source of coverage.

SEC. 4. USE OF FUNDS.

(a) BY STATE.—A State shall use amounts received under a grant under this Act to enter into a contract described in section 2(a) to provide funds for the establishment and operation of a health insurance consumer office.

(b) BY ENTITY.—

(1) IN GENERAL.—An entity that enters into a contract with a State under this Act shall use amounts received under the contract to establish and operate a health insurance consumer office.

(2) NONCOMPLIANCE.—If the State fails to enter into a contract under subsection (a), the Secretary shall withhold amounts to be provided to the State under this Act and use such amounts to enter into the contract described in paragraph (1) for the State.

(c) ACTIVITIES OF OFFICE.—A health insurance consumer office established under this Act shall—

(1) provide information to health insurance consumers within the State relating to choice of health insurance products and the rights and responsibilities of consumers and insurers under such products;

(2) operate toll-free telephone hotlines to respond to requests for information, advice or assistance concerning health insurance in a timely and efficient manner;

(3) produce and disseminate educational materials concerning health insurance consumer and patient rights;

(4) provide assistance and representation (in nonlitigative settings) to individuals who desire to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a health insurance plan;

(5) make referrals to appropriate private and public individuals or entities so that inquiries, problems, and grievances with respect to health insurance can be handled promptly and efficiently; and

(6) collect data concerning inquiries, problems, and grievances handled by the office and disseminate a compilation of such information to employers, health plans, health

insurers, regulatory agencies, and the general public.

(d) AVAILABILITY OF SERVICES.—The office shall not discriminate in the provision of services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under employer-provided insurance, self-funded plans, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(e) SUBCONTRACTS.—An office established under this section may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this Act are met by the office.

(f) TRAINING.—

(1) IN GENERAL.—An office established under this section shall ensure that personnel employed by the office possess the skills, expertise, and information necessary to provide the services described in subsection (c).

(2) CONTRACTS.—To meet the requirement of paragraph (1), an office may enter into contracts with 1 or more nonprofit entities for the training (both through technical and educational assistance) of personnel and volunteers. To be eligible to receive a contract under this paragraph, an entity shall be independent of health insurance plans, companies, providers, payers, and regulators of care.

(3) LIMITATION.—Not to exceed 7 percent of the amount awarded to an entity under a contract under subsection (a) for a fiscal year may be used for the provision of training under this section.

(g) ADMINISTRATIVE COSTS.—Not to exceed 1 percent of the amount of a block grant awarded to the State under subsection (a) for a fiscal year may be used for administrative expenses by the State.

(h) TERM.—A contract entered into under subsection (a) shall be for a term of 3 years.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.•

By Mr. FEINGOLD:

S. 2255. A bill to amend the Agricultural Market Transition Act to prohibit the Secretary of Agriculture from including any storage charges in the calculation of loan deficiency payments or loans made to producers for loan commodities; to the Committee on Agriculture, Nutrition, and forestry.

AGRICULTURAL MARKET TRANSITION ACT AMENDMENTS

• Mr. FEINGOLD. Mr. President, today I introduce legislation that will give some relief to the taxpayers of this country, who now pay millions every year to cover the storage costs of cotton farmers. This year alone, this program has provided more than $23 million to store the cotton crop of participating farmers. This measure puts all commodities on a more equal footing by eliminating the storage subsidy for cotton, the only commodity that still enjoys that privilege.

Mr. President, prior to the passage of the 1996 Freedom to Farm bill, farmers producing wheat and feed grains relied heavily on the Farmer Owned Reserve Program to assist them in repaying their overdue loans when times were tough. They would roll their non-recourse loans into the Farmer Owned Reserve Program which would allow them the opportunity to pay back their loan, without interest, and also get assistance in paying storage costs. Although cotton producers were not eligible to participate in that particular program, they were offered the same opportunities and others through the heavily subsidized cotton program. Those were the days of heavy agriculture subsidization, when the government dictated prices, provided price supports, and more often than not, had over-surpluses of wheat, corn and other feed grains—driving down domestic prices. The 1996 Farm Bill, sought to bring farm policy up to date with prevailing modern agricultural thought—that the agriculture industry must be more market oriented—must survive with minimal government price interference.

Mr. President, although the Farm Bill was successful in ridding agriculture policy of much of the weight of government intrusion that burdened it for years, there are still hidden subsidies costing taxpayers billions. This legislation would prevent USDA from factoring cotton industry storage costs into Marketing Loan Program calculations. This costly and unnecessary benefit is bestowed on no other commodity.

Farmers, except those who produce cotton, are required to pay storage cost through the maturity date of their support loans. Producers must prepay or arrange to pay storage costs through the loan maturity date or USDA reduces the amount of the loan by deducting the amount necessary for prepaid storage. Cotton producers are not required to prepay storage costs. When they redeem a loan under marketing loan provisions or forfeit collateral, USDA pays the cost of accrued storage.

It is interesting to note, Mr. President, that in a 1994 audit of the cotton program, USDA's Office of Inspector General found no reason for USDA to pay for the accrued storage costs of cotton producers. The Inspector General recommended that USDA "revise procedures to eliminate the automatic payment of cotton storage charges by CCC and make provisions consistent with the treatment of storage charges on other program crops".

Although those in the cotton industry will argue that the automatic payments were eliminated in the Farm Bill, in reality, those payments are now simply hidden. It's true that certain provisions have been removed from the statute which mandates that USDA pay these charges. Now, USDA freely chooses to waste the taxpayers money by paying these costs, allowing cotton producers to subtract their storage costs from the market value of their cotton, providing a larger difference with the loan rate, and therefore receiving a higher return.

Marketing Loan Programs are designed to encourage producers to redeem their loans and market their crops, but USDA payment of cotton storage costs discourage loan redemption. As long as the adjusted world price is at or below the loan rate, producers can delay loan redemption in the secure expectation that domestic prices will rise or the adjusted world price will decline regardless of accruing storage costs.

Mr. President, its time to stop kidding ourselves. Let's eliminate this subsidy before it costs hardworking Americans any more. Let's bring equity to the commodities program. Lets finish what the Farm Bill started—a more market oriented agriculture program. One that benefits us all.

Mr. President, I ask unanimous consent that the entire 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. 2255

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

SECTION 1. STORAGE CHARGES FOR LOAN COMMODITIES.

Subtitle C of the Agricultural market Transition Act (7 U.S.C. 7231 et seq.) is amended by adding at the end the following:

"SEC. 138. STORAGE CHARGES FOR LOAN COMMODITIES.

"In calculating the amount of a loan deficiency payment or loan made to a producer for a loan commodity under this subtitle, the Secretary may not include any storage charges incurred by the producer in connection with the loan commodity.".•

By Mr. KERRY (for himself, Ms. SNOWE, Mr. HOLLINGS, and Mr. STEVENS):

S. 2256. A bill to provide an authorized strength for commissioned officers of the National Oceanic and Atmospheric Administration Corps, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS CONTINUATION ACT

Mr. KERRY. Mr. President, I am introducing legislation today that will relieve the hiring freeze on the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), that was first imposed following the 1995 National Performance Review. I want to thank Senators SNOWE, HOLLINGS, and STEVENS, who have joined me in cosponsoring this legislation, for their continued leadership on this issue. This legislation represents another milestone in their consistent stewardship of the NOAA Corps and the very important part it plays in

NOAA and to our Nation. This legislation will restore stability and renew the good faith contract made with the men and women that make up the NOAA Corps by establishing a minimum and maximum authorized strength for our nation's seventh uniformed service.

The NOAA Corps is an indispensable part of NOAA: a pool of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines. Corps officers serve in assignments within the five major line offices of NOAA. They operate ships, fly aircraft into hurricanes, lead mobile field parties, manage research projects, conduct diving operations, and serve in staff positions throughout NOAA. They operate the ships that set buoys used to gather oceanographic and meteorological data on unusual weather phenomena such as El Niño. They fly research aircraft into hurricanes that record valuable atmospheric observations. They conduct hydrographic surveys along our nation's coast in order to make our waters safe for maritime commerce.

Over three years ago, the Administration proposed that the NOAA Corps be disestablished and unilaterally imposed a hiring freeze. This action was based on flawed recommendations by the President's National Performance Review. A thorough review of the cost studies associated with the dissolution of the NOAA Corps clearly reflects that no real savings will be achieved over either the short or long term. In fact, without commissioned officers, NOAA may incur significant additional costs in the acquisition of data to fulfill its statutory missions. Further, recent data indicate that factors such as tort liability were not even considered as part of the total cost-benefit analysis. The Administration has ignored the fact that Congress alone has the authority to set the duties and strength of the uniformed services and Congress alone must act for the NOAA Corps to be disestablished. I am convinced that the preponderance of evidence supports the need for the NOAA Corps to be retained, not disestablished. This legislation will ensure that the pearl of expertise that resides in the men and women who make up the NOAA Corps is retained for the nation.

The NOAA Corps hiring freeze has been tantamount to slow motion dissolution of our nation's seventh uniformed service. At the time the freeze was imposed, the NOAA Corps had a strength of 411 officers. At the end of this fiscal year, the projected on-board strength will be 235 officers. Through this three years of adversity, the NOAA Corps has heroically continued to sail NOAA's fleet and fly its aircraft. At its current diminished personnel levels, I have become deeply concerned regarding the NOAA Corps' ability to carry out its mission. In addition, I am also concerned about the safety of the men and women aboard NOAA ships and aircraft.

Last week, Dr. James Baker, the Administrator of NOAA, announced a plan for restructuring the NOAA Corps. This plan calls for a further reduction of the Corps strength from its current level of 248 officers to 240 officers. In addition, it calls for a civilian Senior Executive Service member to manage the Corps. This restructuring plan will maintain a cloud of uncertainty over the future of the NOAA Corps, diminishing its viability and culminating in its ultimate elimination.

The proposed level of 240 officers will be inadequate to staff NOAA ships and aircraft. There are currently 70 officer billets aboard NOAA vessels. Assuming that a NOAA Corps officer spends one third of his or her career at sea, which is the norm in other seagoing services, a requirement exists for 210 seagoing officer billets. Likewise, there are 36 billets aboard NOAA aircraft. Assuming that an officer flies for two years and is moved to an office support billet for one year, a requirement exists for 54 aviator billets. Therefore, the minimum staffing requirement to maintain a viable NOAA Corps is 264 officers. All services allow for 10 to 15 percent of their personnel to be in a general detail status (i.e. training classes, travel and temporary duty). Therefore, I endorse staffing the NOAA Corps at a floor of 264 and a ceiling of 299 officer billets which corresponds to a general detail percentage that is consistent with the practices of other uniformed services. This level is consistent with the already-achieved reduction of 130 billets that was recommended by the National Performance Review.

The proposal to establish a civilian position to manage the NOAA Corps in place of the current flag officer creates an extra layer of management that is not required. A NOAA Corps flag officer is required to carry out NOAA fleet business with flag officers of the other services. As the civilian Administrator of NOAA, Dr. Baker is in a position to oversee the NOAA Corps, working with its senior flag officer.

Mr. President, this legislation will establish staffing levels for the NOAA Corps that will provide some assurance of long term viability. It will establish a floor strength of 264 officers with a ceiling of 299 officers. It is time that we reaffirm our commitment to studying the earth's oceans and atmosphere by insuring that the NOAA Corps is staffed at the appropriate level.

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. 2256

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 "National Oceanic and Atmospheric Administration Corps Continuation Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Tracing its roots back to 1807 when President Thomas Jefferson signed a bill for the "Survey of the Coast", the National Oceanic and Atmospheric Administration Corps has served the armed services and the Nation consistently and ably for almost two centuries.

(2) The National Oceanic and Atmospheric Administration Corps is a dedicated and specialized uniformed officer corps that operates vessels and planes, provides important scientific and technical services, and carrier out programmatic responsibilities throughout the National Oceanic and Atmospheric Administration.

(3) The smallest of the seven uniformed services, the National Oceanic and Atmospheric Administration Corps grew in size from 275 officers in 1970, the year the National Oceanic and Atmospheric Administration was created, to 411 officers in 1994.

(4) The National Oceanic and Atmospheric Administration Corps has met or exceeded the 1996 National Performance Review recommendation which called for a reduction of 130 officers from the 1994 level.

(5) Federally-sponsored studies conclude that no immediate or long-term cost savings would be achieved by replacing the National Oceanic and Atmospheric Administration Corps with a comparable civilian entity.

(6) As a result of the hiring freeze imposed on the National Oceanic and Atmospheric Administration Corps, positions necessary to maintain the statutorily mandated operation of the vessel and aircraft fleets of the National Oceanic and Atmospheric Administration have not been filled, valuable research work has been delayed, and the hydrography expertise of the National Oceanic and Atmospheric Administration, that is critical to the international trade of the United States, has been compromised.

SEC. 3. AUTHORIZED NUMBER OF COMMISSIONED OFFICERS.

Section 2 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a) is amended—

(1) by redesignating subsections (a) through (3) as subsections (b) through (f), respectively; and

(2) by inserting before subsection (b), as redesignated, the following:

"(a) There are authorized to be not less than 264 and not more than 299 commissioned officers on the active list of the National Oceanic and Atmospheric Administration.".

SEC. 4. DESIGNATION OF THE DIRECTOR OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS.

Section 24(a) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853u(a)) is amended by inserting "One such position shall be the director of the commissioned officers who shall be appointed from the officers on the active duty promotion list serving in or above the grade of captain, and who shall be responsible for administration of the commissioned officers, and for oversight of the operation of the vessel and aircraft fleets, of the Administration." before "An officer".

SEC. 5. RELIEF FROM HIRING FREEZE.

The Secretary of Commerce immediately shall relieve the moratorium on new appointments of commissioned officers to the National Oceanic and Atmospheric Administration Corps.

• Ms. SNOWE. Mr. President, I am pleased to join my Commerce Committee colleagues Senators KERRY, STEVENS, and HOLLINGS in introducing legislation today to reauthorize the National Oceanic and Atmospheric Administration (NOAA) Corps.

The NOAA Corps is a uniformed officer service that fulfills a variety of important missions for the agency and the public. NOAA Corps officers manage the operations of NOAA's research and survey vessels, as well as its aircraft. They serve as pilots and navigators, and as key scientific and engineering personnel involved with the missions for which the vessels and aircraft are being used. These missions include fisheries research, hydrographic surveys, oceanographic research, and airborne research on hurricanes, among others.

In addition to field missions, NOAA Corps officers perform a variety of shoreside tasks, from managing the ground support for the vessel and aircraft operations, to serving in management and technical support positions in offices throughout NOAA's line agencies.

At the outbreak of World War I, personnel and equipment from the Coast and Geodetic Survey—one of NOAA's predecessor organizations—were transferred to the War Department for military missions during the war, and the personnel were given military commissions. In World War II, about half of the Survey's commissioned officers and vessels were transferred to the war effort. Although all Survey personnel resumed civilian duties after the war, the commissioned Corps has continued to exist since that time.

But in recent years, some questioned whether it still makes sense to retain a uniformed Corps to perform these missions for NOAA. As part of its National Performance Review in 1994, the Clinton Administration determined that a uniformed Corps was no longer necessary, and it recommended that the organization be disestablished and replaced with a civilian staff. The Administration argued that the disestablishment of the Corps would result in some budget savings to the federal government and increase operational flexibility.

Unfortunately, the Congress did not receive a legislative proposal for disestablishment from the Administration until May of last year, and in the interim, the Corps was subject to administrative hiring freezes and annual appropriations riders that whittled the Corps' ranks by more than 25%. Since last year, the Corps has continued to shrink through attrition. Understandably, the morale of the Corps members has been negatively affected by these actions and the uncertainty about their future. As a result of these developments combined, important NOAA operations have been negatively affected.

Last fall, the Subcommittee on Oceans and Fisheries, which I chair, held a hearing on the Administration's disestablishment proposal. The Administration claimed that the replacement of the Corps with civilian personnel would save $2 million or more annually for the Federal government, primarily because of lower retirement costs for a civilian workforce. But upon examination by the Subcommittee, these estimated savings appeared to be suspect. The non-retirement costs of a civilian workforce could be much higher than the Administration estimated, and the likelihood of finding qualified civilians to replace the Corps officers in a short period of time is likewise very uncertain. In my view, the budget savings achieved by disestablishing the Corps would be marginal at best, but the American people would be losing a highly dedicated and professional cadre of men and women to perform many of NOAA's essential missions.

Very recently, the Administration reconsidered its disestablishment proposal and has decided to abandon it. The Administration now proposes to maintain a streamlined NOAA Corps of 240 officers. While I appreciate the Administration's willingness to honestly reassess a proposal that it had advocated since 1994, I fear that the 240 number is too low to effectively operate NOAA's vessels, aircraft, and associated support units. The bill that we are introducing today reauthorizes the Corps and establishes a force range of between 264 and 299 officers. This represents a substantial down-sizing of the Corps from a level of over 400 in 1994, but it ensures that a sufficient number of officers will be available to maintain NOAA's missions at a high level of effectiveness while providing a substantial degree of management flexibility to the agency. The bill also requires the Administration to immediately rescind the current moratorium on the commissioning of new officers and it requires the director of the Corps to be a Corps officer.

This legislation is the product of careful examination and deliberation by the Subcommittee on Oceans and Fisheries and it represents a responsible solution to a problem that has been lingering for four years. I strongly urge my colleagues to support this bill.•

Mr. HOLLINGS. Mr. President, today, Senators KERRY, SNOWE, STEVENS, and I are introducing a bill which will address the future of the smallest of this Nation's seven uniformed services, the commissioned officer corps (Corps) of the National Oceanic and Atmospheric Administration (NOAA). This bill will set a floor on Corps officers of 264 and a ceiling of 299, designate a flag officer as the Director of the Corps, and lift the hiring freeze on NOAA Corps officers.

Let me be clear at the outset. Since 1995 when the Administration proposed the disestablishment of the NOAA Corps, I have thought it was a solution in search of a problem. The NOAA Corps is a dedicated and highly skilled group of men and women who have served this Nation consistently and ably for almost two centuries. This uniformed officer corps operates NOAA vessels and planes, provides important scientific and technical services, and carries out programmatic responsibilities throughout the agency.

NOAA Corps officers do more than routine work; they maintain an ability to provide a specialized, rapid response in emergencies. The actions of the NOAA ship, RUDE, after the tragic crash of TWA Flight 800 demonstrate the importance of the Corps' work to NOAA and to the Nation. Managed and operated by NOAA Corps officers, the RUDE's sonar capabilities were used to locate crash debris and map the wreckage. In addition, ship officers served as liaison between Navy divers and members of the National Transportation Safety Board. The NOAA officers aboard the RUDE and those on-shore directing charting operations impressed the other myriad agencies who responded to the disaster, even earning the Coast Guard's Public Service Commendation. As one newspaper headline put it, "Obscure team gains respect at TWA site."

Corps officers also pilot NOAA aircraft through hurricanes at low altitudes, the only pilots trained with such skills anywhere in the world. The information they collect is essential for projecting the track and strength of hurricanes so that people in the path can prepare.

It should be clear to all of us that the NOAA Corps provides a unique and valuable service. Speaking frankly, I do not understand the efforts to disestablish the Corps or let it wither and die through a hiring freeze. None of the studies on converting the Corps to civilian status have shown a significant cost savings. A GAO study showed savings of 2 percent, another study by Arthur Andersen showed a cost increase of 2 percent, and the Hay/Huggins report concluded that costs were essentially the same for the Corps or civilians. It seems to me that there is not a justification for doing away with the Corps based on these studies of cost savings.

This is an issue that must be resolved. The Corps has not been permitted to recruit new officers since October 1994, and this methodical, de facto elimination of positions has continued without the oversight of approval of the Congress. While we have

been discussing the issue, the natural retirements and attribution of time have been slowly bleeding the strength out of the NOAA Corps. The Corps stands now at 248 members, down 44 percent from its highest level of 439 in 1995.

That is why we are introducing the NOAA Corps Continuation Act today. We cannot let the members of this service continue in limbo. NOAA's recently released plan to restructure the Corps is not acceptable. It takes into account neither the reductions in personnel already achieved nor the need for officers to have shore assignments. We need to set a realistic strength level for the Corps, designate a Director of the Corps from within the ranks, and life the hiring freeze. I thank Senator KERRY for his leadership on this issue and urge my colleagues to act swiftly on this legislation so that NOAA can continue to have the Corps' expertise in carrying out the agency's vital missions.

By Ms. LANDRIEU:

S. 2257. A bill to reauthorize the National Historic Preservation Act; to the Committee on Energy and Natural Resources.

MEASURE TO EXTEND THE AUTHORIZATION FOR THE NATIONAL HISTORIC PRESERVATION FUND

Ms. LANDRIEU. Mr. President, today I introduce a measure to extend the authorization for appropriations for the National Historic Preservation Fund, as established in the Historic Preservation Act Amendments of 1976. On September 30, 1997, the authorization for deposits into the Historic Preservation Fund from revenues due and payable to the United States under the Outer Continental Shelf Lands Act expired. I am introducing this legislation today with the purpose in mind of re-authorizing the deposits at the same level of $150,000,000 annually through the year 2004.

The Historic Preservation Fund is based on the idea that a part of proceeds from depletion of a non-renewable resource, off shore gas and oil, should be invested in the enhancement of other non-renewable resources: historic properties. The Historic Preservation Fund account supports roughly half the cost of the Nation's historic preservation program as created by the National Historic Preservation Act (16 U.S.C. 470). State governments contribute the other half of the cost. This is a true Federal-State partnership.

States and certain local governments and Indian tribes carry out the Nation's historic preservation program under the Act for the Secretary of the Interior and the Advisory Council on Historic Preservation. The historic preservation program involves the identification of historic places, working with property owners in nominating significant places to the National Register, consulting with federal agencies on projects that may adversely impact historic places, advising investors on tax credits for the rehabilitation of historic buildings, and offering information and educational opportunities to the private and public sectors on historic preservation.

The national historic preservation program, made possible by the Historic Preservation Fund (plus the State match), contributes significantly to community revitalization for the benefit of residents, to heritage tourism by identifying places people want to visit, and to economic development through the rehabilitation of commercial buildings and rental housing ($1.7 billion in construction costs in fiscal year 1997).

I believe this is an extremely worthwhile program that works. We should re-authorize this fund so that important restoration and revitalization efforts may continue across the country, done with the assistance of State Historic Preservation Offices and the Advisory Council on Historic Preservation. I ask unanimous consent that the 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. 2257

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

SECTION 1. NATIONAL HISTORIC PRESERVATION ACT.

The second sentence of section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended by striking "1997" and inserting "2004".

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 38, a bill to reduce the number of executive branch political appointees.

S. 59

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 59, a bill to terminate the Extremely Low Frequency Communication System of the Navy.

S. 520

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 520, a bill to terminate the F/A–18 E/F aircraft program.

S. 643

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 643, a bill to prohibit the Federal Government from providing insurance, reinsurance, or noninsured crop disaster assistance for tobacco.

S. 982

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 982, a bill to provide for the protection of the flag of the United States and free speech, and for other purposes.

S. 1151

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) 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. 1275

At the request of Mr. MURKOWSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1275, a bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes.

S. 1924

At the request of Mr. MACK, the names of the Senator from Rhode Island (Mr. REED), the Senator from Alabama (Mr. SHELBY), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under the medicare program, and for other purposes.

S. 2017

At the request of Mr. D'AMATO, the names of the Senator from Virginia (Mr. ROBB) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2040

At the request of Mr. BAUCUS, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 2040, a bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control

units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities.

S. 2049

At the request of Mr. KERREY, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Ohio (Mr. GLENN), and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2214

At the request of Mr. LOTT, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2214, a bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates.

S. 2233

At the request of Mr. CONRAD, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of S. 2233, a bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities.

SENATE RESOLUTION 255—COMMENDING THE LIBRARY OF CONGRESS FOR 200 YEARS OF OUTSTANDING SERVICE TO CONGRESS AND THE NATION, AND TO ENCOURAGE ACTIVITIES TO COMMEMORATE THE BICENTENNIAL ANNIVERSARY OF THE LIBRARY OF CONGRESS

Mr. WARNER (for himself, Mr. FORD, Mr. STEVENS, and Mr. MOYNIHAN) submitted the following resolution; which was considered and agreed to:

S. RES. 255

Whereas the Library of Congress was established in 1800 and will celebrate the 200th anniversary of the Library of Congress in 2000;

Whereas the goal of the bicentennial commemoration is to inspire creativity in the century ahead and ensure a free society through greater use of the Library of Congress and libraries everywhere;

Whereas the bicentennial goal will be achieved through a variety of national, State, and local projects, developed in collaboration with the offices of the Members of Congress, the staff of the Library of Congress, and special advisory committees; and

Whereas the bicentennial commemorative activities include significant acquisitions, symposia, exhibits, issuance of a commemorative coin, and enhanced public access to the collections of the Library of Congress through the National Digital Library: Now, therefore, be it

Resolved, That the Senate commends the Library of Congress on 200 years of service to Congress and the Nation, and encourages the American public to participate in activities to commemorate the bicentennial anniversary of the Library of Congress.

AMENDMENTS SUBMITTED

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN AUTHORIZATION ACT

HATCH (AND OTHERS) AMENDMENT NO. 3047

Mr. LOTT (for Mr. HATCH for himself, Mr. FEINGOLD, and Mr. DEWINE) proposed an amendment to the bill (S. 2073) to authorize appropriations for the National Center for Missing and Exploited Children; as follows:

On page 8, below line 24, add the following:

SEC. 3. CHILD EXPLOITATION SENTENCING ENHANCEMENTS.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The chapter analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

LEAHY (AND HATCH) AMENDMENT NO. 3048

Mr. LOTT (for Mr. LEAHY for himself and Mr. HATCH) proposed an amendment to the bill, S. 2073, supra; as follows:

At the end of the bill, add the following:

SEC. 4. RUNAWAY AND HOMELESS YOUTH ACT.

(a) IN GENERAL.—Section 372(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)) is amended by striking "unit of general local government" and inserting "unit of local government".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) TECHNICAL AMENDMENTS.—

(A) ERROR RESULTING FROM REDESIGNATION.—

(i) IN GENERAL.—Section 3(i) of the Public Law 102–586 (106 Stat. 5026) is amended by striking "Section 366" and inserting "Section 385".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by Public Law 102–586.

(B) ERROR RESULTING FROM REFERENCES TO NONEXISTENT PROVISIONS OF LAW.—

(i) IN GENERAL.—Section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922) is amended by striking "is amended—" and all that follows through "after section 315" and inserting the following: "is amended by adding at the end".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

(2) REAUTHORIZATIONS.—

(A) IN GENERAL.—Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) (as amended by section 3(i) of the Public Law 102–586 (106 Stat. 5026) (as amended by paragraph (1)(A) of this subsection)) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003"; and

(II) in paragraph (3), by striking subparagraphs (A) through (D) and inserting the following:

"(A) for fiscal year 1998, not less than $957,285;

"(B) for fiscal year 1999, not less than $1,005,150;

"(C) for fiscal year 2000, not less than $1,055,406;

"(D) for fiscal year 2001, not less than $1,108,177;

"(E) for fiscal year 2002, not less than $1,163,585; and

"(F) for fiscal year 2003, not less than $1,163,585.";

(ii) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1999 and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003"; and

(iii) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1999, 2000, 2001, 2002, and 2003".

(B) ADDITIONAL REAUTHORIZATION.—Section 316 of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d) (as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by paragraph (1)(B) of this subsection)) is—

(i) redesignated as section 315; and

(ii) amended by striking subsection (c) and inserting the following:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003.".

CONCURRENT RESOLUTION HONORING THE BERLIN AIRLIFT

COVERDELL AMENDMENT NO. 3049

Mr. LOTT (for Mr. COVERDELL) proposed an amendment to the concurrent resolution (S. Con. Res. 81) honoring the Berlin Airlift; as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that—

(1) the Berlin Airlift, which marks its 50th anniversary of commencement in June 1998, is one of the most significant events in postwar European history; and

(2) the Berlin Sculpture Fund should be commended for commemorating the 50th anniversary of the Berlin Airlift by presenting to the citizens of the Federal Republic of Germany a gift of representational art, funded by private subscriptions from citizens of the United States.

Amend the preamble to read as follows:

Whereas the date of June 26, 1998, marks the 50th anniversary of the commencement of the Allied effort to supply the people of Berlin, Germany, with food, fuel, and supplies in the face of the illegal Soviet blockade that divided the city;

Whereas this 15 month Allied effort became known throughout the free world as the "Berlin Airlift" and ultimately cost the lives of 78 Allied airmen, of whom 31 were United States fliers;

Whereas this heroic humanitarian undertaking was universally regarded as an unambiguous statement of Western resolve to thwart further Soviet expansion;

Whereas the Berlin Airlift was an unqualified success, both as an instrument of diplomacy and as a life saving rescue of the 2,000,000 inhabitants of West Berlin, with 2,326,205 tons of supplies delivered by 277,728 flights over a 462-day period;

Whereas historians and citizens the world over view the success of this courageous action as pivotal to the ultimate defeat of international tyranny, symbolized today by the fall of the Berlin Wall; and

Whereas this inspiring act of resolve must be preserved in the memory of future generations in a positive and dramatic manner: Now, therefore, be it

Amend the title to read as follows: "Concurrent resolution honoring the Berlin Airlift and commending the Berlin Sculpture Fund.".

INTELLIGENCE AUTHORIZATION ACT OF FISCAL YEAR 1999

SHELBY AMENDMENT NO. 3050

Mr. LOTT (for Mr. SHELBY) proposed an amendment to the bill (S. 2052) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Retirement and Disability System, and for other purposes; as follows:

On page 11, between lines 18 and 19, insert the following:

SEC. 307. DESIGNATION OF HEADQUARTERS BUILDING OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE.

(a) DESIGNATION.—The Headquarters Building of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the "George Herbert Walker Bush Center for Central Intelligence".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Headquarters Building referred to in subsection (a) shall be deemed to be a reference to the George Herbert Walker Bush Center for Central Intelligence.

KERREY AMENDMENTS NOS. 3051–3052

Mr. LOTT (for Mr. KERREY) proposed two amendments to the bill, S. 2052, supra; as follows:

AMENDMENT NO. 3051

On page 11, between lines 18 and 19, insert the following:

SEC. 307. AUTHORITY TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) direct competitive analysis of analytical products having National importance;".

AMENDMENT NO. 3052

On page 11, between lines 18 and 19, insert the following:

SEC. 307. ANNUAL STUDY AND REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.

(a) ANNUAL STUDY.—The Director of Central Intelligence shall, on an annual basis, conduct a study of the safety and security of the nuclear facilities and nuclear military forces in Russia.

(b) ANNUAL REPORTS.—(1) The Director shall, on an annual basis, submit to the committees referred to in paragraph (4) an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each report shall include a discussion of the following:

(A) The ability of the Russia Government to maintain its nuclear military forces.

(B) Security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each report shall be submitted in unclassified form, but may contain a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on International Relations of the House of Representatives.

COATS AMENDMENT NO. 3053

Mr. LOTT (for Mr. COATS) proposed an amendment to the bill, S. 2052, supra; as follows:

AMENDMENT NO. 3053

On page 11, between lines 18 and 19, insert the following:

SEC. 307. QUADRENNIAL INTELLIGENCE REVIEW.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities;

(2) each review under paragraph (1) should—

(A) include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(3) the results of each review should be shared with the appropriate committees of Congress; and

(4) the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the committees referred to in subsection (b)(2) from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) REPORT.—(1) Not later than August 15, 1998, the Director and the Secretary shall jointly submit to the committees referred to in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(4)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on Appropriations of the House of Representatives.

NEXT GENERATION INTERNET RESEARCH ACT OF 1998

FRIST (AND ROCKEFELLER) AMENDMENT NO. 3054

Mr. LOTT (for Mr. FRIST for himself and Mr. ROCKEFELLER) proposed an amendment to the bill (S. 1609) to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress its activities, and for other purposes; as follows:

On page 9, in the matter appearing after line 18—

(1) strike $42,500,000" in the column headed FY 1999 and insert "$40,000,000";

(2) strike "45,000,000" in the column headed FY 2000 and insert "$42,500,000";

(3) strike "$5,000,000" in the column headed FY 1999 the second place it appears and insert "$10,000,000";

(4) strike "$5,000,000" in the column headed FY 2000 and insert "$10,000,000";

(5) strike the closing quotation marks at the end of the table; and

(6) after the table insert the following:

The amount authorized for the Department of Defense for fiscal year 1999 under this section shall be the amount authorized pursuant to the National Defense Authorization Act for Fiscal Year 1999.".

LEAHY (AND ASHCROFT) AMENDMENT NO. 3055

Mr. LOTT (for Mr. LEAHY for himself and Mr. ASHCROFT) proposed an amendment to the bill, S. 1609, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. ___. STUDY OF EFFECTS ON TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS OF ADDING GENERIC TOP-LEVEL DOMAINS.

(a) STUDY BY NATIONAL RESEARCH COUNCIL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive study, taking into account the diverse needs of domestic and international Internet users, of the short-term and long-term effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

(b) MATTERS TO BE ASSESSED IN STUDY.—The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes relating to—

(1) the short-term and long-term effects on the protection of trademark and intellectual property rights and consumer interests of increasing or decreasing the number of generic top-level domains;

(2) trademark and intellectual property rights clearance processes for domain names, including—

(A) whether domain name databases should be readily searchable through a common interface to facilitate the clearing of trademarks and intellectual property rights and proposed domain names across a range of generic top-level domains;

(B) the identification of what information from domain name databases should be accessible for the clearing of trademarks and intellectual property rights; and

(C) whether generic top-level domain registrants should be required to provide certain information;

(3) domain name trademark and intellectual property rights dispute resolution mechanisms, including how to—

(A) reduce trademark and intellectual property rights conflicts associated with the addition of any new generic top-level domains; and

(B) reduce trademark and intellectual property rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark and intellectual property rights disputes relating to domain names, including which jurisdictions should be available for trademark and intellectual property rights owners to file suit to protect such trademarks and intellectual property rights;

(5) trademark and intellectual property rights infringement liability for registrars, registries, or technical management bodies; and

(6) short-term and long-term technical and policy options for Internet addressing schemes and the impact of such options on current trademark and intellectual property rights issues.

(c) COOPERATION WITH STUDY.—

(1) INTERAGENCY COOPERATION.—The Secretary of Commerce shall—

(A) direct the Patent and Trademark Office, the National Telecommunications and Information Administration, and other Department of Commerce entities to cooperate fully with the National Research Council in its activities in carrying out the study under this section; and

(B) request all other appropriate Federal departments, Federal agencies, Government contractors, and similar entities to provide similar cooperation to the National Research Council.

(2) PRIVATE CORPORATION COOPERATION.—The Secretary of Commerce shall request that any private, not-for-profit corporation established to manage the Internet root server system and the top-level domain names provide similar cooperation to the National Research Council.

(d) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the National Research Council shall complete the study under this section and submit a report on the study to the Secretary of Commerce. The report shall set forth the findings, conclusions, and recommendations of the Council concerning the effects of adding new generic top-level domains and related dispute resolution procedures on trademark and intellectual property rights holders.

(2) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than 30 days after the date on which the report is submitted to the Secretary of Commerce, the Secretary shall submit the report to the Committees on Commerce and the Committees on the Judiciary of the Senate and House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $800,000 for the study conducted under this Act.

NOTICE OF HEARINGS

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 9, 1998, at 2:00 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1333, to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges; S. 2129, to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park; S. 2232, to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes; S. 2106 and H.R. 2283, to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224-5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Full Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 14, 1998, at 9:30 a.m. in room SH-216 of the Hart Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on H.R. 856, To provide a process leading to full self-government for Puerto Rico and S. 472, To provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

Those wishing to testify or who wish to submit written statements should contact the Committee on Energy and Natural Resources, Washington, DC. For further information, please call James Beirne, Counsel at (202) 224-2564, or Betty Nevitt, Staff Assistant at (202) 224-0765.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 16, 1998, at 2:00 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 155, to redesignate General Grant National Memorial as Grant's Tomb National Monument, and for other purposes; S. 1408, to establish the Lower East Side Tenement National Historic Site, and for other purposes; S. 1718, to amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize the appropriation of additional amounts for the acquisition of real and personal property; and S. 1990, to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224-5161.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, July 21, 1998, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1964, a bill to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation, and S. 1509, a bill to authorize the Bureau of Land Management to use vegetation sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mike Menge, (202) 224-6170.

ADDITIONAL STATEMENTS

TRIBUTE TO MR. MACK R. FARR

• Mr. WARNER. Mr. President, I rise today to pay tribute to the vision, professional dedication, and public service of Mr. Mack R. Farr who will retire in July after thirty-one years of civilian service in the Department of Defense. During that time, Mr. Farr has become one of the preeminent leaders in the development and procurement of night vision devices for the U.S. Armed Forces.

Mr. Farr has been instrumental in the development of night vision devices at all levels—from technician at the Army's Night Vision Laboratory to Technical Director for the Army's Project Manager for Night Vision/Reconnaissance, Surveillance, and Target Acquisition. The extent of his participation spans the development of two generations of image intensifiers, laser aiming lights, laser range finders, and laser countermeasures systems, as well as the recent development and production of second-generation thermal systems. These systems enable our troops to fight in the dark and represent one of the most profound improvements in military capability.

Our ability to "own the night" was critical to the success demonstrated during Operations Desert Storm in Kuwait and Just Cause in Panama. Under Mr. Farr's technical direction, the U.S. military has procured $3.3 billion worth of night vision equipment, substantially improving the lethality and survivability of our Armed Forces.

Mr. Farr began his career with the government as a technician for the Army's Night Vision Laboratory in January 1967, working to improve the operating life of image intensifier tubes. He then focused on miniaturizing this technology so that it could be utilized by the individual soldier. The products which evolved from this effort are now widely used by both ground soldiers and aviators alike, and have formed the foundation for such grand concepts as the Land Warrior program. The best compliment paid to Mr. Farr came from one of his colleagues who stated, "Mr. Farr brought night vision to the individual soldier."

During his career, Mr. Farr was the chief architect of omnibus style procurements for night vision devices. Omnibus procurements are designed to solicit multiple night vision systems which use common manufacturing processes and combine them into one significant multi-year contract. In addition, these procurements were one of the Army's first "best value" contracting efforts. Both concepts have become so successful that best value source selections are now the desired method of procurement for the Army, and four omnibus style contracts have been awarded over a fifteen-year period for 476,861 night vision goggles, sights, and driving devices. Mr. Farr's efforts in shaping these concepts have led to the continuous improvement of night vision devices over this period. Night vision goggle unit prices have decreased by seventy percent over this time frame, while the performance of night vision goggles has significantly increased.

Mr. Farr has also led the Army's Project Manager, Night Vision/Reconnaissance, Surveillance, and Target Acquisition office in continued acquisition reform. His efforts in Image Intensification have resulted in a consolidated program which today is known as horizontal Technology Integration and Single Process Initiatives. Mr. Farr has worked with industry to develop innovative concepts such as establishment of the first swap out program which allows Army units to trade-in old image intensification systems for credit toward purchase of the latest high performance devices. Industry then recycles components from the old image intensifier systems for use in their commercial products. This process keeps industry prices low and Army capability high, at a reduced cost to the Government.

Mr. Farr has also been instrumental in developing export policy for night vision devices. He has worked closely with the Army Materiel Command, Defense Technology Surveillance Agency, and Defense Intelligence Agency to develop a policy which is both fair to U.S. night vision manufacturers and protective of U.S. interests in this technology. Under this policy, U.S. manufacturers have become the desired suppliers of night vision equipment on the international market.

Mr. Farr has received numerous awards during the span of his government career, however his preeminence in the electro-optics field is best demonstrated by his selection into the Association of Night Vision Manufacturers Image Intensification Hall of Fame for his long service and remarkable contributions to this technology.

I know that Mr. Farr's wife, Nancy, his children, Shelly, Mark, and Robert, and the Department of Defense are proud of his accomplishments and contributions. Our Nation and our Armed Forces are indebted to him for his many years of public service. I wish him well in his future endeavors.•

321ST MISSILE GROUP, GRAND FORKS AFB

• Mr. CONRAD. Mr. President, I rise today to pay tribute to the 321st Missile Group at Grand Forks AFB, North Dakota, as it prepares to deactivate.

As my colleagues may be aware, the 321st is one of the longest-serving and most decorated ICBM units in the United States Air Force. After flying B-25 bombers in the Mediterranean theater during the Second World War as the 321st Bombardment Group, this fine unit undertook several aircraft and basing changes before coming home to the prairies of North Dakota at Grand Forks AFB in 1964.

As the 321st Missile Wing, this unit was the very first to deploy the Minuteman II ICBM during the mid-1960s, and became one of the first to upgrade to the Minuteman III missile in the early 1970s. The 321st consistently won awards, being often regarded as the best ICBM wing in the Air Force. After this unit was selected for closure, its personnel ably continued the strategic deterrence mission, while also—ahead of schedule—realigning the 321st Missile Group's assets.

North Dakotans have always had a special attachment to the 321st. Unlike other military units which are sometimes seen at a distance, at air fields and barracks behind chain-link fences, the 321st Missile Group has literally been based in North Dakota's backyards. Its roots of steel and concrete are sunk deep into the prairie soil of the Flickertail State.

One hundred and fifty ICBM silos and fifteen missile alert facilities dot the fields of eastern North Dakota, covering an area larger than the state of New Jersey. As the missileers and their hardware stood at the very frontlines of the Cold War, we North Dakotans in our nearby farms and communities knowingly and proudly stood with them. For over three decades, we have been pleased to open our small town coffee shops to personnel on their way to inspect a launch facility, or to groups of officers returning to base after pulling long strategic alerts in launch control facilities beneath the wheat fields of the Red River Valley.

Mr. President, the men and women of the 321st have been a part of North Dakota in a very special way. To everyone who has served in the 321st over its long history at Grand Forks, I say this: you will always have a home in North Dakota. You are part of the family.

There is no question that we are sad to see the 321st go. Even so, I think it is important that we put the departure of this unit in its proper context.

The 321st is being realigned because our country won the Cold War. The triumph of America and its ideals over communism and tyranny is worth celebrating.

As we celebrate this victory, however, we must not forget that it was the men and women of the 321st who provided America the strategic deterrence and stability that allowed the Cold War to end peacefully. Around the clock, year after year, the 321st stood ready to deliver 450 nuclear warheads to targets throughout the Soviet Union in just a few minutes time. This made it clear to Moscow that a thermonuclear war with the United States would be a conflict they could never hope to win.

I would urge my Colleagues in the Senate not to forget that the motto of the Strategic Air Command was "Peace is Our Profession." Truly, the 321st has been an organization of "peace professionals."

It is good to know that the spirit of the 321st Missile Group will live on at Grand Forks AFB with the 319th Air Refueling Wing, a "core" tanker unit of KC–135 Stratotankers. I hope that the 319th and the Air Force will be with us in North Dakota for many years to come.

Today, Mr. President, as the 321st prepares to retire its colors, I would send to the 321st Missile Group, all who have and do serve her, and the Untied States Air Force that has protected us so well, a message of thanks and congratulations. The Senate—and all Americans—owe you a deep debt of gratitude.•

RECOGNITION OF THE JEFFERSON CITY SAMARITAN CENTER

• Mr. BOND. Mr. President, I rise to recognize the Samaritan Center of Jefferson City, on the occasion of the groundbreaking for a new home. More than a decade ago, Samaritan Center began as an effort of five Mid-Missouri Catholic churches. Three Protestant churches joined the cause and Samaritan Center has operated ever since as an interfaith agency. Virtually all of its resources are devoted directly to service delivery, as the center's single paid employee, an operations manager, is assisted by more than 150 volunteers each month.

Respectful, loving service is delivered with firm supervision, and anyone who knows the center pays tribute to the practical assistance they provide. For example, during the historic Flood of 1993, which wiped out the life stake of so many Missouri farmers, the center not only donated food, clothing, diapers and utility assistance to make it through the winter; they also came through with help to get the crop in when spring arrived. Many folks got back on their feet thanks to this helping hand, and those who saw what it meant to these families will never forget it.

I am one who marvels at how far the center can stretch its help. I have visited and left with my faith in people renewed. The computer is donated, the employees unpaid, the furniture castoffs—but the service is sterling and as varied as the need.

This groundbreaking is another step toward meeting a new challenge the Samaritan Center is taking on. The current quarters are bursting at the seams, and new space must be found to continue to help the families they serve (which number more than 400 each month for food alone!). Characteristically, the center refuses to reduce service to pay for the new building they hope to place on land donated by supporters. So, in addition to continuing to help people with needs ranging from rent to work uniforms, the center and its friends are not so slowly and very surely piecing together the resources to build a site that meets the needs of Mid-Missouri today.

To know the Samaritan Center is to respect and support it. It is my honor to offer this tribute from the United States Senate on the loving service provided by the Center, its volunteer and many supporters.•

INTERNATIONAL DAY IN SUPPORT OF TORTURE VICTIMS AND SURVIVORS

• Mr. FEINGOLD. Mr. President, I rise today to mark the first observance of International Day in Support of Torture Victims and Survivors. This day, which was designated last year by the United Nations General Assembly, serves as a reminder to all of us that, sadly, at this very moment, somewhere in the world a prisoner is being beaten, a woman is being raped, or a child is witnessing the torture or murder of a loved one at the hands of a hostile force.

Along with guns and bombs, torture unfortunately has become just another weapon in the arsenal of war. In generations past, we like to believe that wars were fought between combatants according to an unwritten code. In some conflicts of the past, fighting was suspended after dark and during the winter months so as not to give one side an advantage over the other. But the rules of contemporary wars are much less clear. Combatants fight, not merely against each other, but against civilians, including women and children, on the opposing side. War is no longer just a means to acquire territory or settle long-running disputes, but often it is used as a means to attempt to obliterate entire ethnic or religious groups.

In this past decade alone, the world has been witness to inconceivable acts of horror committed against specific populations in such places as Rwanda, Sudan, Iraq, the former Yugoslavia, and Kosovo. The terms "ethnic cleansing" and "genocide" have become all too common in describing events around the world. And the stories of those torture victims who live to tell of their experiences continue to shock and horrify the international community.

Earlier this month, during the National Day of Action for Tibet rally which took place on the Capitol steps, I was privileged to hear the comments of Palden Gyatso, a Buddhist monk who was imprisoned for 33 years by the Chinese force which unlawfully occupies his homeland. He told of unspeakable acts of torture that are routinely committed against the Tibetan people by the Chinese military. The myriad forms of torture he was forced to endure included being hung upside down while his naked body was repeatedly stung with an electric cattle prod and having boiling water poured over his body. That he was able to survive this brutal treatment is a testament to his faith, which his captors attempted to squelch through these and other inhuman acts.

But for every person like Palden Gyatso, who somehow managed to survive such brutal treatment, there are countless others, whose names we may never know, who did not. These people endured their fate with a quiet courage that inspires hundreds of thousands worldwide to fight against the practice of torture as a weapon of war.

I find it particularly ironic that the President is spending the first International Day in Support of Torture Victims and Survivors in the People's Republic of China as the guest of a government that has sanctioned the torture of its own citizens. I hope the President will mark this day by calling on Chinese leaders to open a meaningful dialogue with the Dalai Lama regarding Tibet and to gain assurances that the basic human rights of all Chinese citizens will become a top priority.

Since coming to the Senate in 1993, I have been contacted by numerous Wisconsin residents who share the concern of the international community about the prevalence of torture in our world. As a member of the Senate Committee on Foreign Relations, I will continue to speak out against such reprehensible acts at every available opportunity. I look forward to the day when the use of torture as a weapon of war is consigned to history books instead of daily news reports from around the world.•

FEDERAL RESEARCH INVESTMENT ACT OF 1998

• Mr. FRIST. Mr. President, yesterday I introduced legislation that would elevate Congress' commitment to federally-funded research and development. This critical federal investment, performed throughout our national laboratories, universities, and private industry, is currently fueling 50% of our national economy through improvements in capital and labor productivity. While it is imperative that we reinforce this commitment by raising the funding levels, we must also establish a solid foundation for Congress to evaluate current and future civilian federally-funded research and development programs.

Now is not the time to let American leadership in science and technology slip. As a Congress and as a nation, we must reaffirm our national commitment to science and technology and redouble our efforts to ensure that funding is not only maintained, but increased as America moves into the

next century. Nothing less than the future of our Nation, and our leadership position in the world, depend upon it.

IMPORTANCE OF SCIENCE AND TECHNOLOGY TO AMERICA'S FUTURE

As a physician and surgeon, I've had the opportunity to witness everyday the remarkable difference that medical science and technology have made in people's lives. In the short span of time that I've been practicing—less than twenty years—I've seen how the products of medical research and development—lasers, mechanical cardiac assist devices, and automatic internal defibrillators—have not only saved, but vastly improved the quality of hundreds of thousands of lives every year.

As a physician, I can envision a future in which science and technology will roll back the current frontiers of medical knowledge, identify the causes, and eliminate most of the effects of the diseases that now plague mankind.

But, as a Senator, I've been afforded another opportunity. The ability to see, and learn, and understand, not just medicine—but America. I can envision the difference that science and technology will make in the life or our Nation.

Science and technology have had a profound impact on our world. We've put men into space and looked into the farthest corners of the known universe. We've broken the code of the human genome and begun to dismantle previously intractable diseases. We've created a virtual world and a whole new realm called cyberspace.

Our world runs on technology, and much of our economy runs on it as well. In fact, half of all U.S. economic growth is the result of technological progress. Technology has provided new goods and services, new jobs, and new capital—even whole new industries.

Without a doubt, technology is the principle driving force behind America's long-term economic growth and our rising standard of living.

SCIENCE AND TECHNOLOGY ARE IMPORTANT TO TENNESSEE

Science is especially important to Tennessee. From the Oak Ridge Laboratories' important contributions to America's security during the Cold War, to today's research university partnerships, science and technology are a big part of Tennessee's past, present and future.

In 1995, the latest year for which figures are available—

20 out of every 1,000 private sector workers in Tennessee were employed by high tech firms. The total payroll for those workers that year reached $1.5 billion.

And every one of them earned, on average, $12,000 more per year than they would have in another type of private sector job in Tennessee.

Of Tennessee's $8.8 billion export market, high technology products accounted for $2.1 billion or 24 percent.

But significant growth and activity have occurred since 1995. The technology corridor, now being forged in East Tennessee, will be a model for America's 21st Century economy. From Chattanooga to Knoxville, and Oak Ridge to the Tri-Cities, private industry and working partnerships between the public and private sectors, and between research universities and industry, are creating jobs and opportunity; thus linking Tennessee to the nation and the world.

For example, in Kingsport, Tennessee, Eastman Chemical produces more than 400 different kinds of modern chemicals, fibers, and plastics—as well as a wide range of intellectual property technologies that will soon be marketed on a global scale.

In Tri-Cities, the new Regional Med-Tech Center is a planned, large-scale, integrated development project that will one day link health care delivery systems and related research with high technology business.

And the Spallation Neutron Source, a major undertaking of Oak Ridge Laboratory, when completed, will be the most powerful spallation source of neutrons in the world: enabling scientists to "see", and thus understand, the physical, chemical and biological properties of materials at the atomic level.

AMERICA'S INVESTMENT IN SCIENCE AND TECHNOLOGY MUST CONTINUE

Clearly, America's investment in science and technology must continue. Mr. President, the history of the last five decades has shown us that there is a federal role in the creation and nurturing of science and technology, and that—even in times of fiscal austerity—Congress' commitment has been relatively constant.

However, the last three decades have also shown us something else: fiscal reality. The simple truth is that there's just not enough money to do everything we'd like to do. Discretionary spending is under immense fiscal pressure. One only has to look back over the last 30 years to confirm the trend. In 1965, mandatory federal spending on entitlements and interest on the debt accounted for 30 percent of the federal budget. Fully 70 percent went toward discretionary programs—roads, bridges, education, research, national parks, and national defense.

Today, just 30 years later, that ratio has been almost completely reversed: 67 percent of the budget is spent on mandatory programs; leaving only 33 percent for everything else. This situation will only grow worse as the Baby Boom generation begins to retire.

Thus, Mr. President, we have both a long-term problem: addressing the ever-increasing level of mandatory spending; and a near-term challenge: apportioning the ever-dwindling amount of discretionary funding. The confluence of increased dependency on technology and decreased fiscal flexibility has created a problem too obvious to ignore: not all deserving programs can be funded; not all authorized programs can be fully implemented.

In other words, Mr. President, the luxury of fully funding science and technology programs across the board has long since passed. We must set priorities.

FEDERAL RESEARCH INVESTMENT ACT: VISION FOR THE FUTURE

The Federal Research Investment Act that I am introducing today represents the result of over a year of debate surrounding increased funding for federal research and development. I commend my colleagues, Senators GRAMM, LIEBERMAN, DOMENICI, and BINGAMAN, for not only commencing this debate, but also continuing it. Like my colleagues, I firmly believe that Congress must reaffirm our national commitment to science and technology. And that is precisely what the Federal Research Investment Act achieves through its strategy for the future—a vision that not only provides adequate levels of funding, but most importantly, ensures that the funding is both responsible and accountable over the long-term.

This legislation realizes this goal by establishing and applying a set of guiding principles, established by the Science and Technology Caucus here in the Senate, to consistently ask the appropriate questions about each competing technology program; to focus on that program's effectiveness and appropriateness for federal funding; and to help us make the hard choices about which programs deserve to be funded and which do not. Only then can Congress be assured that it has invested wisely.

These guiding principles, Mr. President, provide a framework that will not only guide the creation of new, federally-funded research and development programs, but also validate existing ones. Taken together, they create a powerful method for evaluating the debate by increasing Congress' ability to focus on the important issues, decreasing the likelihood that it will get sidetracked on politically-charged technicalities, and ensuring that federal R&D programs are consistent and effective. These principles will also help us establish national goals, and a vision for the future.

The Federal Research Investment Act doubles the aggregate amount of civilian funding for research and development over a 12 year period. By steadily increasing the total level by 2.5 percent, in addition to the assumed rate of inflation, this legislation would provide Congress with realistic targets for prioritizing fundamental, scientific, and pre-competitive engineering research over the long-term.

Furthermore, this legislation has two components that I believe will change the face of how taxpayer dollars are invested in research and development.

First, under this bill, the President would be required to submit, as part of his annual budget to Congress, a detailed report on how the Administration is paralleling Congressional funding goals. Thus, the President will be held accountable for how his budget achieves Congressional targets to double R&D spending over 12 years.

Second, the Office of Science and Technology Policy will commission the National Academy of Sciences to conduct a comprehensive study to develop methods for evaluating Federally-funded research and development programs. The results of this study, in coordination with Government Performance Results Act, will provide a framework to help Congress and the Administration measure the success of federal programs. Only after Congress holds federal agencies accountable to strict, yet fair standards, will the legislative body be able to claim that is acting responsibly on behalf of American citizens.

In closing Mr. President, I would like to urge my colleagues to support the Federal Research Investment Act. I further challenge each of you to reach out to your own universities and engage them in this critical dialogue as to the future of science and technology funding. This federal funding, after all, is a public investment in America's future.•

TRADE SANCTIONS COMPENSATION

• Mr. DORGAN. Mr. President, yesterday I introduced a bill to compensate farmers if we choose to continue using food as a weapon. I do not support the use of food in this way, but if this country chooses to use food as a weapon, then the producers of that weapon deserve to be compensated, just as all other weapons manufacturers are compensated.

Today, ten percent of the world's wheat markets are off limits to American farmers because of sanctions. If we include the recent loss of the markets in Pakistan and India, sixteen percent of the worlds markets are not available. Farmers in my state, and farmers across this nation, cannot afford to pay for this foreign policy option out of their own pockets.

This bill amends an existing statute which is so narrowly drawn that, despite ongoing sanctions, the statute has not required any compensation to farmers. The existing statute requires that the sanction be imposed by the executive branch of government, be unilateral, and not be joined by any other nation. It also limits compensation to three years and allows the Secretary of Agriculture to choose between direct compensation and export assistance programs.

This bill eliminates all of the restrictions in the existing statute which preclude it from being of any assistance to farmers hit by declining prices caused by lost export markets. The new statute will make it clear that, if our government chooses to use food as a weapon, then those who produce that food will not alone bear the financial burden. I ask that my colleagues join me in passage of this bill to ensure fairness in our foreign trade policy.•

THE PROGRAM FOR INVESTMENT IN MICRO-ENTREPRENEURS OF 1998

• Mr. KERRY. Last week I joined Senators KENNEDY, DOMENICI and BINGAMAN in introducing a bill to establish the PRIME program for investment in microenterprise. I applaud Senators KENNEDY and DOMENICI for their work in developing this legislation and welcome their efforts in supporting the development of business skills for microentrepreneurs. Access to education and training is critical for the development of small businesses in the United States.

Developing microenterprise is crucial to the financial health of our nation. Small businesses have been the engine of growth in our economy and have provided virtually all of our country's net new jobs. Very small businesses, those with four or fewer employees, created more jobs from 1992 through 1996 than large businesses employing more than 500 workers. However, many of those who yearn to turn an innovative idea into a marketable product need assistance in developing the skills and knowledge necessary to succeed in today's competitive marketplace. That is why, as Ranking Democratic Member of the Senate Small Business Committee, I have been such a strong supporter of programs to assist microenterprise development, especially through the microloan program within the Small Business Administration. This program has provided $67 million in microloans to very small businesses in every state. A great percentage of microloans have gone to traditionally underserved groups, including 43 percent to women-owned businesses, 39 percent to minority-owned businesses and 11 percent to veteran-owned businesses. I am committed to seeing this and other programs that assist microenterprise grow and thrive.

The Community Development Financial Institutions (CDFI) fund represents another type of community investment initiative. It uses limited federal resources to invest in and build the capacity of private, for profit and nonprofit financial institutions, leveraging private capital and private-sector talent and creativity. The fund's main program allows local CDFIs to apply for financial and technical assistance. This funding can be used to support basic financial services, housing for low-income people, businesses that provide jobs for low-income people and technical assistance for capacity-building, training, and development of programs, investments or loans. The CDFI fund offers a combination of increased access to capital and institutional capacity building that is vital to low-income communities, and fill a need that the marketplace is not meeting.

We have all heard a lot about the need for individual responsibility, family responsibility, and community responsibility. The microenterprise program within CDFI give us an opportunity to lend a helping hand to those in need of financial aid and technical assistance so they can fulfill their personal, family, and community responsibilities. It has given many a chance to break the cycle of poverty and welfare and move toward individual responsibility and financial independence.

The PRIME bill introduced last week seeks to increase CDFI's funding for technical assistance to give micro-entrepreneurs access to information on developing a business plan, recordkeeping, planning, financing and marketing that are crucial in the development of a small business. Furthermore, this legislation will sponsor research on the most innovative and successful ways of encouraging these new businesses and enabling them to succeed.

This legislation will allow organizations which assist microenterprises to develop new products and services for their customers and expand on existing services. In Massachusetts, Working Capital, a recipient of a Presidential Award for Excellence in Microenterprise Development in 1997, currently offers three complementary programs to its microenterprise customers which could be eligible for additional funding under the PRIME legislation. First, Working Capital provides business credit to micro-entrepreneurs. Second, they provide business education and training on how to draw up business plans and prepare financial projections, and how to use these tools in managing their businesses. Third, they offer networking opportunities to connect micro-entrepreneurs to each other and give them a sense of belonging within a community which faces the same challenges.

The PRIME legislation will assist in the development of programs such as those offered by Working Capital in Massachusetts and similar organizations across the country and will assist more Americans in taking a chance on the American dream of owning their own small business. I look forward to working with my colleagues to enact this important legislation.•

UNANIMOUS-CONSENT REQUEST—H.R. 2614

Mr. LOTT. I now ask unanimous consent the Senate turn to Calendar No. 404, H.R. 2614, the Reading Excellence

Act, and immediately following the reporting by the clerk, the chairman be recognized to withdraw the committee amendment and there be 30 minutes for debate to be equally divided in the usual form with no amendments or motions in order.

I further ask that following the conclusion or yielding back of time, the Senate proceed to vote on passage of H.R. 2614, all without any intervening action or debate.

I would like to note that I have discussed this with White House officials, and they have urged that we try to find a way to get this legislation up. Actually, this was a week or two ago, so we have been trying to get something worked out. I would like very much for us to be able to do that.

Mr. FORD. Reserving the right to object, Mr. President, and I do not have any caveat to the unanimous-consent agreement, but would the majority leader modify his request to include an amendment from the Democratic side which would be the only amendment in order, and that it be the text of the committee-reported substitute amendment as modified; that there would be 1 hour for debate on the amendment equally divided, and that upon the use or yielding back of time, the Senate proceed to vote on adoption of the committee-reported amendment?

Mr. LOTT. Mr. President, I would have to object to that at this time because if we add any amendments to this bill in its present form, then it would require further House action. And, of course, the House has already adjourned for the July 4 recess until July 14.

I note also, if we do not do this bill now in the form that it was called up, the money that would have been used for this Reading Excellence Program, some $206 million, I believe it was—something of that nature—would then go over to the IDEA, Individuals with Disabilities in Education Act, so that money would be gone. So we really are in a box here.

I think everybody would like to do the Reading Excellence Act. But if we don't do it in the form that I have called it up, it would have to go back to the House. Basically, then, we wouldn't get anything done. We need to send it directly to the President.

So that is why I would be constrained to object to that modification.

Mr. FORD. Mr. President, it is hard for me to understand, when this was a House bill and it came over and the Senate committee studied it and sent it to the Senate floor with a substitute amendment, and then we don't want to take the committee substitute amendment.

"There is something about that," as we would say down in West Kentucky, "that ain't right." So we are again telling the committee you can go through all of your work, you can do your hearings, you can do your markup, but you did the wrong thing.

So I think the amendment that we offered, which was a committee amendment as modified, was appropriate. If the majority leader wishes to object to that, why, that is the way it has to be.

Mr. LOTT. I believe, Mr. President, then, the Senator objects to the original request?

Mr. FORD. You objected to mine, so that ended it right there.

Mr. LOTT. You never said you object to it, then, as proposed. So you object to it as proposed?

Mr. FORD. Sure, and you object to mine as proposed by the committee.

Mr. LOTT. I do.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, I oppose the House version of the Reading Excellence Act, and I also oppose the process by which it is being brought to the Senate at the last minute in an effort to pass this bad bill under the pressure of the July 1 funding deadline.

On May 13th, six weeks ago, the Labor and Human Resources Committee approved an alternative bill on this issue, with unanimous bipartisan support, and with the strong backing of educators, reading specialists, and community organizations across the country. Despite this overwhelming support for the Senate committee bill, the Republican leadership refused to allow the full Senate to act on it. Instead, they did nothing for six weeks. Now, as the July 1 deadline is upon us, they insist that we swallow the deeply flawed House bill.

What is at stake here is nothing less than the way teachers and schools across the country will be allowed to help children learn to read.

Organizations throughout the nation who know this well are adamantly opposed to the House bill. These groups include the American Association of School Administrators, the International Reading Association, the Council of Chief State School Officers, the National School Boards Association, the National Parent Teacher Association, the National Council of Teachers of English, the American Federation of Teachers, the National Education Association, the National Association of Elementary School Principals, the National Conference on Language and Literacy, the Conference on College Composition and Communications, the National Association of State Boards of Education, and Reach Out and Read.

All of these groups are doing the hard day-to-day work, helping children learn to read. They say that no bill would be better than the House bill, because the House bill will not help them do the work they need to do.

In last year's appropriations legislation, Congress reserved $210 million for a child literacy program if enacted by July 1. By missing the July 1 deadline, we miss an initial opportunity. But we will have many other opportunities this session to pass a bill we can all support—and fund it accordingly.

Many successful models to help children learn to read well now exist, but they are not yet available to all children. As a result, far too many children in communities across the country are denied the opportunity to learn to read well. The statistics are appalling. Forty percent of 4th grade students do not achieve the basic level in reading, and 70 percent of 4th graders do not achieve the proficient level.

We must do more—much more—to help all children learn to read well. Many of the reading difficulties experienced by teenagers and adults today could have been prevented by adequate intervention in early childhood. By working to ensure that all children learn to read well in the early grades, we can also reduce the need for costly special education instruction in later grades.

The time has come to pass a bill that will help all children learn to read well. Child literacy is an important goal, and if we are to reach this goal, we need well-educated, well-trained teachers prepared to give children the special assistance they deserve. We need dedicated and trained volunteer tutors. We need support for successful community programs to improve family literacy and teach parents how to read more effectively with their children at home. We need support for innovative community efforts to help children learn to read before they enter school.

This House-passed bill is not an adequate response to these problems. This bill undermines state and local responsibility for public education. My Republican colleagues want to create a new state bureaucracy and new federal control over public education. These are the same Republicans who say they want school vouchers and block grants, in order to give parents and communities more choice and more control over their children's education.

State and local education agencies and school administrators are doing well in creating, implementing, and coordinating innovative efforts to help children learn. We should do more to support these efforts. We should provide community organizations with the resources they need to bring successful programs to more people. Instead, my colleagues want to bypass state leadership, undermine local control, and create a new state bureaucracy, when states and communities are already prepared to implement new literacy programs and oversee the use of new Federal funding.

State Departments of Education and local education agencies are already working successfully to coordinate local, State, and Federal resources to

improve education and provide higher quality education to children. It makes no sense to bypass the current State leadership and require states to create a new State bureaucracy.

Another serious problem with this bill is that it brings Federal control into the classroom and dictates how teachers teach reading. This bill specifies only one way to teach reading skills. It ignores the research and recommendations of the leading educators. During the Senate Labor and Human Resources Committee hearing on child literacy, we heard from two of the most distinguished researchers—Doctor Catherine Snow of the Harvard Graduate School of Education, who chairs the Committee on the Prevention of Reading Difficulties at the National Academy of Sciences, and Doctor Reid Lyon of the National Institutes of Health. They emphasized that the best way to help all children learn to read is to promote a variety of the best practices and give local educators the freedom to tailor programs to meet local needs.

Doctor Snow testified that a solution to reading problems has not been achieved because of an:

> Unrealistic desire for a simpler answer. Reading is a complex and multifaceted outcome, determined by many factors. Ensuring adequate reading progress for every child . . . requires providing all of the many, varied experiences that will benefit their reading.

Doctor Lyon testified that:

> Learning to read requires different skills at different levels of development. . . . It does not have anything to do with philosophy, and it does not have anything to do with politics. It has to do with making sure the kids get the ideas. That is it. . . . To be able to read our language, you have to know the sounds. You have got to know how to map it onto the letters . . . you have got to do it quickly, and you have got to know why you are reading and have good vocabulary and the things that Dr. Snow spoke about. It is never an either/or.

This bill will prevent teachers from following that sound advice. Instead, teachers will be forced to follow a mandate from Washington requiring all teachers across the country to follow one formula to teach reading—regardless of local needs. Is this what the Republicans mean when they ask for more local control of education? Schools and communities already have control over education. The Federal Government shouldn't start micromanaging their reading programs.

We should be doing more, not less, to ensure that teachers and school districts are free to design programs to meet the unique local needs of the children. The Reading Excellence Act approved by the Senate Committee by a unanimous, bi-partisan vote would give local educators the flexibility and training the experts say they need.

This bill doesn't just take control away from public schools. It also takes money away from public schools. We all recognize that recruiting and training more tutors is an important goal. President Clinton began his effort two years ago, with his "America Reads Challenge." The Senate Committee bill would build on the success of that program, so that local schools will benefit from available community resources.

The House bill is a detour away from these worthy goals. Instead of helping schools capitalize on volunteer tutors and community resources, it wastes funds on private tutoring programs. It denies support for successful school-based programs in which tutoring assistance is closely linked to a child's classroom instruction.

The bill also requires local schools to spend time, money, and other scarce resources overseeing private tutoring programs. Funneling scarce public dollars into these private programs will undermine accountability for academic results and expenditure of federal dollars.

This bill has major flaws. It does little or nothing to help public school children learn to read or improve their chance of receiving a good education. Other provisions in the bill are worthwhile, because they encourage better teaching, more trained volunteer tutors, and more support for community-based family literacy programs. These initiatives will ensure that many children get the extra assistance they need to learn to read well and early.

These issues are too important for us to leave this House bill as the final word. I will do all I can to pass a strong bipartisan bill in the Senate in the coming months—the nation's children deserve no less.

UNANIMOUS-CONSENT REQUEST—H.R. 3717

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now turn to Calendar No. 361, H.R. 3717, prohibiting Federal funds for the distribution of needles; that there be 30 minutes for debate to be equally divided with no amendments or motions in order. I further ask that following the conclusion or yielding back of time, the Senate proceed to third reading and final passage, all without intervening action or debate, and finally I ask unanimous consent it be in order for me to ask for the yeas and nays on passage at this time.

Mr. FORD. Reserving the right to object, Mr. President, I do object on behalf of this side.

Mr. LOTT. I now ask for the yeas and nays.

Mr. FORD. I object.

Mr. LOTT. Again, Mr. President, I should note that if we could have gotten that agreement, since it has already passed the House, this bill would have gone directly to the President for his signature. It passed the House April 29th by a vote of 287 to 140. I would think that this is something we would want to do. I think for the Federal Government to be distributing needles encourages people to use needles for drug abuse, and I had hoped we could get it cleared. We had worked earlier to try to get some sort of agreement on how we could clear it, with maybe even some amendments being ordered. We could not do it.

Also, in order to get the President's signature, we would have to do it in this way.

UNANIMOUS CONSENT REQUEST—H.R. 2610

Mr. LOTT. Mr. President, I ask unanimous consent that we turn to Calendar No. 273, H.R. 2610, the reauthorization of the drug czar office, and immediately following the reporting by the clerk, the chairman be recognized to modify the amendment, the committee substitute; that there be 30 minutes for debate to be equally divided with no amendments or motions in order. I further ask that following the conclusion or yielding back of this time, the Senate proceed to immediate adoption of the committee substitute to be followed immediately by third reading and final passage, all without intervening action or debate. And, finally, I ask unanimous consent it be in order for me to ask for the yeas and nays on passage at this time.

Mr. FORD. Reserving the right to object, Mr. President, there are some who had hoped to offer some amendments. They were in the process of trying to work these amendments out where they would be agreeable. That has not transpired yet. So, then, on behalf of this side, I object.

Mr. BIDEN. Mr. President, I must object. I object because what the majority leader proposes is to add a very significant piece of substantive drug legislation relating to the crack-powder cocaine sentencing issues.

I note that the Judiciary Committee has not reported this legislation. This legislation is subject to significant debate. For example, the costs of the most recent proposal offered by Senators ABRAHAM and ALLARD are very significant.

According to the Justice Department—the 5-year cost estimate to our federal prison budget is more than $790 million. The 10-year estimate—more than $1.9 billion.

This is just one example of the significant policy implications of this proposal. Frankly, the Judiciary Committee must be given the opportunity to report this legislation before we debate this on the floor.

In contrast, we have fully debated the drug director legislation introduced last summer. The Judiciary Committee has debated it, the committee held hearings, the committee

developed a bipartisan re-authorization bill, the committee reported the bill last November, since then we have worked with Senator MCCAIN and the Armed Services Committee to work out their issues with this bill.

The bottom lines—we have a bipartisan, fully debated, bill; and we need to get the drug director's office re-authorized.

There are many particular, specific drug policy issues to debate. Crack-cocaine is just one of them. Youth drug abuse, youth violence, drug interdiction, and many more all need to be debated.

But, let's keep our eye on the ball, and let's re-authorize General McCaffrey's office. The General needs our support.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I should note we had at least one very important amendment that a Senator wanted to offer on this side of the aisle to this bill, too, dealing with the penalties for the use of powder cocaine. Certainly, it is a very important issue, and I would like it to be considered, but I called upon that Senator—actually it was two Senators—and said you will have a chance to offer that on other legislation including State, Justice, Commerce. He was willing, then, to agree to put it aside.

I really think we need to reauthorize the drug czar office. I am hoping this is not the final word on this. Maybe we can work out something in July to consider it. But our problem is, we are really running out of time. I think it is going to be unconscionable if we can't find some way to quickly reauthorize the drug czar's office. We will have to do it without it taking up more than just a couple or 3 hours, because we just don't have the time, when you look at the appropriations bills and everything else we are going to need to do.

Mr. FORD. Mr. President, I understand what the majority leader is saying, what he is trying to do. But if he continued to push these amendments over to a piece of legislation at a later time, then you are going to have all these amendments that are waiting, and your colleagues will want to bring them up, and then your colleagues will be asked not to bring it up on that one.

So we go through here with this constrained time that we find ourselves with, and the inability to bring amendments. I understand what the majority leader wants to do. I have no fault with what he is trying to do except we are trying to work out some amendments that we think are important. Just like your side, we are going to let ours try to work them out.

So I will object.

Mr. LOTT. I understand that. I know every individual Senator can demand his or her right to offer amendments. But I would have to say, I am very concerned that the Senate is getting more and more into a position where we try to rewrite or write bills on the floor of the Senate. One of the basic tenets I was told about when I came over to the Senate is, if you have a bad bill, don't think you are going to fix it on the floor of the Senate. When you have something like a drug czar reauthorization—I know there are a lot of drug-related amendments that are sort of pent up and Members want to offer them, but it seems to me we ought to just reauthorize that office—it is not a big, complicated bill—and allow the drug czar to do his job.

But we will keep working and hopefully find a way to get a limited amount of time and limited amendments on that issue.

PRODUCT LIABILITY REFORM ACT OF 1997

Mr. LOTT. I ask unanimous consent the Senate turn to Calendar No. 90, S. 648, the Product Liability Reform Act.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, I do object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. LOTT. I move to proceed to S. 648 and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 90, S. 648, the products liability bill:

Trent Lott, Don Nickles, Slade Gorton, Phil Gramm, John McCain, Spencer Abraham, Daniel Coats, Richard G. Lugar, Lauch Faircloth, John H. Chafee, Sam Brownback, Ted Stevens, Jon Kyl, Jeff Sessions, Michael B. Enzi, and Judd Gregg.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote occur at 9:30 a.m. on Tuesday, July 7, and the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. Then, for the information of all Senators, this cloture vote will occur at 9:30 on Tuesday, July 7, when we return from the Fourth of July recess. It will be the first vote of that week back from the recess. If cloture is invoked, the Senate could be asked to remain in session into the night in order to reduce the 30 hours provided postcloture.

I now withdraw the motion.

TASK FORCE ON ECONOMIC SANCTIONS

Mr. LOTT. Mr. President, Senator DASCHLE and I have been talking about a task force to consider the question of economic sanctions, how they are put in place, how they are dealt with, both in the short term and over the long term. We have discussed this matter with Secretary of State Albright.

I think there is feeling on both sides of the aisle that perhaps the proclivity to place sanctions, economic sanctions on countries around the world repeatedly, and with not a clear way of ending those, has become a problem, at least one we should think very carefully about to see if there is a way we can deal with some of the pending legislation in this area, like, for instance, the Glenn amendment that was applicable in the case of India and, I believe, Pakistan with the Pressler amendment, and a number of other instances.

On the longer term, I think we need to have a task force to give thought, how we do this, when we do it, and even when we end it. I have discussed it with a number of Senators on our side of the aisle who work in this area of foreign policy and deal with the question of sanctions, and so I am satisfied we can have a good group and this will be a bipartisan group. So I want to announce we are agreeing to create a task force on economic sanctions to examine this whole area.

I wanted to have a short-term mandate, though, not just the broader policy questions, but to examine what we can do or what should be done about sanctions on India and Pakistan as a result of their nuclear programs. With the recent stories of nuclear tests in south Asia, it is important to look at the U.S. sanctions laws and how they affect our ability to de-escalate the nuclear arms race in the region.

I have asked the task force to make recommendations to the Senate leadership by July 15, 1998, on sanctions relating to these two countries—India and Pakistan. We will also ask this task force to examine overall issues related to sanctions, legislation, and implementation.

I have asked the task force to report back to the Senate leadership by September 1, 1998, on the following issues:

What constitutes a sanction?

There are many categories of legislative and executive branch action, using economic sanctions in an effort to support policy goals, including restrictions on U.S. Government funds, conditions on the export of sensitive technology, and limitations on normal commercial activity.

What sanctions are now in place? And what flexibility is provided in these different sanctions? That would be a second question.

Third: How should success be assessed in determining the effectiveness of these sanctions? When have we done

what we wanted to achieve, and then can perhaps remove them?

Fourth: How should policy goals be defined in considering and implementing these sanctions?

Are effective procedures in place now to ensure coordination between the executive and legislative branches for the consideration and imposition of sanctions?

I have to say, I think the answer to that question is no; there is not adequate coordination and communication between the executive and legislative branches in this area of sanctions.

Are effective procedures in place for oversight and monitoring of the executive branch compliance and implementation of existing sanctions?

I have been stunned by some of the instances that I have seen with regard to Russia and with China where clearly sanctions were called for, should have been almost automatic by the administration, and it did not happen. Why not? And so we need to think about that.

Should there be a unique Senate floor or committee procedure for considering sanctions legislation?

Answering all of these questions in the limited timeframe will not be easy, but I am confident this very distinguished and qualified bipartisan group can come up with some very good recommendations. And I hope that the Senate will reserve its judgment and not act in this area until we see what will come out of the task force recommendations.

The task force will include 18 Members and will be chaired by the distinguished Senator from Kentucky, Senator MCCONNELL. He is chairman of the Appropriations Subcommittee on Foreign Operations. The cochair will be Senator BIDEN. The task force will also include Senators HELMS, BAUCUS, LUGAR, DODD, D'AMATO, GLENN, MACK, KERRY, KYL, LEAHY, WARNER, LEVIN, HUTCHINSON, LIEBERMAN, ROBERTS, and MOYNIHAN. I think you can see this is a very distinguished group. And I know they will have some very important recommendations to the Senate.

I will be glad to yield to the Senator from Kentucky.

Mr. MCCONNELL. I thank the leader.

I suppose there is not a single Member of this body, I would say to the majority leader, who has been very consistent on this subject. Sometimes Members have felt that sanctions were inappropriate except in their particular area of interest where they thought sanctions might make sense. I confess to being entirely inconsistent, too, myself, I say to my friend from Mississippi, having supported sanctions in South Africa and opposed them in China and other places. So none of us have a consistent pattern here.

I think it is very important to try to pull together the best thinking available from Senators on both sides of the aisle to see whether there is some kind of coherent way to go forward in this field.

So I thank the majority leader for his understanding of the importance to try to pull us together in this complicated area. And I assure him I will do my best to try to give everybody an opportunity to have their say. And we will certainly meet the deadlines. I say to the distinguished majority leader, the deadlines will be met, with or without consensus, I cannot say at this point. But I look forward to working on this assignment. I thank the majority leader for the opportunity.

Mr. LOTT. I thank you, I say to Senator MCCONNELL.

I do note that Senator DASCHLE and I have been communicating on this back and forth the last 2 weeks. I am sorry he is not able to be here now. But this is an example of how we do come together and work very carefully and sensibly, hopefully, when it comes to foreign policy questions. And he certainly wanted to go forward with this. I am glad we were able to make this announcement this afternoon.

I do have a series of bills I believe we can deal with before we adjourn for the week.

I know Senator FORD here is on behalf of the Democratic leader. So we can go through these pretty quickly.

MEASURE PLACED ON THE CALENDAR—S. 2236

Mr. LOTT. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2236) to establish legal standards and procedures for product liability litigation, and for other purposes.

Mr. LOTT. I object to further proceedings on this bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Minority Leader, pursuant to the provisions of Public Law 105–186, appoints the following Senators to the Presidential Advisory Commission on Holocaust Assets in the United States: The Senator from New York (Mr. D'AMATO), and the Senator from Pennsylvania (Mr. SPECTER).

APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Minority Leader, pursuant to the provisions of Public Law 105–186, appoints the following Senators to the Presidential Advisory Commission on Holocaust Assets in the United States: The Senator from California (Mrs. BOXER), and the Senator from Connecticut (Mr. DODD).

Mr. LOTT. I should note that these appointments are to the Presidential Advisory Commission on Holocaust Assets. The members will be Senator D'AMATO of New York, Senator SPECTER of Pennsylvania, Senator BOXER of California, and Senator DODD of Connecticut.

VITIATION OF TITLE AMENDMENT—H.R. 3616

Mr. LOTT. Mr. President, I ask unanimous consent to vitiate the title amendment to H.R. 3616.

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

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN AUTHORIZATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 383, S. 2073.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2073) to authorize appropriations for the National Center for Missing and Exploited Children.

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 an amendment on page five, so as to make the bill read:

S. 2073

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) For 14 years, the National Center for Missing and Exploited Children (referred to in this section as the "Center") has—

(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act of 1984; and

(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization.

(2) Congress has given the Center, which is a private non-profit corporation, unique powers and resources, such as having access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System.

(3) Since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the

Center established a new CyberTipline on child exploitation, thus becoming "the 911 for the Internet".

(4) In light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ("CA") flag to provide the Center immediate notification in the most serious cases, resulting in 642 "CA" notifications to the Center and helping the Center to have its highest recovery rate in history.

(5) The Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly.

(6) From its inception in 1984 through March 31, 1998, the Center has—

(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1-800-THE-LOST) and currently averages 700 calls per day;

(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

(C) disseminated 15,491,344 free publications to citizens and professionals; and

(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children.

(7) The demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 "hits" every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, helping to cause such results as a police officer in Puerto Rico searching the Center's website and working with the Center to identify and recover a child abducted as an infant from her home in San Diego, California, 7 years earlier.

(8) In 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center.

(9) The programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent.

(10) The Center is now playing a significant role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States.

(11) The Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children.

(12) The Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy.

(13) In light of its impressive history, the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.

(14) An official congressional authorization will increase the level of scrutiny and oversight by Congress and continue the Center's long partnership with the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(15) The exemplary record of performance and success of the Center, as exemplified by the fact that the Center's recovery rate has climbed from 62 to 91 percent, justifies action by Congress to formally recognize the National Center for Missing and Exploited Children as the Nation's official missing and exploited children's center, and to authorize a line-item appropriation for the National Center for Missing and Exploited Children in the Federal budget.

SEC. 2. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

(a) GRANTS.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall annually make a grant to the National Center for Missing and Exploited Children, which shall be used to—

(1) operate the official national resource center and information clearinghouse for missing and exploited children;

(2) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

(A) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

(B) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

(3) coordinate public and private programs that locate, recover, or reunite missing children with their families;

(4) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

(5) provide technical assistance and training to law enforcement agencies, State, and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

(6) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section, $10,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

Mr. LOTT. This is to authorize appropriations for the National Center for Missing and Exploited Children.

AMENDMENTS NOS. 3047 AND 3048, EN BLOC

Mr. LOTT. There are two amendments at the desk; an amendment offered by Senators HATCH and FEINGOLD and DEWINE; and an amendment offered by Senators LEAHY and HATCH. I ask unanimous consent that the amendments be considered, en bloc.

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

The amendments are as follows:

AMENDMENT NO. 3047

(Purpose: To provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children)

On page 8, below line 24, add the following:

SEC. 3. CHILD EXPLOITATION SENTENCING ENHANCEMENTS.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a

child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The chapter analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

AMENDMENT NO. 3048

(Purpose: To reauthorize the Runaway and Homeless Youth Act)

At the end of the bill, add the following:

SEC. 4. RUNAWAY AND HOMELESS YOUTH ACT.

(a) IN GENERAL.—Section 372(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)) is amended by striking "unit of general local government" and inserting "unit of local government".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) TECHNICAL AMENDMENTS.—

(A) ERROR RESULTING FROM REDESIGNATION.—

(i) IN GENERAL.—Section 3(i) of the Public Law 102-586 (106 Stat. 5026) is amended by striking "Section 366" and inserting "Section 385".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by Public Law 102-586.

(B) ERROR RESULTING FROM REFERENCES TO NONEXISTENT PROVISIONS OF LAW.—

(i) IN GENERAL.—Section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1922) is amended by striking "is amended—" and all that follows through "after section 315" and inserting the following: "is amended by adding at the end".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322).

(2) REAUTHORIZATIONS.—

(A) IN GENERAL.—Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) (as amended by section 3(i) of the Public Law 102-586 (106 Stat. 5026) (as amended by paragraph (1)(A) of this subsection)) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003"; and

(II) in paragraph (3), by striking subparagraphs (A) through (D) and inserting the following:

"(A) for fiscal year 1998, not less than $957,285;

"(B) for fiscal year 1999, not less than $1,005,150;

"(C) for fiscal year 2000, not less than $1,055,406;

"(D) for fiscal year 2001, not less than $1,108,177;

"(E) for fiscal year 2002, not less than $1,163,585; and

"(F) for fiscal year 2003, not less than $1,163,585.";

(ii) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1999 and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003"; and

(iii) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1999, 2000, 2001, 2002, and 2003".

(B) ADDITIONAL REAUTHORIZATION.—Section 316 of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d) (as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by paragraph (1)(B) of this subsection)) is—

(i) redesignated as section 315; and

(ii) amended by striking subsection (c) and inserting the following:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003.''.

Mr. HATCH. Mr. President, today I am proud to support passage of the National Center for Missing and Exploited Children Authorization Act of 1998. This bill recognizes the outstanding record of achievements of this outstanding organization and will enable NCMEC to provide even greater protection of our Nation's children in the future. In addition, I am offering an amendment with the text of the Child Exploitation Sentencing Enhancements Act along with the sponsors of that legislation, S. 900, Senators FEINGOLD and DEWINE. Lastly, I urge the Senate to accept an amendment offered by Senator LEAHY and myself to reauthorize the Runaway and Homeless Youth Act and for other purposes.

The underlying bill, S. 2073, authorizes appropriations for the National Center for Missing and Exploited Children. As part of the Missing Children's Assistance Act, the Office of Juvenile Justice and Delinquency Prevention has selected and given grants to the Center for the last 14 years to operate a national resource center located in Arlington, Virginia and a national 24-hour toll-free telephone line. the Center provides invaluable assistance and training to law enforcement around the country in cases of missing and exploited children. the Center's record is quite impressive, and its efforts have led directly to a significant increase in the percentage of missing children who are recovered safely.

In fiscal year 1998, the Center received an earmark of $6.9 million in the Departments of Commerce, Justice, and State Appropriations conference report. In addition, the Center's Jimmy Ryce Training Center received 1.185M in this report.

This legislation directs OJJDP to make a grant to the Center and authorizes appropriations up to $10 million in fiscal years 1999 through 2003. The authorization would, of course, be subject to appropriations. This bill thus continues and formalizes NCMEC's long partnership with the Justice Department and OJJDP.

NCMEC's exemplary record of performance and success, as demonstrated by the fact that NCMEC's recovery rate has climbed from 62%to 91%, justifies action by Congress to formally recognize it as the nation's official missing and exploited children's center, and to authorize a line-item appropriation. This bill will enable the Center to focus completely on its missions, without expending the annual effort to obtain authority and grants from OJJDP. It also will allow the Center to expand its longer term arrangements with domestic and foreign law enforcement entities. By providing an authorization, the bill also will allow for better congressional oversight of the Center.

The record of the Center, described briefly below, demonstrates the appropriateness of this authorization.

For fourteen years the Center has served as the national resource center and clearinghouse mandated by the Missing Children's Assistance Act. The Center has worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of Treasury, the State Department, and many other federal and state agencies in the effort to find missing children and prevent child victimization.

The trust the federal government has placed in NCMEC, a private, non-profit corporation, is evidenced by its unique access to the FBI's National Crime Information Center, and the National Law Enforcement Telecommunications system (NLETS).

NCMEC has utilized the latest in technology, such as operating the National Child Pornography Tipline, establishing its new Internet website, www.missingkids.com, which is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, and, beginning this year, establishing a new CyberTipline on child exploitation.

NCMEC has established a national and increasingly worldwide network linking NCMEC online with each of the missing children clearinghouses operated by the 50 states, the District of Columbia and Puerto Rico. In addition, NCMEC works constantly with international law enforcement authorities such as Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others. This network enables NCMEC to transmit images and information regarding missing children to law enforcement across America and around the world instantly. NCMEC also serves as the U.S. State Department's representative at child abduction cases under the Hague Convention.

The record of NCMEC is demonstrated by the 1,203,974 calls received at its 24-hour toll-free hotline, 1 (800) THE LOST, the 146,284 law enforcement, criminal/juvenile justice, and healthcare professionals trained, the 15,491,344 free publications distributed, and, most importantly, by its work on 59,481 cases of missing children, which has resulted in the recovery of 40,180 children. Each of these figures represents the activity of NCMEC through this spring.

NCMEC is a shining example of the type of public-private partnership the Congress should encourage and recognize. I urge my colleagues to support this legislation, which would help improve the performance of the National Center for Missing and Exploited Children and thus the safety of our Nation's children.

In addition, I offer an amendment to S. 2073, along with Senators FEINGOLD and DEWINE, which contains the text of S. 900, the Child Exploitation Sentencing Enhancement Act. It is of the utmost importance that our children be protected from predatory pedophiles who roam the streets and the Internet looking for innocent children to victimize. These offenders need to be sent a message that the punishment for their actions will be serve and predictable.

Unfortunately, the anonymity provided by a computer linked to the Internet is being used by pedophiles more each day to lure children into harmful, dangerous and potentially deadly situations. Often, the perpetrator will entice the child by convincing the child that he also is a child, thus easing the child's fears and inhibitions. The Hatch-Feingold-Dewine amendment calls for the Sentencing Commission to enhance the sentencing guidelines for punishment of individuals who have used a computer to lure a child into sexual abuse or exploitation, or who has misrepresented himself for those purposes.

In addition to increasing the maximum penalties for first time offenders found guilty of transporting or enticing others for illegal sexual purposes or for traveling for illegal sexual purposes, the amendment also ensures that the penalties for repeat offenders are tougher, as they should be. Those convicted for transporting or luring minors for illegal sexual purposes, of for traveling across state lines to abuse a minor, will face up to twice the maximum jail sentence if they have previously been convicted of a similar crime. Those who are convicted of crossing state lines to sexually abuse minors or who do so on federal property, having previously been convicted of a similar crime, will also see their potential prison sentences doubled.

Finally, the amendment will authorize funds to ensure that child victims and witnesses to crimes involving sexual abuse and exploitation will have the services of professional, experienced guardians appointed to assist them in legal proceedings where necessary and appropriate. It is important that those who have been traumatized by sexual abuse not be victimized by the criminal justice system a second time.

I urge my colleagues to join me in supporting this important amendment.

Lastly, I have joined with Senator LEAHY in offering an amendment to reauthorize the Runaway and Homeless Youth Act. According to the National Network for Youth, this Act provides ''critical assistance to youth in high-risk situations all over the country.'' The three programs, discussed in more detail below, benefit those children truly in need and at high risk of becoming addicted to drugs or involved in criminal behavior. For these reasons, I

supported including this reauthorization as section 306 of S. 10, the Violent and Repeat Offender Act.

The cornerstone of the Runaway and Homeless Youth Act is the Basic Center Program which provides grants for temporary shelter and counseling for children under age 18. My home state of Utah received over $378,000 in grants in FY 1998 under this program, and I have received requests from Utah organizations such as the Baker Youth Service Home to reauthorize this important program.

Community-based organizations also may request grants under the two related programs, the Transitional Living and the Sexual Abuse Prevention/Street Outreach programs. The Transitional Living grants provide longer term housing to homeless teens aged 16 to 21, and aim to move these teens to self-sufficiency and to avoid long-term dependency on public assistance. The Sexual Abuse Prevention/Street Outreach Program targets homeless teens potentially involved in high risk behaviors.

In addition, the amendment reauthorizes the Runaway and homeless Youth Act Rural Demonstration Projects which provide assistance to rural juvenile populations, such as in my state of Utah. Finally, the amendment makes several technical corrections to fix prior drafting errors in the Runaway and Homeless Youth Act.

The combination of this bill and the amendments will strengthen our commitment to our youth, and I urge adoption of the amendments and the bill as amended.

Mr. FEINGOLD. Mr. President, I am pleased that the distinguished Chairman of the Judiciary Committee has agreed to cosponsor my Child Exploitation Sentencing Enhancement Amendment and add it to the authorization bill for the National Center for Missing and Exploited Children (NCMEC).

As we all know, miraculous advances in computer technology have opened new worlds to citizens all across this country. It's an exciting future. But it is also a future filled with risk for vulnerable children because some in our country have chosen to exploit the new technologies to commit crimes. According to the NCMEC, criminals are increasingly using computer telecommunications technology as a means to assist in the sexual victimization of young children and teenagers.

To combat this growing problem of the use of computers and the Internet to sexually exploit and abuse children, I introduced the Child Exploitation Sentencing Enhancement Act of 1997 last June. The amendment adopted by the Senate today incorporates that bill—S. 900—which was also co-sponsored by my friend from Ohio, Senator DEWINE.

Mr. President, the same marvelous advances in computer and telecommunications technology that allow our children to reach out to new sources of knowledge and cultural experiences are also leaving them unwittingly vulnerable to exploitation and harm by pedophiles and other sexual predators in ways never before possible. Advances in technology should not be the shield from behind which pedophiles and sexual molesters target and prey upon our children. When new technologies are used to further the criminal sexual exploitation and abuse of children, it is essential, that this conduct be punished severely.

This amendment directs the U.S. Sentencing Commission to increase criminal penalties for people who use a computer to entice children into illicit sexual conduct. The amendment also directs that sentences be increased for those criminals who seek out children on the Internet and misrepresent their true identity in a knowing effort to gain the trust of the child they intend to victimize sexually.

The provisions in this amendment are directed squarely at those molesters and sexual predators who go on-line and use computer chat rooms to target young victims. One distinct advantage of the Internet for criminals is that they are able to reach a much wider audience of potential victims than they would if they had to be physically present at a schoolyard or playground. Another advantage for cyber-criminals is that they have near fool-proof anonymity while they cruise the Internet looking for victims. In some cases, victims are enticed or lured to meet with the sexual molester. The opportunites for the criminal to misrepresent his true identity and thus gain the confidence of the victim is a significant aspect of these crimes. Director Freeh noted this problem last year in testimony before an appropriations subcommittee. He said:

> Pedophiles often seek out young children by either participating in or monitoring activities in chat rooms that are provided by commercial on-line services for teenagers and preteens to converse with each other. These chat rooms also provide pedophiles an anonymous means of establishing relationships with children. Using a chat room, a child can converse for hours with unknown individuals, often without the knowledge or approval of their parents. There is no easy way for the child to know if the person he or she is talking with is, in fact, another 14-year-old, or is a 40-year-old sexual predator masquerading as a peer.

Director Freeh's testimony also noted that sexual criminals also target young victims by posing as children looking for pen pals or by posting notices on computer bulletin boards in order to facilitate and develop relationships which can in turn provide a victim for the predator's illegal sexual activity.

One chilling example of this problem comes from my own state of Wisconsin.

In June 1997, a federal grand jury indicted a Jacksonville, Florida man for child enticement and for traveling in interstate commerce to commit a sex act with a fifteen-year-old girl. The defendant first contacted the girl via the Internet and over time began sending her increasingly sexually explicit messages. The defendant offered to pay for the girl to visit him in Florida. The entire time, the defendant told the young girl that he was 21 years old when, in fact, he was 39.

As the sexually explicit messages escalated and it became apparent that the girl would not be able to go to Florida, the man ultimately traveled to Sturgeon Bay, Wisconsin to meet her.

Believing she was going to meet a 21-year-old, the girl took a friend and waited for the defendant at a restaurant. Upon being confronted by the man—who was clearly not who he said he was—the young girl fled into a restroom while the defendant stood outside and demanded that she come out.

Later that day, based upon information provided by the girl, the man was arrested by Sturgeon Bay police at a local motel at which he had registered under an assumed name.

This is a chilling example of how criminals can use the Internet to facilitate crimes against children. Thankfully, this incident did not end in the sexual abuse of a fifteen-year-old. But it is frightening to consider what might have happened if the defendant had been able to lure her to the unfamiliar area of Jacksonville, Florida.

This is not an isolated incident; there have been other similar instances in Wisconsin and across the nation. And many have not ended as happily as this one did.

In addition to increasing sentences for criminal activity involving this type of conduct, my amendment expands the "pattern of activity" sentencing enhancement to a wider range of sexual abuse and exploitation crimes. Those criminals who have shown an ongoing pattern of sexually exploiting minors will be held accountable for their conduct through longer prison sentences. These longer sentences incapacitate the criminal for a longer period of time, reducing the potential that they will be set free to victimize again. This sentencing enhancement will now be applicable in cases of sexual abuse, sexual exploitation, and the coercion and enticement of minors for an illegal sexual activity.

In addition, the amendment targets repeat offenders by increasing penalties for repeat offenses and by increasing maximum penalties available under the Federal criminal code. And finally, the amendment authorizes funding to be used to appoint guardians ad litem for children who are the victims of, or witnesses to, crimes involving abuse or exploitation.

Mr. President, our children are our most precious resource. I am the father

of teenage children. Like any parent, I worry about the health and safety of my children. I encourage my children to utilize the Internet and to gain the benefits of these amazing new technologies—technologies which simply did not exist just a few years ago, not to mention when I was growing up. During my tenure in this body, I have been a strong believer in the potential of the Internet and sincerely hope that as we move toward the next century that potential will be realized to the benefit of all our citizens.

But I am also mindful of the dangers that arise when criminals exploit a new technology to further their illicit criminal activity. This amendment speaks directly to the small percentage of individuals who intentionally misuse the Internet to prey sexually upon children. The adoption of this amendment will send a message that we will not tolerate the sexual exploitation of our young people on the information superhighway. Pedophiles and sexual predators are not welcome on that road.

Mr. President, there are many different views on the best approach to the potential dangers of the Internet. We have disagreements in this body, as we do in the country, about the best way to protect children from sexually explicit images on the Internet. But I think we all can agree that when the Internet is used to facilitate criminal abuse of chilren, punishment should be swift and severe.

I yield the floor.

Mr. LEAHY. Mr. President, I am pleased that Senator HATCH has now decided to join with me in including on this measure an amendment that will reauthorize the Runaway and Homeless Youth Act for five years. This amendment complements Senator HATCH's bill to authorize the National Center for Missing and Exploited Children, S. 2073, because it provides additional assistance to some of the most vulnerable children in our country—children and teenagers who have run away or become homeless.

In 1996, I introduced legislation with Senator Simon similar to this amendment. Unfortunately, that bill was never passed by the Judiciary Committee and so the Runaway and Homeless Youth Act has not been authorized for over two years. I think it is time for the Senate to remedy this situation and that is why I proposed this amendment to Senator HATCH's bill. I had also hoped to reauthorize the Incentive Grants for Local Delinquency Prevention Programs, commonly known as the Title V program, as well as two anti-drug abuse programs for runaway and homeless youth and gang-affiliated teenagers. But, due to objections from the Republican side of the aisle, I have not been able to include reauthorization for those worthwhile programs in this amendment. That is unfortunate. As a former prosecuter I know these programs could cut drug abuse.

Reauthorizing the Runaway and Homeless Youth Act for five more years is the first step in assuring local community programs that they will have the additional resources they need to assist the growing number of homeless and runaway youth in the U.S. This program distributes funding to local community programs which are on the front lines assisting the approximately 1.3 million children and youth each year who are homeless or have left their families for a variety of reasons. This is the sort of program that studies have found to be an effective and efficient use of limited federal dollars.

The Runaway and Homeless Youth Act programs assist some of our nation's neediest children—those who lack a roof over their heads. Many of the beneficiaries of these programs have either fled or been kicked out of their family homes due to serious family conflicts or other problems. These programs assist children facing a variety of circumstances and provide funding for shelters and crisis intervention services, transitional living arrangements and outreach to teens who are living on the streets.

The Basic Center grants for housing and crisis services for runaway and homeless children are awarded to each State, based on juvenile population, with a minimum grant of $100,000 currently awarded to smaller States, such as Vermont. Effective community-based programs around the country can also apply directly for the funds made available for the Transitional Living Program and the Sexual Abuse Prevention/Street Outreach grants. The Transitional Living Program grants are used to provide longer term housing to homeless teens age 16 to 21, and to help these teenagers become more self-sufficient. The Sexual Abuse Prevention/Street Outreach Program also targets teens who have engaged in or are at risk of engaging in high risk behaviors while living on the street.

Vermont's Coalition for Runaway and Homeless Youth and the Spectrum Youth and Family Services in Burlington, Vermont, have developed very comprehensive and effective programs to assist both teens who are learning to be self-sufficient and those who are struggling to survive on the streets. As such, Vermont programs have been successful in applying for these two specialized programs and have been on the forefront of developing and improving the services available to runaway and homeless youth.

This amendment, which reauthorizes all three Runaway and Homeless Youth Act programs, is intended to recognize the important work of these programs in Vermont, as well as the many, many others across the U.S. that are working effectively with runaway and homeless youth and their families.

Our amendment also reauthorizes the Runaway and Homeless Youth Act Rural Demonstration Projects for an additional five years. This program provides extra assistance to States with rural juvenile populations. Programs serving runaway and homeless youth have found that those in rural areas are particularly difficult to reach and serve effectively. Runaway and homeless youth programs in rural areas, such as those in Utah and Vermont, need additional assistance and have special needs.

For those who do not think rural areas have significant numbers of runaway youth, I note that in fiscal year 1997, the Vermont Coalition for Runaway and Homeless Youth served 987 young people in its programs in 10 counties. Spectrum Youth and Family Services served an additional 259 at its center and over 2,000 through its street outreach services and drop-in center in Burlington. These numbers have been increasing rapidly over the past few years with a 154 percent increase in the number of youth served by the Vermont Coalition between 1992 and 1997. An area of special concern is the increasing number of young people who are being "pushed" out of their homes—those numbers increased 263 percent between 1993 and 1997 in Vermont. This is in addition to the hundreds of children each year who find themselves homeless or who have run away from home.

The Runaway and Homeless Youth Act does more than shelter these children in need. As the National Network for Youth stressed in their letter in support of my amendment, the Act's programs "provide critical assistance to youth in high-risk situations all over the country." This Act also ensures that these children and their families have access to important services, such as individual, family or group counseling, alcohol and drug counseling and a myriad of other resources to help these young people and their families get back on track.

As a result of this multi-pronged approach to helping runaway and homeless youth, the Vermont Coalition for Runaway and Homeless Youth was able to establish 85 percent of the youth served in 1997 in a "positive living situation" by the end of the year. Of these 800 young people, 54 percent returned home and another 17 percent went to live with a relative or friend.

The Vermont Coalition should be applauded for these fine results and I believe the best way to do that is to reauthorize the Runaway and Homeless Act for five more years, so programs like these in Vermont have some greater financial security in the future.

Mr. BIDEN. Mr. President, I rise to support passage of S. 2073, legislation to authorize specific funding for the National Center for Missing and Exploited Children. I am pleased to join

Senator HATCH and others in sponsoring this legislation.

I would also note that this legislation makes the same important change in law that I originally proposed as an amendment during the Judiciary Committee's mark-up of S. 10, legislation concerning juvenile justice issues. My amendment was accepted by Chairman HATCH and agreed to by all members of the Committee.

So, I am particularly happy that the full Senate is today passing this legislation in another form.

It is my hope that the House will also act to pass this bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendments be agreed to, en bloc, the committee amendment be agreed to, 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 appear at the appropriate place in the RECORD.

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

The amendments (Nos. 3047 and 3048) were agreed to, en bloc.

The committee amendment was agreed to.

The bill (S. 2073), as amended, was considered read the third time and passed, as follows:

S. 2073

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) For 14 years, the National Center for Missing and Exploited Children (referred to in this section as the "Center") has—

(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act of 1984; and

(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization.

(2) Congress has given the Center, which is a private non-profit corporation, unique powers and resources, such as having access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System.

(3) Since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the Center established a new CyberTipline on child exploitation, thus becoming "the 911 for the Internet".

(4) In light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ("CA") flag to provide the Center immediate notification in the most serious cases, resulting in 642 "CA" notifications to the Center and helping the Center to have its highest recovery rate in history.

(5) The Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly.

(6) From its inception in 1984 through March 31, 1998, the Center has—

(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1-800-THE-LOST) and currently averages 700 calls per day;

(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

(C) disseminated 15,491,344 free publications to citizens and professionals; and

(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children.

(7) The demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 "hits" every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, helping to cause such results as a police officer in Puerto Rico searching the Center's website and working with the Center to identify and recover a child abducted as an infant from her home in San Diego, California, 7 years earlier.

(8) In 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center.

(9) The programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent.

(10) The Center is now playing a significant role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States.

(11) The Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children.

(12) The Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy.

(13) In light of its impressive history, the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.

(14) An official congressional authorization will increase the level of scrutiny and oversight by Congress and continue the Center's long partnership with the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(15) The exemplary record of performance and success of the Center, as exemplified by the fact that the Center's recovery rate has climbed from 62 to 91 percent, justifies action by Congress to formally recognize the National Center for Missing and Exploited Children as the Nation's official missing and exploited children's center, and to authorize a line-item appropriation for the National Center for Missing and Exploited Children in the Federal budget.

SEC. 2. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

(a) GRANTS.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall annually make a grant to the National Center for Missing and Exploited Children, which shall be used to—

(1) operate the official national resource center and information clearinghouse for missing and exploited children;

(2) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

(A) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

(B) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

(3) coordinate public and private programs that locate, recover, or reunite missing children with their families;

(4) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

(5) provide technical assistance and training to law enforcement agencies, State, and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

(6) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section, $10,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

SEC. 3. CHILD EXPLOITATION SENTENCING ENHANCEMENTS.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing

Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The chapter analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

SEC. 4. RUNAWAY AND HOMELESS YOUTH ACT.

(a) IN GENERAL.—Section 372(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)) is amended by striking "unit of general local government" and inserting "unit of local government".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) TECHNICAL AMENDMENTS.—

(A) ERROR RESULTING FROM REDESIGNATION.—

(i) IN GENERAL.—Section 3(i) of the Public Law 102-586 (106 Stat. 5026) is amended by striking "Section 366" and inserting "Section 385".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by Public Law 102-586.

(B) ERROR RESULTING FROM REFERENCES TO NONEXISTENT PROVISIONS OF LAW.—

(i) IN GENERAL.—Section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1922) is amended by striking "is amended—" and all that follows through "after section 315" and inserting the following: "is amended by adding at the end".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322).

(2) REAUTHORIZATIONS.—

(A) IN GENERAL.—Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) (as amended by section 3(i) of the Public Law 102-586 (106 Stat. 5026) (as amended by paragraph (1)(A) of this subsection)) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003"; and

(II) in paragraph (3), by striking subparagraphs (A) through (D) and inserting the following:

"(A) for fiscal year 1998, not less than $957,285;

"(B) for fiscal year 1999, not less than $1,005,150;

"(C) for fiscal year 2000, not less than $1,055,406;

"(D) for fiscal year 2001, not less than $1,108,177;

"(E) for fiscal year 2002, not less than $1,163,585; and

"(F) for fiscal year 2003, not less than $1,163,585.";

(ii) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1999 and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003"; and

(iii) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1999, 2000, 2001, 2002, and 2003".

(B) ADDITIONAL REAUTHORIZATION.—Section 316 of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d) (as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by paragraph (1)(B) of this subsection)) is—

(i) redesignated as section 315; and

(ii) amended by striking subsection (c) and inserting the following:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003.".

HONORING THE BERLIN AIRLIFT

Mr. LOTT. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Con. Res. 81, and further that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 81) honoring the Berlin airlift.

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.

AMENDMENT NO. 3049

(Purpose: To provide a complete substitute)

Mr. LOTT. Senator COVERDELL has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. COVERDELL, proposes an amendment numbered 3049.

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

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

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that—

(1) the Berlin Airlift, which marks its 50th anniversary of commencement in June 1998, is one of the most significant events in postwar European history; and

(2) the Berlin Sculpture Fund should be commended for commemorating the 50th anniversary of the Berlin Airlift by presenting to the citizens of the Federal Republic of Germany a gift of representational art, funded by private subscriptions from citizens of the United States.

Amend the preamble to read as follows:

Whereas the date of June 26, 1998, marks the 50th anniversary of the commencement of the Allied effort to supply the people of Berlin, Germany, with food, fuel, and supplies in the face of the illegal Soviet blockade that divided the city;

Whereas this 15 month Allied effort became known throughout the free world as the "Berlin Airlift" and ultimately cost the lives of 78 Allied airmen, of whom 31 were United States fliers;

Whereas this heroic humanitarian undertaking was universally regarded as an unambiguous statement of Western resolve to thwart further Soviet expansion;

Whereas the Berlin Airlift was an unqualified success, both as an instrument of diplomacy and as a life saving rescue of the 2,000,000 inhabitants of West Berlin, with 2,326,205 tons of supplies delivered by 277,728 flights over a 462-day period;

Whereas historians and citizens the world over view the success of this courageous action as pivotal to the ultimate defeat of international tyranny, symbolized today by the fall of the Berlin Wall; and

Whereas this inspiring act of resolve must be preserved in the memory of future generations in a positive and dramatic manner: Now, therefore, be it

Mr. COVERDELL. Mr. President, I rise today to speak on a resolution I introduced honoring the heroes of the Berlin Airlift. Today marks the fiftieth anniversary of this great undertaking. This massive Allied effort to provide relief to a post war Berlin held hostage by the Soviet Union displayed to the world, the resolve of the western world to fight oppression and began a long fight against Soviet Communism that culminated with the collapse of the Berlin Wall.

The former Soviet Union, Britain, France and the United States occupied separate sectors of Germany after World War II. Berlin, located in the Soviet zone of Germany, was occupied in a similar fashion. In response to a failing economy the Western powers undertook an effort to reform the German currency. The Soviet Union, meanwhile, kept the old German currency from entering its zones by banning, on June 24, 1948, all travel into and out of the Western half of the city. The Soviets also cut the supply of electricity to this zone. Berlin's economy was in ruins and its citizens were under virtual seige.

The response to this blockade was one of the most heroic and monumental undertakings in history. For fifteen months Allied transport planes shipped food, coal and supplies into Berlin. During the height of this effort airplanes were taking off every three minutes, twenty four hours a day, while delivering daily 14,000 tons of supplies. All told, 2,326,205 tons of supplies were delivered by 277,728 flights in the face of Soviet efforts to thwart the Allies.

Mr. President, these numbers do not speak to the personal stories of those who organized and participated in the Berlin airlift, the sacrifices they made and the selflessness they displayed. They do not speak to the lives lost during the operation, 31 of which were American. They do not speak to the gratitude those in Berlin felt toward the Allies who were so willing after such a brutal war, to provide them with life-sustaining relief. Mr. President, let us all keep these ideas in mind as we remember the Berlin Airlift, what it meant to the world in a post World War II environment, and what it has come to mean to us today.

Finally, Mr. President I would like to note that next week, on July 2, 1998, a delegation with representatives from the Berlin Sculpture Fund will visit Berlin to present a gift of art to the citizens of the Federal Republic of Germany in commemoration of the 50th Anniversary of the Berlin Airlift. The Berlin Sculpture Fund and its Chairman, General John Mitchell, should be commended for their work to commemorate this event and the impact it made on our world's history.

Mr. LOTT. I ask unanimous consent that the amendment be agreed to, the resolution, as amended, be agreed to, the amendment to the preamble be agreed to, and the preamble, as amended, be agreed to, the amendment to the title be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this resolution appear at the appropriate place in the RECORD.

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

The amendment (No. 3049) was agreed to.

The resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution (S. Con. Res. 81), as amended, with its preamble, as amended, reads as follows:

S. CON. RES. 81

Whereas the date of June 26, 1998, marks the 50th anniversary of the commencement of the Allied effort to supply the people of Berlin, Germany, with food, fuel, and supplies in the face of the illegal Soviet blockade that divided the city;

Whereas this 15 month Allied effort became known throughout the free world as the "Berlin Airlift" and ultimately cost the lives of 78 Allied airmen, of whom 31 were United States fliers;

Whereas this heroic humanitarian undertaking was universally regarded as an unambiguous statement of Western resolve to thwart further Soviet expansion;

Whereas the Berlin Airlift was an unqualified success, both as an instrument of diplomacy and as a life saving rescue of the 2,000,000 inhabitants of West Berlin, with 2,326,205 tons of supplies delivered by 277,728 flights over a 462-day period;

Whereas historians and citizens the world over view the success of this courageous action as pivotal to the ultimate defeat of international tyranny, symbolized today by the fall of the Berlin Wall; and

Whereas this inspiring act of resolve must be preserved in the memory of future generations in a positive and dramatic manner: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Berlin Airlift, which marks its 50th anniversary of commencement in June 1998, is one of the most significant events in postwar European history; and

(2) the Berlin Sculpture Fund should be commended for commemorating the 50th anniversary of the Berlin Airlift by presenting to the citizens of the Federal Republic of Germany a gift of representational art, funded by private subscriptions from citizens of the United States.

The title was amended so as to read: "Concurrent Resolution Honoring the Berlin Airlift and Commending the Berlin Sculpture Fund."

CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

Mr. LOTT. Mr. President, I ask unanimous consent the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 3130) to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3130) entitled "An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes", with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Performance and Incentive Act of 1998".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS
Sec. 101. Alternative penalty procedure.
Sec. 102. Authority to waive single statewide automated data processing and information retrieval system requirement.
TITLE II—CHILD SUPPORT INCENTIVE SYSTEM
Sec. 201. Incentive payments to States.
TITLE III—ADOPTION PROVISIONS
Sec. 301. More flexible penalty procedure to be applied for failing to permit interjurisdictional adoption.
TITLE IV—MISCELLANEOUS
Sec. 401. Elimination of barriers to the effective establishment and enforcement of medical child support.
Sec. 402. Safeguard of new employee information.
Sec. 403. Limitations on use of TANF funds for matching under certain Federal transportation program.
Sec. 404. Clarification of meaning of high-volume automated administrative enforcement of child support in interstate cases.
Sec. 405. General Accounting Office reports.
Sec. 406. Data matching by multistate financial institutions.
Sec. 407. Elimination of unnecessary data reporting.
Sec. 408. Clarification of eligibility under welfare-to-work programs.
Sec. 409. Study of feasibility of implementing immigration provisions of H.R. 3130, as passed by the House of Representatives on March 5, 1998.
Sec. 410. Technical corrections.

TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

SEC. 101. ALTERNATIVE PENALTY PROCEDURE.

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

"(4)(A)(i) If—

"(I) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with a particular subparagraph of section 454(24), and that the State has made and is continuing to make a good faith effort to so comply; and

"(II) the State has submitted to the Secretary a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

"(ii) All failures of a State during a fiscal year to comply with any of the requirements referred to in the same subparagraph of section 454(24) shall be considered a single failure of the State to comply with that subparagraph during the fiscal year for purposes of this paragraph.

"(B) In this paragraph:

"(i) The term 'penalty amount' means, with respect to a failure of a State to comply with a subparagraph of section 454(24)—

"(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs (regardless of whether a penalty is imposed under this paragraph with respect to the failure);

"(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

"(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year;

"(IV) 25 percent of the penalty base, in the case of the 4th such fiscal year; or

"(V) 30 percent of the penalty base, in the case of the 5th or any subsequent such fiscal year.

"(ii) The term 'penalty base' means, with respect to a failure of a State to comply with a subparagraph of section 454(24) during a fiscal year, the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year.

"(C)(i) The Secretary shall waive a penalty under this paragraph for any failure of a State to comply with section 454(24)(A) during fiscal year 1998 if—

"(I) on or before August 1, 1998, the State has submitted to the Secretary a request that the Secretary certify the State as having met the requirements of such section;

"(II) the Secretary subsequently provides the certification as a result of a timely review conducted pursuant to the request; and

"(III) the State has not failed such a review.

"(ii) If a State with respect to which a reduction is made under this paragraph for a fiscal year with respect to a failure to comply with a subparagraph of section 454(24) achieves compliance with such subparagraph by the beginning of the succeeding fiscal year, the Secretary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 90 percent of the reduction for the fiscal year.

"(D) The Secretary may not impose a penalty under this paragraph against a State with respect to a failure to comply with section 454(24)(B) for a fiscal year if the Secretary is required to impose a penalty under this paragraph against the State with respect to a failure to comply with section 454(24)(A) for the fiscal year.".

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting "(other than section 454(24))" before the semicolon.

SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT.

(a) IN GENERAL.—Section 452(d)(3) of the Social Security Act (42 U.S.C. 652(d)(3)) is amended to read as follows:

"(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if—

"(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State—

"(i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;

"(ii) to submit data under section 454(15)(B) that is complete and reliable;

"(iii) to substantially comply with the requirements of this part; and

"(iv) in the case of a request to waive the single statewide system requirement, to—

"(I) meet all functional requirements of sections 454(16) and 454A;

"(II) ensure that calculation of distributions meets the requirements of section 457 and accounts for distributions to children in different families or in different States or sub-State jurisdictions, and for distributions to other States;

"(III) ensure that there is only 1 point of contact in the State which provides seamless case

processing for all interstate case processing and coordinated, automated intrastate case management;

"(IV) ensure that standardized data elements, forms, and definitions are used throughout the State;

"(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement; and

"(VI) process child support cases as quickly, efficiently, and effectively as such cases would be processed through a single statewide system that meets such requirement;

"(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

"(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

"(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.".

(b) PAYMENTS TO STATES.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and"; and

(3) by inserting after subparagraph (C) the following:

"(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver;".

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

SEC. 201. INCENTIVE PAYMENTS TO STATES.

(a) IN GENERAL.—Part D of title IV of the Social Security Act (42 U.S.C. 651–669) is amended by inserting after section 458 the following:

"SEC. 458A. INCENTIVE PAYMENTS TO STATES.

"(a) IN GENERAL.—In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b).

"(b) AMOUNT OF INCENTIVE PAYMENT.—

"(1) IN GENERAL.—The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

"(2) INCENTIVE PAYMENT POOL.—

"(A) IN GENERAL.—In paragraph (1), the term 'incentive payment pool' means—

"(i) $422,000,000 for fiscal year 2000;

"(ii) $429,000,000 for fiscal year 2001;

"(iii) $450,000,000 for fiscal year 2002;

"(iv) $461,000,000 for fiscal year 2003;

"(v) $454,000,000 for fiscal year 2004;

"(vi) $446,000,000 for fiscal year 2005;

"(vii) $458,000,000 for fiscal year 2006;

"(viii) $471,000,000 for fiscal year 2007;

"(ix) $483,000,000 for fiscal year 2008; and

"(x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the 2nd preceding fiscal year.

"(B) CPI.—For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

"(3) STATE INCENTIVE PAYMENT SHARE.—In paragraph (1), the term 'State incentive payment share' means, with respect to a fiscal year—

"(A) the incentive base amount for the State for the fiscal year; divided by

"(B) the sum of the incentive base amounts for all of the States for the fiscal year.

"(4) INCENTIVE BASE AMOUNT.—In paragraph (3), the term 'incentive base amount' means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

"(A) The paternity establishment performance level.

"(B) The support order performance level.

"(C) The current payment performance level.

"(D) The arrearage payment performance level.

"(E) The cost-effectiveness performance level.

"(5) MAXIMUM INCENTIVE BASE AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is—

"(i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and

"(ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

"(B) DATA REQUIRED TO BE COMPLETE AND RELIABLE.—Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is zero, unless the Secretary determines, on the basis of an audit performed under section 452(a)(4)(C)(i), that the data which the State submitted pursuant to section 454(15)(B) for the fiscal year and which is used to determine the performance level involved is complete and reliable.

"(C) STATE COLLECTIONS BASE.—For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of—

"(i) 2 times the sum of—

"(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

"(II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

"(ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

"(6) DETERMINATION OF APPLICABLE PERCENTAGES BASED ON PERFORMANCE LEVELS.—

"(A) PATERNITY ESTABLISHMENT.—

"(i) DETERMINATION OF PATERNITY ESTABLISHMENT PERFORMANCE LEVEL.—The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV–D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's paternity establishment performance level is as follows:

"If the paternity establishment performance level is:		***The applicable percentage is:***
At least:	***But less than:***	
80%		*100*
79%	*80%*	*98*
78%	*79%*	*96*
77%	*78%*	*94*
76%	*77%*	*92*
75%	*76%*	*90*
74%	*75%*	*88*
73%	*74%*	*86*
72%	*73%*	*84*
71%	*72%*	*82*
70%	*71%*	*80*
69%	*70%*	*79*
68%	*69%*	*78*
67%	*68%*	*77*
66%	*67%*	*76*
65%	*66%*	*75*
64%	*65%*	*74*
63%	*64%*	*73*
62%	*63%*	*72*
61%	*62%*	*71*
60%	*61%*	*70*
59%	*60%*	*69*
58%	*59%*	*68*
57%	*58%*	*67*
56%	*57%*	*66*
55%	*56%*	*65*
54%	*55%*	*64*
53%	*54%*	*63*
52%	*53%*	*62*
51%	*52%*	*61*
50%	*51%*	*60*
0%	*50%*	*0.*

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

"(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.—

"(i) DETERMINATION OF SUPPORT ORDER PERFORMANCE LEVEL.—The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's support order performance level is as follows:

"If the support order performance level is:		***The applicable percentage is:***
At least:	***But less than:***	
80%		*100*
79%	*80%*	*98*
78%	*79%*	*96*
77%	*78%*	*94*
76%	*77%*	*92*
75%	*76%*	*90*
74%	*75%*	*88*
73%	*74%*	*86*
72%	*73%*	*84*
71%	*72%*	*82*
70%	*71%*	*80*
69%	*70%*	*79*
68%	*69%*	*78*
67%	*68%*	*77*
66%	*67%*	*76*
65%	*66%*	*75*
64%	*65%*	*74*
63%	*64%*	*73*
62%	*63%*	*72*
61%	*62%*	*71*
60%	*61%*	*70*
59%	*60%*	*69*
58%	*59%*	*68*
57%	*58%*	*67*
56%	*57%*	*66*
55%	*56%*	*65*
54%	*55%*	*64*
53%	*54%*	*63*
52%	*53%*	*62*
51%	*52%*	*61*
50%	*51%*	*60*
0%	*50%*	*0.*

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

"(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.—

"(i) DETERMINATION OF CURRENT PAYMENT PERFORMANCE LEVEL.—The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's current payment performance level is as follows:

"If the current payment performance level is: At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

"(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

"(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's arrearage payment performance level is as follows:

"If the arrearage payment performance level is: At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

"(E) COST-EFFECTIVENESS.—

"(i) DETERMINATION OF COST-EFFECTIVENESS PERFORMANCE LEVEL.—The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

"If the cost-effectiveness performance level is: At least:	But less than:	The applicable percentage is:
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

"(c) TREATMENT OF INTERSTATE COLLECTIONS.—In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

"(d) ADMINISTRATIVE PROVISIONS.—The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

"(f) REINVESTMENT.—A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

"(1) to carry out the State plan approved under this part; or

"(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for the activity are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part.".

(b) TRANSITION RULE.—Notwithstanding any other provision of law—

(1) for fiscal year 2000, the Secretary shall reduce by ⅓ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅔ the amount otherwise payable to a State under section 458A of such Act; and

(2) for fiscal year 2001, the Secretary shall reduce by ⅔ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅓ the amount otherwise payable to a State under section 458A of such Act.

(c) REGULATIONS.—Within 9 months after the date of the enactment of this section, the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A of the Social Security Act when such section takes effect and the implementation of subsection (b) of this section.

(d) STUDIES.—

(1) GENERAL REVIEW OF NEW INCENTIVE PAYMENT SYSTEM.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the implementation of the incentive payment system established by section 458A of the Social Security Act, in order to identify the problems and successes of the system.

(B) REPORTS TO THE CONGRESS.—

(i) REPORT ON VARIATIONS IN STATE PERFORMANCE ATTRIBUTABLE TO DEMOGRAPHIC VARIABLES.—Not later than October 1, 2000, the Secretary shall submit to the Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system

as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.

(ii) INTERIM REPORT.—Not later than March 1, 2001, the Secretary shall submit to the Congress an interim report that contains the findings of the study required by subparagraph (A).

(iii) FINAL REPORT.—Not later than October 1, 2003, the Secretary shall submit to the Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

(2) DEVELOPMENT OF MEDICAL SUPPORT INCENTIVE.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in consultation with State directors of programs operated under part D of title IV of the Social Security Act and representatives of children potentially eligible for medical support, shall develop a performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A of the Social Security Act.

(B) REPORT.—Not later than October 1, 1999, the Secretary shall submit to the Congress a report that describes the performance measure and contains the recommendations required by subparagraph (A).

(e) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 658 note) is amended—

(A) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(B) in subsection (c) (as so redesignated)—

(i) by striking paragraph (1) and inserting the following:

"(1) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—The amendments made by subsection (a) of this section shall become effective with respect to a State as of the date the amendments made by section 103(a) (without regard to section 116(a)(2)) first apply to the State."; and

(ii) in paragraph (2), by striking "(c)" and inserting "(b)".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(f) ELIMINATION OF PREDECESSOR INCENTIVE PAYMENT SYSTEM.—

(1) REPEAL.—Section 458 of the Social Security Act (42 U.S.C. 658) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 458A of the Social Security Act, as added by section 201(a) of this Act, is redesignated as section 458.

(B) Section 455(a)(4)(C)(iii) of such Act (42 U.S.C. 655(a)(4)(C)(iii)), as added by section 101(a) of this Act, is amended—

(i) by striking "458A(b)(4)" and inserting "458(b)(4)";

(ii) by striking "458A(b)(6)" and inserting "458(b)(6)"; and

(iii) by striking "458A(b)(5)(B)" and inserting "458(b)(5)(B)".

(C) Subsection (d)(1) of this section is amended by striking "458A" and inserting "458".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2001.

(g) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on October 1, 1999.

TITLE III—ADOPTION PROVISIONS

SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION.

(a) CONVERSION OF FUNDING BAN INTO STATE PLAN REQUIREMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

(3) by adding at the end the following:

"(23) provides that the State shall not—

"(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

"(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness.".

(b) PENALTY FOR NONCOMPLIANCE.—Section 474(d) of such Act (42 U.S.C. 674(d)) is amended in each of paragraphs (1) and (2) by striking "section 471(a)(18)" and inserting "paragraph (18) or (23) of section 471(a)".

(c) CONFORMING AMENDMENT.—Section 474 of such Act (42 U.S.C. 674) is amended by striking subsection (e).

(d) RETROACTIVITY.—The amendments made by this section shall take effect as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997 (Public Law 105–89; 111 Stat. 2125).

TITLE IV—MISCELLANEOUS

SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE ESTABLISHMENT AND ENFORCEMENT OF MEDICAL CHILD SUPPORT.

(a) STUDY ON EFFECTIVENESS OF ENFORCEMENT OF MEDICAL SUPPORT BY STATE AGENCIES.—

(1) MEDICAL CHILD SUPPORT WORKING GROUP.—Within 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medical Child Support Working Group. The purpose of the Working Group shall be to identify the impediments to the effective enforcement of medical support by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act.

(2) MEMBERSHIP.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(A) the Department of Labor;

(B) the Department of Health and Human Services;

(C) State directors of programs under part D of title IV of the Social Security Act;

(D) State directors of the medicaid program under title XIX of the Social Security Act;

(E) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(F) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1));

(G) children potentially eligible for medical support, such as child advocacy organizations;

(H) State medical child support programs; and

(I) organizations representing State child support programs.

(3) COMPENSATION.—The members shall serve without compensation.

(4) ADMINISTRATIVE SUPPORT.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(5) REPORT.—

(A) REPORT BY WORKING GROUP TO THE SECRETARIES.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services a report containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical support by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act identified by the Working Group, including—

(i) recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations;

(ii) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and, in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677);

(iii) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs operated pursuant to part D of title IV of the Social Security Act and titles XIX and XXI of such Act;

(iv) appropriate measures to improve the availability of alternate types of medical support that are aside from health coverage offered through the noncustodial parent's health plan and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, copayments, deductibles, or payments for services not covered under a child's existing health coverage;

(v) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and

(vi) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the Working Group deems necessary.

(B) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subparagraph (A), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under subparagraph (A).

(6) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under paragraph (5).

(b) PROMULGATION OF NATIONAL MEDICAL SUPPORT NOTICE.—

(1) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Labor shall jointly develop and promulgate by regulation a National Medical Support Notice, to be issued by States as a means of enforcing the health care coverage provisions in a child support order.

(2) REQUIREMENTS.—The National Medical Support Notice shall—

(A) conform with the requirements which apply to medical child support orders under section 609(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)) in connection with group health plans (subject to section 609(a)(4) of such Act), irrespective of whether the group health plan is covered under section 4 of such Act;

(B) conform with the requirements of part D of title IV of the Social Security Act; and

(C) include a separate and easily severable employer withholding notice, informing the employer of—

(i) applicable provisions of State law requiring the employer to withhold any employee contributions due under any group health plan in connection with coverage required to be provided under such order;

(ii) the duration of the withholding requirement;

(iii) the applicability of limitations on any such withholding under title III of the Consumer Credit Protection Act;

(iv) the applicability of any prioritization required under State law between amounts to be withheld for purposes of cash support and amounts to be withheld for purposes of medical support, in cases where available funds are insufficient for full withholding for both purposes; and

(v) the name and telephone number of the appropriate unit or division to contact at the State agency regarding the National Medical Support Notice.

(3) PROCEDURES.—The regulations promulgated pursuant to paragraph (1) shall include appropriate procedures for the transmission of the National Medical Support Notice to employers by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act.

(4) INTERIM REGULATIONS.—Not later than 10 months after the date of the enactment of this Act, the Secretaries shall issue interim regulations providing for the National Medical Support Notice.

(5) FINAL REGULATIONS.—Not later than 1 year after the issuance of the interim regulations under paragraph (4), the Secretary of Health and Human Services and the Secretary of Labor shall jointly issue final regulations providing for the National Medical Support Notice.

(c) REQUIRED USE BY STATES OF NATIONAL MEDICAL SUPPORT NOTICES.—

(1) STATE PROCEDURES.—Section 466(a)(19) of the Social Security Act (42 U.S.C. 666(a)(19)) is amended to read as follows:

"(19) HEALTH CARE COVERAGE.—Procedures under which—

"(A) effective as provided in section 401(c)(3) of the Child Support Performance and Incentive Act of 1998, all child support orders enforced pursuant to this part which include a provision for the health care coverage of the child are enforced, where appropriate, through the use of the National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 (and referred to in section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 in connection with group health plans covered under title I of such Act, in section 401(e)(3)(C) of the Child Support Performance and Incentive Act of 1998 in connection with State or local group health plans, and in section 401(f)(5)(C) of such Act in connection with church group health plans);

"(B) unless alternative coverage is allowed for in any order of the court (or other entity issuing the child support order), in any case in which a noncustodial parent is required under the child support order to provide such health care coverage and the employer of such noncustodial parent is known to the State agency—

"(i) the State agency uses the National Medical Support Notice to transfer notice of the provision for the health care coverage of the child to the employer;

"(ii) within 20 business days after the date of the National Medical Support Notice, the employer is required to transfer the Notice, excluding the severable employer withholding notice described in section 401(b)(2)(C) of the Child Support Performance and Incentive Act of 1998, to the appropriate plan providing any such health care coverage for which the child is eligible;

"(iii) in any case in which the noncustodial parent is a newly hired employee entered in the State Directory of New Hires pursuant to section 453A(e), the State agency provides, where appropriate, the National Medical Support Notice, together with an income withholding notice issued pursuant to section 466(b), within 2 days after the date of the entry of such employee in such Directory; and

"(iv) in any case in which the employment of the noncustodial parent with any employer who has received a National Medical Support Notice is terminated, such employer is required to notify the State agency of such termination; and

"(C) any liability of the noncustodial parent to such plan for employee contributions which are required under such plan for enrollment of the child is effectively subject to appropriate enforcement, unless the noncustodial parent contests such enforcement based on a mistake of fact.".

(2) CONFORMING AMENDMENTS.—Section 452(f) of such Act (42 U.S.C. 652(f)) is amended in the first sentence—

(A) by striking "petition for the inclusion of" and inserting "include"; and

(B) by inserting "and enforce medical support" before "whenever".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective with respect to periods beginning on or after the later of—

(A) October 1, 2001; or

(B) the effective date of laws enacted by the legislature of such State implementing such amendments,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a two-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(d) NATIONAL MEDICAL SUPPORT NOTICE DEEMED UNDER ERISA A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—Section 609(a)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(5)) is amended by adding at the end the following:

"(C) NATIONAL MEDICAL SUPPORT NOTICE DEEMED TO BE A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—

"(i) IN GENERAL.—If the plan administrator of a group health plan which is maintained by the employer of a noncustodial parent of a child or to which such an employer contributes receives an appropriately completed National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 in the case of such child, and the Notice meets the requirements of paragraphs (3) and (4), the Notice shall be deemed to be a qualified medical child support order in the case of such child.

"(ii) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a group health plan who is a noncustodial parent of the child, and the Notice is deemed under clause (i) to be a qualified medical child support order, the plan administrator, within 40 business days after the date of the Notice, shall—

"(I) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or, if necessary, any steps to be taken by the custodial parent (or by the official of a State or political subdivision thereof substituted for the name of such child pursuant to paragraph (3)(A)) to effectuate the coverage; and

"(II) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as requiring a group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.".

(e) NATIONAL MEDICAL SUPPORT NOTICES FOR STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLANS.—

(1) IN GENERAL.—Each State or local governmental group health plan shall provide benefits in accordance with the applicable requirements of any National Medical Support Notice.

(2) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a State or local governmental group health plan who is a noncustodial parent of the child, the plan administrator, within 40 business days after the date of the Notice, shall—

(A) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or any steps necessary to be taken by the custodial parent (or by any official of a State or political subdivision thereof substituted in the Notice for the name of such child in accordance with procedures appliable under subsection (b)(2) of this section) to effectuate the coverage; and

(B) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State or local governmental group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.

(4) DEFINITIONS.—For purposes of this subsection—

(A) STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLAN.—The term "State or local governmental group health plan" means a group health plan which is established or maintained for its employees by the government of any State, any political subdivision of a State, or any agency or instrumentality of either of the foregoing.

(B) ALTERNATE RECIPIENT.—The term "alternate recipient" means any child of a participant who is recognized under a National Medical Support Notice as having a right to enrollment under a State or local governmental group health plan with respect to such participant.

(C) GROUP HEALTH PLAN.—The term "group health plan" has the meaning provided in section 607(1) of the Employee Retirement Income Security Act of 1974.

(D) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(E) OTHER TERMS.—The terms "participant" and "administrator" shall have the meanings

provided such terms, respectively, by paragraphs (7) and (16) of section 3 of the Employee Retirement Income Security Act of 1974.

(5) EFFECTIVE DATE.—The provisions of this subsection shall take effect on the date of the issuance of interim regulations pursuant to subsection (b)(4) of this section.

(f) QUALIFIED MEDICAL CHILD SUPPORT ORDERS AND NATIONAL MEDICAL SUPPORT NOTICES FOR CHURCH PLANS.—

(1) IN GENERAL.—Each church group health plan shall provide benefits in accordance with the applicable requirements of any qualified medical child support order. A qualified medical child support order with respect to any participant or beneficiary shall be deemed to apply to each such group health plan which has received such order, from which the participant or beneficiary is eligible to receive benefits, and with respect to which the requirements of paragraph (4) are met.

(2) DEFINITIONS.—For purposes of this subsection—

(A) CHURCH GROUP HEALTH PLAN.—The term "church group health plan" means a group health plan which is a church plan.

(B) QUALIFIED MEDICAL CHILD SUPPORT ORDER.—The term "qualified medical child support order" means a medical child support order—

(i) which creates or recognizes the existence of an alternate recipient's right to, or assigns to an alternate recipient the right to, receive benefits for which a participant or beneficiary is eligible under a church group health plan; and

(ii) with respect to which the requirements of paragraphs (3) and (4) are met.

(C) MEDICAL CHILD SUPPORT ORDER.—The term "medical child support order" means any judgment, decree, or order (including approval of a settlement agreement) which—

(i) provides for child support with respect to a child of a participant under a church group health plan or provides for health benefit coverage to such a child, is made pursuant to a State domestic relations law (including a community property law), and relates to benefits under such plan; or

(ii) is made pursuant to a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993) with respect to a church group health plan,

if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law. For purposes of this paragraph, an administrative notice which is issued pursuant to an administrative process referred to in subclause (II) of the preceding sentence and which has the effect of an order described in clause (i) or (ii) of the preceding sentence shall be treated as such an order.

(D) ALTERNATE RECIPIENT.—The term "alternate recipient" means any child of a participant who is recognized under a medical child support order as having a right to enrollment under a church group health plan with respect to such participant.

(E) GROUP HEALTH PLAN.—The term "group health plan" has the meaning provided in section 607(1) of the Employee Retirement Income Security Act of 1974.

(F) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(G) OTHER TERMS.—The terms "participant", "beneficiary", "administrator", and "church plan" shall have the meanings provided such terms, respectively, by paragraphs (7), (8), (16), and (33) of section 3 of the Employee Retirement Income Security Act of 1974.

(3) INFORMATION TO BE INCLUDED IN QUALIFIED ORDER.—A medical child support order meets the requirements of this paragraph only if such order clearly specifies—

(A) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate recipient covered by the order, except that, to the extent provided in the order, the name and mailing address of an official of a State or a political subdivision thereof may be substituted for the mailing address of any such alternate recipient;

(B) a reasonable description of the type of coverage to be provided to each such alternate recipient, or the manner in which such type of coverage is to be determined; and

(C) the period to which such order applies.

(4) RESTRICTION ON NEW TYPES OR FORMS OF BENEFITS.—A medical child support order meets the requirements of this paragraph only if such order does not require a church group health plan to provide any type or form of benefit, or any option, not otherwise provided under the plan, except to the extent necessary to meet the requirements of a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993).

(5) PROCEDURAL REQUIREMENTS.—

(A) TIMELY NOTIFICATIONS AND DETERMINATIONS.—In the case of any medical child support order received by a church group health plan—

(i) the plan administrator shall promptly notify the participant and each alternate recipient of the receipt of such order and the plan's procedures for determining whether medical child support orders are qualified medical child support orders; and

(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified medical child support order and notify the participant and each alternate recipient of such determination.

(B) ESTABLISHMENT OF PROCEDURES FOR DETERMINING QUALIFIED STATUS OF ORDERS.—Each church group health plan shall establish reasonable procedures to determine whether medical child support orders are qualified medical child support orders and to administer the provision of benefits under such qualified orders. Such procedures—

(i) shall be in writing;

(ii) shall provide for the notification of each person specified in a medical child support order as eligible to receive benefits under the plan (at the address included in the medical child support order) of such procedures promptly upon receipt by the plan of the medical child support order; and

(iii) shall permit an alternate recipient to designate a representative for receipt of copies of notices that are sent to the alternate recipient with respect to a medical child support order.

(C) NATIONAL MEDICAL SUPPORT NOTICE DEEMED TO BE A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—

(i) IN GENERAL.—If the plan administrator of any church group health plan which is maintained by the employer of a noncustodial parent of a child or to which such an employer contributes receives an appropriately completed National Medical Support Notice promulgated pursuant to subsection (b) of this section in the case of such child, and the Notice meets the requirements of paragraphs (3) and (4) of this subsection, the Notice shall be deemed to be a qualified medical child support order in the case of such child.

(ii) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a church group health plan who is a noncustodial parent of the child, and the Notice is deemed under clause (i) to be a qualified medical child support order, the plan administrator, within 40 business days after the date of the Notice, shall—

(I) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or any steps necessary to be taken by the custodial parent (or by the official of a State or political subdivision thereof substituted for the name of such child pursuant to paragraph (3)(A)) to effectuate the coverage; and

(II) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as requiring a church group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.

(6) DIRECT PROVISION OF BENEFITS PROVIDED TO ALTERNATE RECIPIENTS.—Any payment for benefits made by a church group health plan pursuant to a medical child support order in reimbursement for expenses paid by an alternate recipient or an alternate recipient's custodial parent or legal guardian shall be made to the alternate recipient or the alternate recipient's custodial parent or legal guardian.

(7) PAYMENT TO STATE OFFICIAL TREATED AS SATISFACTION OF PLAN'S OBLIGATION TO MAKE PAYMENT TO ALTERNATE RECIPIENT.—Payment of benefits by a church group health plan to an official of a State or a political subdivision thereof whose name and address have been substituted for the address of an alternate recipient in a medical child support order, pursuant to paragraph (3)(A), shall be treated, for purposes of this subsection and part D of title IV of the Social Security Act, as payment of benefits to the alternate recipient.

(8) EFFECTIVE DATE.—The provisions of this subsection shall take effect on the date of the issuance of interim regulations pursuant to subsection (b)(4) of this section.

(g) REPORT AND RECOMMENDATIONS REGARDING THE ENFORCEMENT OF QUALIFIED MEDICAL CHILD SUPPORT ORDERS.—Not later than 8 months after the issuance of the report to the Congress pursuant to subsection (a)(5), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to each House of the Congress a report containing recommendations for appropriate legislation to improve the effectiveness of, and enforcement of, qualified medical child support orders under the provisions of subsection (f) of this section and section 609(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)).

(h) TECHNICAL CORRECTIONS.—

(1) AMENDMENT RELATING TO PUBLIC LAW 104-266.—

(A) IN GENERAL.—Subsection (f) of section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of the Act entitled "An Act to repeal the Medicare and Medicaid Coverage Data Bank", approved October 2, 1996 (Public Law 104-226; 110 Stat. 3033).

(2) AMENDMENTS RELATING TO PUBLIC LAW 103-66.—

(A) IN GENERAL.—(i) Section 4301(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 377) is amended by

striking "subsection (b)(7)(D)" and inserting "subsection (b)(7)".

(ii) Section 514(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(7)) is amended by striking "enforced by" and inserting "they apply to".

(iii) Section 609(a)(2)(B)(ii) of such Act (29 U.S.C. 1169(a)(2)(B)(ii)) is amended by striking "enforces" and inserting "is made pursuant to".

(B) CHILD DEFINED.—Section 609(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)) is amended by adding at the end the following:

"(D) CHILD.—The term 'child' includes any child adopted by, or placed for adoption with, a participant of a group health plan.".

(C) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall be effective as if included in the enactment of section 4301(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1993.

(3) AMENDMENT RELATED TO PUBLIC LAW 105-33.—

(A) IN GENERAL.—Section 609(a)(9) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(9)) is amended by striking "the name and address" and inserting "the address".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 5611(b) of the Balanced Budget Act of 1997.

SEC. 402. SAFEGUARD OF NEW EMPLOYEE INFORMATION.

(a) PENALTY FOR UNAUTHORIZED ACCESS, DISCLOSURE, OR USE OF INFORMATION.—Section 453(l) of the Social Security Act (42 U.S.C. 653(l)) is amended—

(1) by striking "Information" and inserting the following:

"(1) IN GENERAL.—Information"; and

(2) by adding at the end the following:

"(2) PENALTY FOR MISUSE OF INFORMATION IN THE NATIONAL DIRECTORY OF NEW HIRES.—The Secretary shall require the imposition of an administrative penalty (up to and including dismissal from employment), and a fine of $1,000, for each act of unauthorized access to, disclosure of, or use of, information in the National Directory of New Hires established under subsection (i) by any officer or employee of the United States who knowingly and willfully violates this paragraph.".

(b) LIMITS ON RETENTION OF DATA IN THE NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(2) of such Act (42 U.S.C. 653(i)(2)) is amended to read as follows:

"(2) DATA ENTRY AND DELETION REQUIREMENTS.—

"(A) IN GENERAL.—Information provided pursuant to section 453A(g)(2) shall be entered into the data base maintained by the National Directory of New Hires within 2 business days after receipt, and shall be deleted from the data base 24 months after the date of entry.

"(B) 12-MONTH LIMIT ON ACCESS TO WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The Secretary shall not have access for child support enforcement purposes to information in the National Directory of New Hires that is provided pursuant to section 453A(g)(2)(B), if 12 months has elapsed since the date the information is so provided and there has not been a match resulting from the use of such information in any information comparison under this subsection.

"(C) RETENTION OF DATA FOR RESEARCH PURPOSES.—Notwithstanding subparagraphs (A) and (B), the Secretary may retain such samples of data entered in the National Directory of New Hires as the Secretary may find necessary to assist in carrying out subsection (j)(5).".

(c) NOTICE OF PURPOSES FOR WHICH WAGE AND SALARY DATA ARE TO BE USED.—Within 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of the specific purposes for which the new hire and the wage and unemployment compensation information in the National Directory of New Hires is to be used. At least 30 days before such information is to be used for a purpose not specified in the notice provided pursuant to the preceding sentence, the Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such purpose.

(d) REPORT BY THE SECRETARY.—Within 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the accuracy of the data maintained by the National Directory of New Hires pursuant to section 453(i) of the Social Security Act, and the effectiveness of the procedures designed to provide for the security of such data.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2000.

SEC. 403. LIMITATIONS ON USE OF TANF FUNDS FOR MATCHING UNDER CERTAIN FEDERAL TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

"(k) LIMITATIONS ON USE OF GRANT FOR MATCHING UNDER CERTAIN FEDERAL TRANSPORTATION PROGRAM.—

"(1) USE LIMITATIONS.—A State to which a grant is made under section 403 may not use any part of the grant to match funds made available under section 3037 of the Transportation Equity for the 21st Century Act of 1998, unless—

"(A) the grant is used for new or expanded transportation services (and not for construction) that benefit individuals described in subparagraph (C), and not to subsidize current operating costs;

"(B) the grant is used to supplement and not supplant other State expenditures on transportation;

"(C) the preponderance of the benefits derived from such use of the grant accrues to individuals who are—

"(i) recipients of assistance under the State program funded under this part;

"(ii) former recipients of such assistance;

"(iii) noncustodial parents who are described in item (aa) or (bb) of section 403(a)(5)(C)(ii)(II); and

"(iv) low income individuals who are at risk of qualifying for such assistance; and

"(D) the services provided through such use of the grant promote the ability of such recipients to engage in work activities (as defined in section 407(d)).

"(2) AMOUNT LIMITATION.—From a grant made to a State under section 403(a), the amount that a State uses to match funds described in paragraph (1) of this subsection shall not exceed the amount (if any) by which 30 percent of the total amount of the grant exceeds the amount (if any) of the grant that is used by the State to carry out any State program described in subsection (d)(1) of this section.

"(3) RULE OF INTERPRETATION.—The provision by a State of a transportation benefit under a program conducted under section 3037 of the Transportation Equity for the 21st Century Act of 1998, to an individual who is not otherwise a recipient of assistance under the State program funded under this part, using funds from a grant made under section 403(a) of this Act, shall not be considered to be the provision of assistance to the individual under the State program funded under this part.".

(b) REPORT TO THE CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, shall submit to the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives and the Committees on Finance and on Environment and Public Works of the Senate a report that—

(1) describes the manner in which funds made available under section 3037 of the Transportation Equity for the 21st Century Act of 1998 have been used;

(2) describes whether such uses of such funds has improved transportation services for low income individuals; and

(3) contains such other relevant information as may be appropriate.

SEC. 404. CLARIFICATION OF MEANING OF HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT IN INTERSTATE CASES.

(a) IN GENERAL.—Section 466(a)(14)(B) of the Social Security Act (42 U.S.C. 666(a)(14)(B)) is amended to read as follows:

"(B) HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT.—In this part, the term 'high-volume automated administrative enforcement', in interstate cases, means, on request of another State, the identification by a State, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other States, and the seizure of such assets by the State, through levy or other appropriate processes.".

(b) RETROACTIVITY.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 5550 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 633).

SEC. 405. GENERAL ACCOUNTING OFFICE REPORTS.

(a) REPORT ON FEASIBILITY OF INSTANT CHECK SYSTEM.—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the feasibility and cost of creating and maintaining a nationwide instant child support order check system under which an employer would be able to determine whether a newly hired employee is required to provide support under a child support order.

(b) REPORT ON IMPLEMENTATION AND USE OF CHILD SUPPORT DATABASES.—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the implementation of the Federal Parent Locater Service (including the Federal Case Registry of Child Support Orders and the National Directory of New Hires) established under section 453 of the Social Security Act (42 U.S.C. 653) and the State Directory of New Hires established under section 453A of such Act (42 U.S.C. 653a). The report shall include a detailed discussion of the purposes for which, and the manner in which, the information maintained in such databases has been used, and an examination as to whether such databases are subject to adequate safeguards to protect the privacy of the individuals with respect to whom information is reported and maintained.

SEC. 406. DATA MATCHING BY MULTISTATE FINANCIAL INSTITUTIONS.

(a) USE OF FEDERAL PARENT LOCATOR SERVICE.—Section 466(a)(17)(A)(i) of the Social Security Act (42 U.S.C. 666(a)(17)(A)(i)) is amended

by inserting "and the Federal Parent Locator Service in the case of financial institutions doing business in 2 or more States," before "a data match system".

(b) FACILITATION OF AGREEMENTS.—Section 452 of such Act (42 U.S.C. 652) is amended by adding at the end the following:

"(l) The Secretary, through the Federal Parent Locator Service, may aid State agencies providing services under State programs operated pursuant to this part and financial institutions doing business in 2 or more States in reaching agreements regarding the receipt from such institutions, and the transfer to the State agencies, of information that may be provided pursuant to section 466(a)(17)(A)(i), except that any State that, as of the date of the enactment of this subsection, is conducting data matches pursuant to section 466(a)(17)(A)(i) shall have until January 1, 2000, to allow the Secretary to obtain such information from such institutions that are operating in the State. For purposes of section 1113(d) of the Right to Financial Privacy Act of 1978, a disclosure pursuant to this subsection shall be considered a disclosure pursuant to a Federal statute.".

(c) PROTECTION AGAINST LIABILITY.—Section 469A(a) of such Act (42 U.S.C. 669a(a)) is amended by inserting ", or for disclosing any such record to the Federal Parent Locator Service pursuant to section 466(a)(17)(A)" before the period.

SEC. 407. ELIMINATION OF UNNECESSARY DATA REPORTING.

(a) IN GENERAL.—Section 469 of the Social Security Act (42 U.S.C. 669) is amended—

(1) by striking all that precedes subsection (c) and inserting the following:

"SEC. 469. COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA.

"(a) IN GENERAL.—With respect to each type of service described in subsection (b), the Secretary shall collect and maintain up-to-date statistics, by State, and on a fiscal year basis, on—

"(1) the number of cases in the caseload of the State agency administering the plan approved under this part in which the service is needed; and

"(2) the number of such cases in which the service has actually been provided.

"(b) TYPES OF SERVICES.—The statistics required by subsection (a) shall be separately stated with respect to paternity establishment services and child support obligation establishment services.

"(c) TYPES OF SERVICE RECIPIENTS.—The statistics required by subsection (a) shall be separately stated with respect to—

"(1) recipients of assistance under a State program funded under part A or of payments or services under a State plan approved under part E; and

"(2) individuals who are not such recipients."; and

(2) in subsection (c), by striking "(c)" and inserting "(d) RULE OF INTERPRETATION.—".

(b) CONFORMING AMENDMENT.—Section 452(a)(10) of such Act (42 U.S.C. 652(a)(10)) is amended—

(1) by adding "and" at the end of subparagraph (H); and

(2) by striking subparagraph (I) and redesignating subparagraph (J) as subparagraph (I).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to information maintained with respect to fiscal year 1995 or any succeeding fiscal year.

SEC. 408. CLARIFICATION OF ELIGIBILITY UNDER WELFARE-TO-WORK PROGRAMS.

Section 403(a)(5)(C)(ii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(ii)) is amended—

(1) in the matter preceding subclause (I) by striking "of minors whose custodial parent is such a recipient";

(2) in subclause (I), by inserting "or the noncustodial parent" after "recipient"; and

(3) in subclause (II), by striking "The individual—" and inserting "The recipient or the minor children of the noncustodial parent—".

SEC. 409. STUDY OF FEASIBILITY OF IMPLEMENTING IMMIGRATION PROVISIONS OF H.R. 3130, AS PASSED BY THE HOUSE OF REPRESENTATIVES ON MARCH 5, 1998.

(a) STUDY.—The Secretary of Health and Human Services, in consultation with the Immigration and Naturalization Service, shall conduct a study to determine the feasibility of the provisions of title V of H.R. 3130, as passed by the House of Representatives on March 5, 1998, were such provisions to become law, especially whether it would be feasible for the Immigration and Naturalization Service to implement effectively the requirements of such provisions.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Secretary of health and Human Services shall submit to the Committees on Ways and Means and on the Judiciary of the House of Representatives and the Committees on Finance and on the Judiciary of the Senate a report on the results of the study required by subsection (a).

SEC. 410. TECHNICAL CORRECTIONS.

(a) Section 413(g)(1) of the Social Security Act (42 U.S.C. 613(g)(1)) is amended by striking "Economic and Educational Opportunities" and inserting "Education and the Workforce".

(b) Section 422(b)(2) of the Social Security Act (42 U.S.C. 622(b)(2)) is amended by striking "under under" and inserting "under".

(c) Section 432(a)(8) of the Social Security Act (42 U.S.C. 632(a)(8)) is amended by adding "; and" at the end.

(d) Section 453(a)(2) of the Social Security Act (42 U.S.C. 653(a)(2)) is amended—

(1) by striking "parentage," and inserting "parentage or";

(2) by striking "or making or enforcing child custody or visitation orders,"; and

(3) in subparagraph (A), by decreasing the indentation of clause (iv) by 2 ems.

(e)(1) Section 5557(b) of the Balanced Budget Act of 1997 (42 U.S.C. 608 note) is amended by adding at the end the following: "The amendment made by section 5536(1)(A) shall not take effect with respect to a State until October 1, 2000, or such earlier date as the State may select.".

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 5557 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 637).

(f) Section 473A(c)(2)(B) of the Social Security Act (42 U.S.C. 673b(c)(2)(B)) is amended—

(1) by striking "November 30, 1997" and inserting "April 30, 1998"; and

(2) by striking "March 1, 1998" and inserting "July 1, 1998".

(g) Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended by striking "(subject to the limitations imposed by subsection (b))".

(h) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a) is amended—

(1) in subsection (b)(3)(D), by striking "Energy and"; and

(2) in subsection (d)(4), by striking "(b)(3)(C)" and inserting "(b)(3)".

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill, insert the following: "An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.".

Mr. ROTH. Mr. President, I rise in support of "The Child Support Performance and Incentive Act of 1998" now before the Senate as amended and urge its immediate adoption.

Today we take another important step forward to help millions of children receive the financial and medical support owed to them by their absent parents. The child support enforcement system involves not only the federal, state, and local governments, but employers, financial institutions, and private sector agents and vendors as well.

By continuing to improve the child support enforcement system, we will help families avoid and escape welfare dependency.

Mr. President, when Congress passed welfare reform nearly two years ago, we sent a clear and unambiguous message that child support is indeed a personal responsibility. It has been with quiet determination that Republican and Democratic members have found common ground and worked together to strengthen and improve the child support enforcement system. The legislation before us today is directed at fulfilling the responsibilities of the states.

The work on this legislation began shortly after the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" was signed into law.

The 1996 welfare reform act required the Secretary of Health and Human Services to recommend to Congress a new, budget-neutral performance-based incentive system for the child support enforcement program. H.R. 3130 incorporates those recommendations which were developed in consultation with 26 representatives of State and local child support enforcement systems. The new incentive program is the centerpiece of this bill.

Under current law, the Federal Government returns more than $400 million per year in child support collections to the States as incentive payments. But this incentive structure has been criticized for years as weak and inadequate.

All States, regardless of actual performance, receive some incentive payments. But for more than a decade, performance has not been tied to the national goals of the program.

H.R. 3130 breaks the past and creates five categories in which State performance will be evaluated and rewarded. The States will be measured according to their performance in paternity establishment, establishment of court orders, collections of current child support payments, collections on past due payments, and cost effectiveness.

The new incentive structure is an important development not only for the child support enforcement system but also as a model for improving accountability and performance in government.

The second major feature of this bill is to provide for an alternative penalty procedure for those States that have failed to meet Federal child support data processing requirements. Less than half of the States have been certified as in compliance. Without this change, States face not only the loss of their entire child support grant, but all of their funds in the Temporary Assistance for Needy Families program as well.

Such a result would obviously be crippling to a State and would ultimately hurt the very families these programs are intended to help. H.R. 3130 provides for a new mechanism under which HHS and the States will map out a strategic plan to meet the Federal requirements. States which do not achieve compliance will face tough but fair penalties.

The alternative penalty procedure is a new tool for both the State and Federal Governments to achieve compliance with Federal requirements in the child support enforcement system. It is not intended to be a means of raising revenue at the expense of the State and potentially at the expense of the very families who rely on this system.

H.R. 3130 also provides additional flexibility to the States in how they design their automated systems. In looking back over the history of automation, we find there were a number of mistakes made at both the Federal and State levels which contributed to the delay in getting these systems operational. The child support enforcement system is a prime example of what can happen when regulations fail to keep pace with real world practices.

H.R. 3130 recognizes the advances in technologies and allows States to take advantage of these improvements. It properly refocuses Federal policy on function and results rather than on rigid rules.

All of these changes will work together to get the States in compliance as quickly as possible. This will mean the child support enforcement system will work better for the families who depend on child support.

Working with the States and employers, a bipartisan effort has yielded a three part approach to eliminate barriers to effective medical support enforcement. More children will no doubt gain access to their noncustodial parents' private health insurance plans because of H.R. 3130. Children and taxpayers alike will benefit from the medical child support provisions.

H.R. 3130 also makes a correction in how penalties are applied under the new "Adoption and Safe Families Act of 1997" which became law last November. It is vitally important that the States be held accountable for assisting the children in foster care.

When Congress passed this legislation last fall, it sent an important message across the country that a child should not be denied the opportunity to be adopted into a loving and caring family simply because the prospective parents live in the next county. The intent of section 202, "Adoptions Across State and County Jurisdictions" is to ensure that States facilitate timely permanent placements for children so their wait in foster care be brief.

A child should not be denied the opportunity to be adopted into a loving and caring family simply because the prospective parents live in the next county.

The intent of P.L. 105–89 clearly is to remove interjurisdictional barriers to adoption. I am deeply concerned about recent reports that some States may in fact be erecting new barriers to families who are seeking to adopt. There are some disturbing reports that some States may be engaging in policies or practices that could create interjurisdictional barriers to adoption such as discontinuance of the registration of waiting families with adoption exchanges outside the State, refusal to share home studies across State lines, and refusal to respond to out-of-State inquiries.

The Secretary should closely monitor any change in State policy or practice which discourages families from seeking to adopt children and take appropriate action if a State is not complying with the law. When the Department of Health and Human Services issues regulations on how the new penalties are enforced, it should of course provide the States with the opportunity to present evidence of how it complies with the new law. The review of this new requirement must be a fair and complete assessment of whether the law is being met.

Mr. President, this is indeed an important, bipartisan bill which will prove itself to pay dividends for Americans' families. I urge its adoption.

I ask unanimous consent that a legislative history be printed in the RECORD to reflect the Senate and House action on H.R. 3130. While there is a cost of $2,009 associated with printing this material, in the RECORD, it is important that our action be clearly explained. Furthermore, this history is in lieu of a conference report which would have been printed in the RECORD, so there is really no additional cost to the taxpayer.

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

LEGISLATIVE HISTORY OF SENATE AND HOUSE AMENDMENTS TO THE CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

TITLE I. CHILD SUPPORT DATA PROCESSING REQUIREMENTS

SEC. 101. ALTERNATIVE PENALTY PROCEDURES

1. Eligibility for alternative penalty procedure

Present law

No provision. Under current law, if a State failed to implement a statewide automated data processing and information retrieval system by October 1, 1997 (which is a child support enforcement State plan requirement), the Office of Child Support Enforcement is required to "disapprove" the State's child support enforcement plan, after an appeals process, and suspend federal funding for the State's child support enforcement program. Moreover, pursuant to title IV–A (Temporary Assistance for Needy Families; TANF), a State that cannot certify that it has an approved Child Support Enforcement plan when it amends its TANF plan (generally every 2 years), is not eligible for TANF block grant funding. Thus, a State that failed to implement a statewide automated data processing and information retrieval system is in eventual jeopardy of losing its TANF block grant allocation along with its federal Chief Support Enforcement funding.

House bill

If the Secretary determines that a State is making good faith efforts to comply with the data processing requirements and if the State submits a corrective compliance plan describing how it will comply, by when, and at what cost, the State may avoid the penalty in current law and qualify for the new penalty procedure outlined below.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

2. Penalty amount

Present law

As noted above, the penalty for noncompliance with a Child Support Enforcement State plan requirement is loss of all federal Child Support Enforcement funding and all TANF funding as well.

House bill

The percentage penalty is 4 percent, 8 percent, 16 percent, and 20 percent respectively for the first, second, third, and fourth or subsequent years of failing to comply with the data processing requirements. The percentage penalty is applied to the amount payable to the State in the previous year as Federal administrative reimbursement under the child support program.

Senate amendment

Same as House bill, except in the fourth or subsequent year, the percentage penalty is 30 percent.

Agreement

The agreement follows the House bill and the Senate amendment with the modification that the percentage penalty is 4, 8, 16, 25, and 30 percent in the first through fifth and subsequent years respectively.

3. Penalty waiver

Present law

No provision.

House bill

If by December 31, 1997, a State has submitted to the Secretary a request that the Secretary certify the State as meeting the 1998 data processing requirements and is subsequently certified as a result of a review pursuant to the request, all penalties are waived.

Senate amendment

If at any time during year 1998, a State has submitted to the Secretary a request that the Secretary certify the State as having met the 1988 data processing requirement and is subsequently certified as a result of a

review pursuant to the request, all penalties are waived.

Agreement

The agreement follows the House bill and the Senate amendment except the State request that the Secretary certify the state as meeting the 1988 data processing requirements must be submitted by August 1, 1998.

4. Partial Penalty Forgiveness

Present law

No provision.

House bill

If a State operating under the penalty procedure achieves compliance with the data processing requirements before the first day of the next fiscal year, then the penalty for the current fiscal year is reduced by 75 percent.

Senate amendment

Under the Senate amendment, States will not face a penalty in the fiscal year in which they come into compliance. Moreover, if a State comes into compliance within the first two years after penalties have been imposed, then the penalty from the prior fiscal year is reduced by 20 percent.

Agreement

The agreement follows the House bill and the Senate amendment with the modifications that there is no retrospective penalty reduction of 20 percent and the penalty reduction in the year of certification is 90 percent. It is expected that the date of certification for a given State will be the date the State informs the Secretary in writing that the State is ready for certification review and the State in fact is certified under that review.

5. Penalty Reduction for Good Performance

Present law

No provision.

House bill

States must comply with all the data processing requirements imposed by the 1996 welfare reform law by October 1, 2000. A State that fails to comply may nonetheless have its annual penalty reduced by 20 percent for each performance measure under the new incentive system (see Title II below) for which it achieves a maximum score. Thus, for example, a State being penalized would have its penalty for a given year reduced by 60 percent if it achieved maximum performance on three of the five performance measures.

Senate enactment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

6. Penalty procedure applies to requirements of 1988 act and 1996 act

Present law

P.L. 104–193 requires that as part of their State child support enforcement plans all States, by October 1, 2000, have in effect a single statewide automated data processing and information retrieval system that meets all of the specified requirements, except that the deadline is extended by one day for each day (if any) by which the Secretary fails to meet the deadline for final regulations on the new data processing requirements (i.e., which is not later than August 22, 1998). The disapproval procedures described above also would apply to these new data processing requirements.

House bill

With the exception of the FY1998 waiver provision, which applies only to the 1988 requirements, and the penalty reduction provision for good performance, which applies only to the 1996 requirements, the new penalty procedure applies to data processing requirements of both the 1988 Family Support Act and the 1996 welfare reform legislation.

Senate enactment

Same as House bill, except the Secretary may only impose a single penalty for any given fiscal year with respect to the establishment or operation of an automated data processing and information retrieval system.

Agreement

The agreement follows the House bill and the Senate amendment with a modification which stipulates that a state may not be penalized for violating the automatic data processing and information retrieval system requirements imposed under Public Law 104–193 if the state is being penalized for violating the automatic data processing requirements of the 1988 Family Support Act. In addition, a State is not subject to more than one penalty at a given time under the data processing requirements of either the 1988 Act or the 1996 Act.

7. Exemption from TANF penalty procedures

Present law

As noted above, States without approved child support enforcement plans are in eventual danger of losing funding for the TANF block grant (which would include supplemental and bonus TANF funding and funding for the Welfare-to-Work program).

The TANF penalty for a State which the Secretary finds has not complied with one or more of the child support enforcement program requirements and has failed to take sufficient corrective action to achieve the appropriate performance level or compliance is subject to a graduated penalty of TANF block grant funds equal to not less than 1% nor more than 2% for the first finding of noncompliance; not less than 2% nor more than 3% for the second consecutive finding of noncompliance; and not less than 3% nor more than 5% for the third or subsequent finding of noncompliance.

House bill

No provision.

Senate amendment

Because States are subject to the penalty procedure outlined above for violations of the data processing requirement, they are exempt from the TANF penalty procedure for such violations.

Agreement

The agreement follows the Senate amendment. In addition the Social Security Act is amended to clarify that TANF money used as matching funds for grants under section 3037 of the Transportation Equity for the 21st Century Act of 1998 can only be spent on the transportation needs of families eligible for TANF benefits and other low-income families. TANF funds used to provide transportation services under section 3037 grants are not considered assistance for purposes of the TANF program.

SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT

8. Expansion of waiver provision

Present law

Current law states that the Secretary of the Department of Health and Human Services may waive any requirement related to the advance planning automated data processing document or the automated data processing and information retrieval system if the State demonstrates to the Secretary's satisfaction that the State has an alternative system or systems that enable the State to be in substantial compliance with other requirements of the child support enforcement program. The waiver must also meet the following conditions: (1) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support enforcement program, (2) may not permit modifications in the child support enforcement program which would have the effect of disadvantaging children in need of support, and (3) must not result in increased cost to the Federal Government under the TANF program; or the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program.

House bill

The authority of the Secretary to waive certain data processing requirements and to provide Federal funding for a wider range of State data system activities is expanded to include waiving the single statewide system requirement under certain conditions and providing Federal funds to develop and enhance local systems linked to State systems. To qualify, a State must demonstrate that it can develop an alternative system that: Can help the State meet the paternity establishment requirement and other performance measures; can submit required data to HHS that is complete and reliable; substantially complies with all requirements of the child support enforcement program; achieves all the functional capacity for automatic data processing outlined in the statute; meets the requirements for distributing collections to families and governments, including cases in which support is owed to more than one family or more than one government; has one and only one point of contact for interstate case processing and intrastate case management; is based on standardized data elements, forms, and definitions that are used throughout the State; can be operational in no more time than it would take to achieve an operational single statewide system; and can process child support cases as quickly, efficiently, and effectively as would be possible with a single statewide system.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

9. Federal payments under waiver provision

Present law

To be approved for a waiver, a State must demonstrate that the proposed project: (1) is designed to improve the financial well-being of children or otherwise improve the operation of the child support program; (2) does not permit modifications in the child support program that would have the effect of disadvantaging children in need of support; and (3) does not result in increased cost to the Federal government under the TANF program.

House bill

In addition to the various waiver requirements described in provision #8 above, and to the requirements in current law, the State must submit to the Secretary separate estimates of the costs to develop and implement both a single statewide system and the alternative system being proposed by the State plus the costs of operating and maintaining these systems for 5 years from the date of

implementation. The Secretary must agree with the estimates. If a State elects to operate such an alternative system, the State would be paid the 66 percent federal administrative reimbursement only on expenditures equal to the estimated cost of the single statewide system.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

TITLE II. CHILD SUPPORT INCENTIVE SYSTEM

SEC. 201. INCENTIVE PAYMENTS TO STATES

1. Amount of incentive payments

Present law

Each State receives an incentive payment equal to at least 6 percent of the State's total amount of child support collected on behalf of TANF families for the year, plus at least 6 percent of the State's total amount of child support collected on behalf of non-TANF families for the year. [Note: P.L. 98-378, the Child Support Enforcement Amendments of 1984, stipulates that political subdivisions of a State that participate in the costs of support enforcement must receive an appropriate share of any incentive payment given to the State. P.L. 98-378 also requires States to develop criteria for passing through incentives to localities, taking into account the efficiency and effectiveness of local programs.]

House bill

The incentive payment for a State for a given year is calculated by multiplying the incentive payment pool for the year by the State's incentive payment share for the year.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

2. Incentive payment pool

Present law

No provision.

House bill

The incentive payment pool is equal to the CBO estimate of incentive payments for each year under current law. Specifically, the amounts (in millions) for fiscal years 2000 through 2008 respectively are: $422, $429, $450, $461, $454, $446, $458, $471 and $483. Specifying these amounts in the statute assures that the incentive payments will be budget neutral. After 2008, the incentive payment pool increases each year by an amount equal to the rate of inflation.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

3. Calculating incentive payments

Present law

The maximum incentive payment for a State could reach a high of 10 percent of child support collected on behalf of TANF families plus 10 percent of child support collected on behalf of non-TANF families. There is a limit, however, on the incentive payment for non-TANF child support collections. The incentive payments for such collections may not exceed 115 percent of incentive payments for TANF child support collections.

House bill

In addition to the incentive payment pool, incentive calculations are based on the five factors defined below. The general approach is to pay to each State its share of the incentive payment pool based on the quality of its performance on the five incentive performance measures. The five computational factors are:

(1) State collections base is used to ensure that incentive payments are proportional to the amount of child support collected by the State; collections for welfare cases are given double the weight of collections for nonwelfare cases in the calculations;

(2) Maximum incentive base amount is simply a device to give extra weight to three of the five incentive performance measures because these measures are thought to be more important to State performance. Specifically, paternity establishment, establishment of support orders, and collections on current support receive full weight in the calculations, while collections on past-due support and the cost-effectiveness performance level receive a weight of only 75 percent of the other three measures;

(3) Applicable percentage is the actual measure of performance effectiveness and is determined by looking up the raw performance level in a table; there is a different table for each of the five performance measures (see below);

(4) Incentive base amount is the total of the applicable percentages for each of the five performance measures multiplied by their respective maximum incentive base amounts (either 1.00 or 0.75);

(5) State incentive payment share is a percentage calculated by using the four factors defined above. This measure specifies the percentage share of the annual payment pool that each State receives. The State incentive payment share takes into account the State's performance on all five incentive performance measures, the weighting of the five incentive performance measures, its collections in the TANF and non-TANF caseloads, and its performance relative to other States.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

4. Data used to calculate ratios required to be complete and reliable

Present law

No provision.

House bill

The payment on each of the five performance measures is zero unless the Secretary determines that the data submitted by the State for each measure is complete and reliable.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

5. State collections base

Present law

Although the collections base terminology is not used, the incentive payment is based on total child support collected on behalf of TANF families (i.e., TANF collections) plus total child support collected on behalf of non-TANF families (i.e., non-TANF collections).

House bill

The collections base for a fiscal year is the sum of two categories of child support collections by the State. The first category is collections on cases in the State child support welfare caseload. This category includes families that are currently or were formerly receiving benefits from TANF (or its predecessor program Aid to Families with Dependent Children), from Medicaid under Title XIX, or from foster care under Title IV-E. Total collections from this category are doubled in the State collections base calculation. The second category is collections from all other families receiving services from the State child support enforcement program.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

6. Determination of applicable percentages for paternity establishment performance level

Present law

No provision.

House bill

The paternity establishment performance level for a State for a fiscal year is, at the option of the State, either the paternity establishment percentage of cases in the child support program or the paternity establishment percentage of all births in the State. In both cases, the paternity establishment percentage is obtained by dividing the cases in which paternity is established by the total number of nonmarital births. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(A) of the Social Security Act (see Table 1 below).

Special rule for computing the applicable percentage for paternity establishment: If the paternity establishment performance level of a State is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State paternity establishment performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

7. Determination of applicable percentages for child support order performance level

Present law

No provision.

House bill

The support order performance level for a State for a fiscal year is the percentage of cases in the child support program for which there is a support order. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(B) of the Social Security Act (see Table 2 below).

Special rule for computing the applicable percentage for child support orders: If the support order performance level of a State is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State's support order performance level is 50 percent.

Senate amendment

Same

Agreement

The agreement follows the House bill and the Senate amendment.

8. Determination of applicable percentages for collections on current child support due performance level

Present law

No provision.

House bill

The current support payment performance level for a State for a fiscal year is the total amount of current support collected during the fiscal year from all cases in the child support program (both welfare and non-welfare cases) divided by the total amount owed on support which is not overdue. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(C) of the Social Security Act (see Table 3 below).

Special rule for computing the applicable percentage for current payments: If the current payment performance level is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State's current payment performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

9. Determination of applicable percentages for collections on child support arrearages performance level

Present law

No provision.

House bill

The arrearages payment performance level for a State for a fiscal year is the total number of cases in the State child support program that received payments on past-due child support divided by the total number of cases in the State child support program in which a payment of child support is past-due. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(D) of the Social Security Act (see Table 4 below).

Special rule for computing the applicable percentage for arrears: If the arrearages payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arreages payment performance level for the immediately preceding fiscal year, then the applicable percentage for the State's arrearages performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

10. Determination of applicable percentages for cost-effectiveness performance level

Present law

Incentive payments are made according to the collection-to-cost ratios (ratio of TANF collections to total child support enforcement administrative costs and ratio of non-TANF collections to total child support enforcement administrative costs) shown below.

Collection-to-cost ratio:	*Incentive payment received (percent)*
Less than 1.4 to 1	6.0
At least 1.4 to 1	6.5
At least 1.6 to 1	7.0
At least 1.8 to 1	7.5
At least 2.0 to 1	8.0
At least 2.2 to 1	8.5
At least 2.4 to 1	9.0
At least 2.6 to 1	9.5
At least 2.8 to 1	10.0

For purposes of calculating these ratios, interstate collections are credited to both the initiating and responding States. In addition, at State option, laboratory costs (for blood testing, etc.) to establish paternity may be excluded from the State's administrative costs in calculating the State's collection-to-cost ratios for purposes of determining the incentive payment.

House bill

The cost-effectiveness performance level for a State for a fiscal year is the total amount collected during the fiscal year from all cases in the State child support program divided by the total amount expended during the fiscal year on the State child support program. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(E) of the Social Security Act (see Table 5 below).

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

11. Treatment of interstate collections.

Present law

As noted above, in computing incentive payments, child support collected by one State at the request of another State (i.e., interstate collections) are credited to both the initiating State and the responding State. State expenditures on special interstate projects carried out under section 455(e) of the Social Security Act must be excluded from the incentive payment calculation.

House bill

In computing incentive payments, support collected by a State at the request of another State is treated as having been collected by both States. State expenditures on a special interstate project carried out under section 455(e) are excluded from incentive payment calculations.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

12. Administrative provisions

Present law

The Secretary's incentive payments to States for any fiscal year are estimated at or before the beginning of such year based on the best information available. The Secretary makes such payments on a quarterly basis. Each quarterly payment must be reduced or increased to the extent of overpayments or underpayments for prior periods.

House bill

The Secretary's incentive payments to States are based on estimates computed from previous performance by the States. Each year, the Secretary must make quarterly payments based on these estimates. Each quarterly payment must be reduced or increased to the extent of overpayments or underpayments for prior periods.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

13. Regulations

Present law

Not applicable.

House bill

The Secretary of Health and Human Services must prescribe regulations necessary to implement the incentive payment program within 9 months of the date of enactment. These regulations may include directions for excluding certain closed cases and cases over which the State has no jurisdiction.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

14. Reinvestment

Present law

No provision.

House bill

States must spend their child support incentive payments to carry out their child support enforcement program or to conduct activities approved by the Secretary which may contribute to improving the effectiveness or efficiency of the State child support enforcement program.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

15. Transition rule

Present law

Not applicable.

House bill

The new incentive system is phased in over 2 years beginning in fiscal year 2000. In fiscal year 2000, 1/3rd of each State's incentive payment is based on the new incentive system and 2/3rds on the old system. In fiscal year 2001, 2/3rds of each State's incentive payment is based on the new incentive system and 1/3rd on the old system. The new system is fully operational in fiscal year 2002.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

16. Review

Present law

No provision.

House bill

The Secretary of Health and Human Services must conduct a study of the implementation of the incentive payment program in order to identify problems and successes of the program. An interim report must be presented to Congress not later than March 1, 2001. By October 1, 2003, the Secretary must submit a final report. Recommendations for changes that the Secretary determines would improve program operation should be included in the final report.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

17. Study

Present law

No provision.

House bill

The Secretary, in consultation with State IV–D directors and representatives of children potentially eligible for medical support,

must develop a new medical support incentive measure based on effective performance. A report on this new incentive measure must be submitted to Congress not later than October 1, 1999.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

18. Technical and conforming amendments

Present law

No provision.

House bill

This section contains two technical and conforming amendments.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

19. Elimination of current incentive program

Present law

No provision. (The current incentive payment system is a permanent provision of law.)

House bill

The current incentive program under section 458 of the Social Security Act is repealed on October 1, 2001. On that date, section 458A is redesignated as section 458.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

20. General effective date

Present law

The current incentive payment system took effect on October 1, 1985.

House bill

Except for the elimination of the current incentive program (see provision #19 above), the amendments made by this legislation take effect on October 1, 1999.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

TITLE III. ADOPTION PROVISIONS

SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION

Present law

Under section 474(e) of the Social Security Act (as established by P.L. 105–89), a State is not eligible for any foster care or adoption assistance payments under Title IV–E if the Secretary finds that the State has denied or delayed a child's adoptive placement when an approved family is available outside the jurisdiction with responsibility for handling the child's case, or the State has failed to grant an opportunity for a fair hearing to anyone who alleges that a violation of this provision was denied by the State or not acted upon promptly.

House bill

The current penalty of losing all Federal Title IV–E funds for violating the jurisdictional provision is dropped and a new penalty is substituted. Under the new penalty, States that violate the adoption provision would receive a penalty equal to 2 percent of the Federal funds for foster care and adoption under Title IV–E of the Social Security Act for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment. The intent of a major provision of the Adoption and Safe Families Act of 1997 is to remove interjurisdictional barriers to adoption to ensure that States facilitate timely permanent placements for children. Any State policy or practice that denies a child the opportunity to be adopted across State or county jurisdictions is in clear violation of the Act. The Department of Health and Human Services must develop a comprehensive monitoring strategy to uncover state violations. The new penalties for violating the interjurisdictional provision are aimed at enforcing State plan violations by reducing for a fiscal quarter the amount of money payable to the State by 2 percent for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations. Congress expects the Secretary to carefully monitor changes in State policy on interjurisdictional barriers and to use the new penalties enacted by Congress if necessary.

The Adoption and Safe Families Act of 1997 does not prevent a State from making efforts to preserve or reunify a family in cases of aggravated circumstances, as long as the child's health and safety are the paramount considerations. In addition, the Adoption and Safe Families Act of 1997 establishes a new requirement that States must initiate termination of parental rights proceedings in specific cases that are outlined in the law. However, the law only requires States to initiate such proceedings and does not mandate the outcome. Moreover, the law provides that States are not required to initiate termination of parental rights in certain cases, including when there is a compelling reason to conclude that such proceedings would not be in the child's best interest. Thus, the State retains the discretion to make case-by-case determinations regarding whether to seek termination of parental rights.

TITLE IV. TECHNICAL CORRECTIONS

SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE ESTABLISHMENT AND ENFORCEMENT OF MEDICAL CHILD SUPPORT

Present law

P.L. 104–193 required Employee Retirement Income Security Act (ERISA) plan administrators to honor health insurance orders (i.e. medical support orders) issued by courts or administrative agencies. It appears that many ERISA plan administrators interpreted the statutory language as requiring the actual receipt of a copy of the order itself. Since it is the practice of many CSE agencies to simply notify the ERISA plan administrator that an order has been issued for a case, many plan administrators did not recognize the administrative notice as sufficient to meet the requirements of current law. Currently only 60% of all national child support orders include a medical support component. In its 1996 review of state child support enforcement programs, GAO reported that at least 13 states were not consistently petitioning to include medical support in its general support orders, and 20 states were not enforcing existing medical support orders.

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretaries of the Departments of Health and Human Services and Labor to design and implement a National Standardized Medical Support Notice. Proposed regulations would be required no later than 180 days after the date of enactment, and final regulations no later than 1 year after the Date of enactment. State child support enforcement agencies would be required to use this standardized form to communicate the issuance of a medical support order, and employers would be required to accept the form as a "qualified medical support order" under the Employee Retirement Income Security Act (ERISA). The Secretaries would jointly establish a medical support working group, not later than 90 days after the date of enactment, to identify and make recommendations for the removal of other barriers to effective medical support. The working group's report on recommendations for appropriate measures to address the impediments to effective enforcement of medical support is due to the Secretary of Health and Human Services, and the Congress, no later than 18 months after the date of enactment. The Secretary of Labor, in consultation with the Secretary of Health and Human Services, would be required to submit to Congress, not later than one year after the date of enactment of this bill, a report containing recommendations for any additional ERISA changes necessary to improve medical support enforcement.

Agreement

Medical child support is an essential part of any general child support order because it ensures a child will have access to quality private health care coverage to which she or he would not have access even if available to the noncustodial parent through the employer at reasonable costs. It also prevents the misuse of Federal programs such as Medicaid and the State Children's Health Insurance Program as a backdoor alternative for parents who shirk their medical child support responsibilities. Although ERISA already requires that employers enforce medical child support orders if those orders meet certain criteria laid out in that statute (which qualifies them as *Qualified Medical Child Support Orders or QMSCOs)*, effective enforcement of medical child support is still thwarted by (1) a lack of standardized communication between the state child support enforcement agencies, parents' employers, and the plan administrators of parents' health insurance plans and (2) uniform process for enforcement. Streamlining the medical support process for ERISA plans and non-ERISA plans alike is essential to ensure that all children receive the medical support for which they are eligible and to which they are entitled.

The agreement follows the Senate provision on medical support with changes. The agreement requires that the Medical Child Support Working Group be established within 60 days after the date of enactment. It is expected that representatives of states, employers, advocacy groups, IV–D agencies and associations, experts in ERISA, and others who must administer this process be invited to participate in the working group. The working group is required to submit its recommendations for appropriate measures to address the impediments to effective enforcement of medical support as well as recommendations on other issues as specified in the statute, to the Secretaries of Health and Human Services and Labor no later than 18 months after the date of enactment. The

Secretary of HHS should use its child support technical assistance budget for special projects (per Section 452(j) of the Title IV–D program under the Social Security Act (42 U.S.C. 652(j) as authorized by Section 354(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) to hire an outside facilitator to moderate and staff Workgroup proceedings. The Secretaries are required to submit their joint report to Congress no later than 2 months after they receive the recommendations of the working group.

In general, the agreement would follow the Senate provision with respect to the development and promulgation by regulation of a National Medical Support Notice to be issued by the States as a means of ensuring that the medical support provisions in a child support order are properly carried out. States' use of the National Medical Support Notice will ensure enrollment of the child in available health care coverage, as appropriate. The National Medical Support Notice (1) is to conform to the provisions specified in section 609(a)(3) of ERISA (irrespective of whether the group health plan is covered by reason of section 4 of such Act), and (2) is to include a separate and easily severable employer withholding notice (which can be made severable in any reasonable manner and not limited to perforated paper). Interim regulations for the National Medical Support Notice would be required within 10 months of the date of enactment, and final regulations no later than 1 year after the issuance of the interim regulations.

The agreement requires State Child Support Enforcement agencies to use the National Medical Support Notice to transfer notice of provision of health care coverage for the child to the non-custodial parent's employer (unless alternative coverage is allowed for in any order of the court or other entity issuing the order). The employer is then required, within 20 business days, to send the national notice, excluding the employer withholding notice, to the appropriate plan providing health care coverage for which the child is eligible. The employer withholding notice is also to inform the employer of applicable provisions of state law (and related information) requiring the employer to withhold any employee contributions due as may be required to enroll the child under such plan.

The agreement requires all plan administrators who receive an appropriately completed National Medical Support Notice to comply with such notice. The plan administrator is then to report back to the State within 40 business days of the date of the Notice whether coverage is available, whether the child is covered and the date of coverage, and if the child is not covered and coverage is available, any steps needed to enroll the child under the plan. The agreement also requires the plan administrator to provide to the custodial parent (or substituted official) any forms or documents (including any health care cards and claim forms) necessary to enroll the child in coverage and ensure access to such coverage. Nothing in this provision is to be construed as requiring a covered group health plan to provide benefits (or eligibility for such benefits) which are not otherwise provided under the terms of the plan.

It is expected that federal plans will also comply with these requirements.

The agreement also applies the requirements of the National Medical Support Notice to certain other plans that are not covered under section 609 of ERISA.

SEC. 402. SAFEGUARD OF NEW EMPLOYEE INFORMATION

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would impose a fine of $1,000 for each act of unauthorized access to, disclosure of, or use of information in the National Directory of New Hires. It would also require that data entered into the National Directory of New Hires be deleted 24 months after the date of entry for individuals who have a child support order. For an individual who does not have a child support order, the data would be required to be deleted after 12 months.

Agreement

The agreement follows the Senate amendment with modifications. The $1,000 fine is retained and the Social Security Administration (SSA), which maintains the New Hires data base under contract with HHS, must delete the New Hire and wage and unemployment compensation data within 24 months after receipt. However, HHS will not have access to the wage and unemployment compensation data after 12 months for individuals who have not been found to have a child support order. The Secretary may retain data on a sample of cases for research purposes. In addition, the Secretary must inform Congress within 90 days after enactment of the purposes for which the New Hire and wage and unemployment compensation data will be used. The Secretary must also inform Congress at least 30 days before the data is to be used for a purpose not specified in the original report. Within 3 years after enactment, the Secretary must report to Congress on the accuracy of New Hire data and the effectiveness of the procedures designed to safeguard the New Hire information.

SEC. 403. CONFORMING AMENDMENTS REGARDING THE COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR THE PURPOSES OF CHILD SUPPORT ENFORCEMENT

Present law

Federal law (section 205(c)(2)(C) allows any State (or subdivision of the State) to use Social Security account numbers in the administration of any tax, public assistance, driver's license, or motor vehicle registration laws within its jurisdiction to identify individuals affected by such laws.

House bill

No provision.

Senate amendment

The Senate amendment revises the current statute to reflect the social security numbers also must be used by the agencies administering the renewal of professional licenses, driver's licenses, occupational licenses, or recreational licenses to respond to requests for information from Child Support Enforcement agencies; and that all divorce decrees, support orders, paternity determinations and paternity acknowledgments must include the social security number of the applicable individuals for the purpose of responding to requests for information from Child Support Enforcement agencies.

Agreement

The agreement follows the House bill; i.e., no provision.

SEC. 404. CLARIFICATION OF DEFINITION REGARDING HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT

Present law

Federal law (section 466(a)(14) of the Social Security Act, as amended by section 5550 of P.L. 105–33) requires States to conduct "high-volume automated administrative enforcement," to the same extent as used for intrastate cases, in response to a request made by another state to enforce a child support order and promptly report the results of such enforcement procedures to the requesting state. Federal law also defines "high-volume automated administrative enforcement."

House bill

No provision.

Senate amendment

The Senate amendment eliminates the definition of "high-volume automated administrative enforcement" from the statute.

Agreement

The agreement replaces the definition of "high-volume automated administrative enforcement" in current law with a clearer definition. The new definition requires states, upon request from another state in an interstate case, to use automated data matches with financial institutions and other entities to locate the obligor's assets and, when assets are discovered, to seize these asset through levy or other appropriate process. The agreement also includes a provision allowing the Secretary, through the Federal Parent Locator Service, to help States work with financial institutions doing business in 2 or more states. The Secretary may send identifying information to such financial institutions on all individuals who owe past-due child support in any state. The financial institutions will then transmit back to the Secretary the identifying information on individuals who owe past-due support for whom they have accounts; the Secretary will transmit this information back to the state that submitted the identifying information. The State will take appropriate actions to seize the assets. This provision does not allow the Secretary to have access to any financial information on individuals holding accounts in these financial institutions. Multi-state financial institutions that respond to requests for information from the Secretary are not expected to respond to such requests from any state for which they have accepted information from the Secretary. However, states that now conduct these data matches with financial institutions that do business in 2 or more states may continue such procedures until January 1, 2000. This provision is not intended to prohibit a State from requiring any financial institution doing business in the State to report account information directly to the State for purposes other than child support enforcement. Financial institutions that provide identifying information to the Secretary or seize assets at the request of States are not liable under State or Federal law for such actions.

SEC. 405. GENERAL ACCOUNTING OFFICE REPORTS

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would require the Comptroller General of the United States (i.e., the General Accounting Office) to report to Congress, no later than December 31,

1998, on the feasibility of implementing an instant check system for employers to use in identifying individuals with child support orders. The report is to include a review of the use of the Federal Parent Locator Service, including the Federal Case Registry of Child Support Orders and the National Directory of New Hires, and the adequacy of the privacy protections.

Agreement

The agreement follows the Senate amendment.

SEC. 406. TECHNICAL CORRECTIONS (THIS PROVISION IS SECTION 401 OF THE HOUSE BILL)

Present law

Under section 473A of the Social Security Act (as established by P.L. 105–89), States may receive financial incentives for increasing their number of adoptions of foster children, above an annual base level. In determining the base levels for each State, the Secretary will use data from the Adoption and Foster Care Analysis and Reporting System (AFCARS). However, in determining the base levels for fiscal years 1995 through 1997, the Secretary may use alternative data sources, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

Under Section 466(a)(13) of the Social Security Act (as established by P.L. 104–193 and amended by P.L. 105–33), states must have procedures requiring that the social security number of an applicant for a professional license, driver's license, occupational license, recreational, or marriage license be recorded on the application. In addition, the social security number of a person subject to a divorce decree, support order, or paternity determination or acknowledgment must be placed in the records relating to the matter. Also social security numbers must be recorded on death certificates. The statute permits the state to use a number other than the social security number in some cases. If a state chooses this option, it must still keep the social security number of the applicant on file.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required States to collect social security numbers on applications for State licenses for purposes of checking the identity of immigrants by October 1, 2000.

House bill

The current law on alternative data sources to calculate the adoption incentive amount only allowed the use of data reported by States by November 30, 1997 and approved by the Secretary by March 1, 1998. The new provision provides States with an additional 5 months to report data (until April 30, 1998) and the Secretary with an additional 4 months to approve the data (until July 1, 1998).

The House bill changes the January 1, 1998 date in the 1996 welfare reform law pertaining to State licenses to October 1, 2000, or such earlier date as the State selects.

Senate amendment

Same.

Agreement

The Agreement follows the House bill and the Senate amendment with some additional technical amendments. The State data reporting on child support enforcement required under section 469 of the Social Security Act is simplified. The provision on eligibility for services in the Welfare-to-Work program authorized by section 403(a)(5) of the Social Security Act is clarified by allowing states to provide services to noncustodial parents of children who meet the qualifications for benefits under the program. Two sections of the Child Support Enforcement statute at Title IV–D of the Social Security Act regarding the use of the Federal Parent Locator Service (FPLS) are clarified. Language on use of the FPLS for making or enforcing child custody or visitation orders is removed from section 453 where it had been placed inadvertently by legislation enacted in 1997. The language on use of the FPLS in cases of parental kidnaping, child custody, or parental visitation is located in section 463. This statute requires States to receive and transmit to the Secretary requests from authorized persons (State agents, attorneys, or courts). The provisions of section 463, which carefully balance the rights of children, custodial parents, and noncustodial parents, are intended to ensure that the FPLS is used in an even-handed fashion to assist both parents in achieving access to their children under appropriate circumstances. States must honor the requests of noncustodial parents to have access, through local courts, to information in the FPLS if the procedures of section 463 are followed.

TITLE V. IMMIGRATION PROVISIONS

SEC. 501. ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT

Present law

No comparable provision. The Immigration and Nationality Act (INA) enumerates a number of reasons why an alien may be ineligible to receive visas and excluded from admission, including the likelihood of becoming a public charge, but failure to pay child support is not among them.

House bill

Amends the INA to makes inadmissible any alien legally obligated to pay child support whose failure to pay has resulted in an arrearage exceeding $5,000, until child support payments are made or the alien is in compliance with an approved payment agreement. Extends applicability to aliens previously admitted for permanent residence (i.e., as immigrants) who are seeking readmission. Authorizes the Attorney General to waive inadmissibility in a given case if he or she: (1) has received a waiver request from the court or administrative agency with jurisdiction over the child support case; and (2) determines that granting the waiver would substantially increase the likelihood that past and future child support payments would be made.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment except that the Secretary of HHS is required to write a report, after consulting with the Immigration and Naturalization Service (INS), on the feasibility of enacting the provision on child support enforcement against aliens in the House bill. The report, which must be delivered to Congress within 6 months of enactment, must include an assessment of whether the INS can effectively implement the requirements of the House provision.

SEC. 502. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON ESTABLISHMENT OF GOOD MORAL CHARACTER

Present law

No comparable provision in the reasons given in the INA for a determination that an alien is not a person of good moral character; such a determination is necessary for an immigrant to naturalize.

House bill

Amends the INA to preclude a finding of good moral character, and thus naturalization, if a person obligated to pay child support has failed to do so, with the opportunity to overcome this either by meeting the child support obligation or complying with an approved payment agreement.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment; i.e., no provision

SEC. 503. AUTHORIZATION TO SERVE LEGAL PROCESS IN CHILD SUPPORT CASES ON CERTAIN ARRIVING ALIENS

Present law

No comparable provision among the functions Immigration and Naturalization Service (INS) officers are authorized by the INA to perform during the inspections process.

House bill

Amends the INA to authorize INS officers, to the extent consistent with state law, to serve an applicant for admission with a writ, order, or summons in a child support case.

Senate amendment

No provision.

Agreement

The agreement follows the Senate Amendment; i.e., no provision.

SEC. 504. AUTHORIZATION TO OBTAIN INFORMATION ON CHILD SUPPORT PAYMENTS BY ALIENS

Present law

No comparable provision.

House bill

Amends the Social Security Act to authorize the Secretary of HHS to respond to requests by the Attorney General or the Secretary of State with information which, in the opinion of the HHS Secretary, may aid them in determining whether an alien owes child support.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment; i.e., no provision.

TABLE 1

If the paternity establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62

TABLE 1—Continued

If the paternity establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
51	52	61
50	51	60
0	50	0

TABLE 2

If the support order establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
0	50	0

TABLE 3

If the current payment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
49	50	59
48	49	58
47	48	57
46	47	56
45	46	55
44	45	54
43	44	53
42	43	52
41	42	51
40	41	50
0	40	0

TABLE 4

If the arrearage payment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100

TABLE 4—Continued

If the arrearage payment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
49	50	59
48	49	58
47	48	57
46	47	56
45	46	55
44	45	54
43	44	53
42	43	52
41	42	51
40	41	50
0	40	0

TABLE 5

If the cost effectiveness performance level is—		The applicable percentage is
At least	But less than	
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0

Mr. GRASSLEY. It has come to my attention that some States are engaging in policies or practices that could create interjurisdictional barriers to adoption, such as discontinuance of the registration of waiting families with adoption exchanges outside the State, refusal to share home studies across State lines, and refusal to respond to out-of-state inquiries. The Adoption and Safe Families Act (P.L. 105–89), enacted last year, explicitly established that States shall not take any action that would deny or delay a child's adoption when an approved family is available outside the child's jurisdiction. In light of these recent reports, I urge the Department of Health and Human Services to closely monitor State policy and practice with regard to interstate adoptions to determine compliance with the new law, to immediately report any change of policy or practice in this area to the States, and to impose the full penalty on States which are out of compliance.

I have been told by some organizations which represent the States' interests that they consider Sec. 202 of Public Law 105–89 to be ambiguous and that the Adoption and Safe Families Act did not necessarily prohibit creating barriers to adoption. Let me make this very clear, while the Adoption and Safe Families Act does not specifically declare that States shall not create barriers to adoption, Congresssional intent is clear that any action that delays an adoption, when an approved family is available, would be a violation of the law. Thus, policies that might result in such delays would be inconsistent with the law's intent. Particularly when viewed in the context of the entire Adoption and Safe Families Act, which is designed to promote and expedite adoptions, there can be no confusion about Congressional intent. In addition, this requirement is not inconsistent with other provisions in federal child welfare law that require States to recruit a diverse pool of potentially adoptive families, nor should it discourage States from developing adoptive families within their own borders. The overall goal is to place children for adoption with approved families without any unnecessary delay. Simply put, the law establishes that States shall not discriminate in adoptive placements on the basis of geography.

Let me give you examples of created barriers: any refusal to return phone calls from outside the agency's jurisdiction; the suggestion that agencies have a property right which permits them to withhold a homestudy from a preadoptive family; the imposition of conditions on families from outside the jurisdiction which are different in quantity or quality from conditions imposed on families within the jurisdiction; or, the refusal to accept home studies performed by duly licensed social workers from another jurisdiction without good cause to believe those social workers are dishonest or incompetent.

We have a national crisis on our hands. Thousands of children are waiting for families to adopt them. If we don't recognize this, children will continue to live out their childhoods in foster care. Territory and turf should not come between waiting children and adoptive families. Any barrier created to deny or delay an adoptive placement is an injustice. Although States can spend hundreds of dollars recruiting adoptive families, they need to remember, they do not own these families. Their recruitment efforts contribute to a national recruitment effort for the nation's waiting children, not just their State's children. I recognize that many states are pulling out all the stops for kids. But they cannot do all the work. We all must do everything we can to ensure that children are united with loving, nurturing families, and we cannot let geography get in the way.

Mr. ROCKEFELLER. Mr. President, I am pleased to join my colleagues in support of the Child Support Performance and Incentive Act of 1998. It is my

firm belief that this legislation will significantly improve the financial stability, health and well-being of millions of American children. My most sincere thanks to Senators SNOWE, KERRY, JEFFORDS and DODD, who cosponsored the Child Support Performance Improvement Act of 1997, the bill that laid much of the groundwork for this legislation in the Senate. I would like to thank Senator JIM JEFFORDS in particular for his help in securing the inclusion of vital medical child support enforcement provisions in this legislation. I would also like to express my appreciation to my colleagues Senators TED KENNEDY and DAN COATS for their unwavering commitment to children and for their work on securing better medical child support enforcement.

There is no doubt that child support penalties and incentives payments simply do not generate the flash and natural interest that other children's issues do. The Child Support Performance and Incentive Act of 1998 addresses some very complicated financing formulas, complex interactions between the Federal government and state child support enforcement agencies and hidden budget implications. Despite its plain wrapping, however, effective child support enforcement is one of the most important roles the Federal government plays in facilitating a real continuum of quality benefits and services for children in this country.

In my role as Governor of West Virginia and later as Senator and Chairman of the National Commission on Children, my ultimate goal has always been the same: to make sure that all children receive the specialized supports necessary to address a wide range of financial, emotional and medical needs. Child support is one of the most vital sources of support for millions of American children, and the Child Support Performance and Incentive Act of 1998 strengthens state enforcement of these obligations in a variety of areas. I am proud of the fact that my state works hard to enforce its child support obligations and does an excellent job. It is my hope that this legislation will encourage West Virginia and other states do their job even more effectively.

One of the most important and, unfortunately, overlooked areas of child support is the enforcement of medical child support (that is, health insurance or medical costs covered by the noncustodial parent). Since 1984, Federal law has required state child support enforcement agencies to pursue medical support as part of every child support order. Despite this requirement, only 60% of national child support orders contain a medical support component. In its 1996 review of state child support enforcement programs, GAO found that at least 13 states were not consistently petitioning to include medical support in their general support orders, and 20 states were not enforcing existing medical support orders at all.

Such limited enforcement of medical support is dismal, particularly in light of the fact that health insurance and premiums provided through a non-custodial parent's health plan are often a child's only chance for comprehensive medical care. My colleagues and I have worked very hard to make sure that Federal programs such as Medicaid and the Children's Health Insurance Program provide quality health care for children whose families cannot afford to cover them. While no one could care more about these Federal programs than I do, they are not designed to be and should not be misused as a backdoor for parents who shirk their medical support responsibilities.

Unfortunately, effective medical child support enforcement is thwarted by a lack of standardized communication between state child support enforcement agencies and the employers and plan administrators responsible for the non-custodial parent's health plan. This is particularly true for health plans that are governed by the Employment Retirement Income Security Act (ERISA) which represent 50% of all employer health plans. With 700,000 children dependent on medical support through ERISA-governed plans and an additional 1,000,000 children dependent on medical support through non-ERISA governed medical plans, it is essential that communication between states, employers, and plan administrators be as efficient as possible.

The Child Support Performance and Incentive Act of 1998 seeks to improve enforcement of medical support in two ways. First, it orders the Secretary of the Department of Health and Human Services to develop a medical support incentive measure which would base a percentage of each qualified state's annual Federal incentives payment on its ability to establish and enforce medical child support. If implemented by Congress, this sixth performance measure would be added to the first five already included in this legislation: (1) establishment of paternity; (2) establishment of child support orders; (3) enforcement of current child support orders; (4) enforcement of back child support (or "arrearages"); and (5) cost effectiveness. Once HHS develops this medical child support incentive measure, Congress has the responsibility to make sure it becomes part of the overall incentives program.

The Child Support Performance and Incentive Act of 1998 also takes another important step towards effective medical support enforcement by requiring the Secretaries of the Department of Human Services and the Department of Labor to develop a National Medical Support Notice as a means of enforcing the health care provisions of a child support order. Under this new requirement, all states would be required to use and all employers and plan administrators would be required to accept the National Medical Support Notice as a qualified medical child support order under ERISA.

This standardization is an essential step in ensuring that everyone is on the same page when it comes to providing eligible children with the health care coverage they deserve. The legislation also requires HHS and DoL to bring together a Medical Child Support Work Group composed of employers, plan administrators, state child support directors, and child advocates which will recommend additional ways to remove the remaining barriers to effective medical support. We have also required that HHS and DoL submit their recommendations for further legislative solutions to improve medical support, including any necessary changes to ERISA.

With $15 to $25 billion each year in uncollected child support, we have a long way to go to strengthen our national and state child support systems. I am hopeful, however, that the changes brought about in this legislation make significant progress towards the ultimate goal of ensuring child support for every child who is entitled to it. In that regard, I am particularly pleased that medical child support enforcement is finally receiving the attention it deserves in the context of these broader changes.

Mr. JEFFORDS. Mr. President, yesterday the House of Representatives passed H.R. 3130, the Child Support bill by unanimous consent. Today, the Senate will pass the same bill. One provision in the bill affects qualified medical child support orders, a provision in the Employee Retirement Income Security Act (ERISA), and a matter under the jurisdiction of the Committee on Labor and Human Resources. Senators KENNEDY, COATS and myself were conferees on that provision.

I would like to express my appreciation to Senator ROTH for including a description of the changes we agreed upon in his explanatory material. It is terribly important that this explanation be made a part of the legislative history on medical child support orders.

There are 700,000 children in the United States today who are eligible for medical support from a non-custodial parent. All too often when the States attempt to enforce a medical child support order, the plan sponsors have had fiduciary concerns regarding some aspect of the medical support order and, consequently medical benefits were denied to the child. Hopefully, this legislation will alleviate those concerns and more children will be covered under private health benefit plans. The legislation requires the Departments of Health and Human Services and Labor to quickly promulgate a

model Medical Support Order form that States must use to collect medical support for children. It also requires those Secretaries to appoint and to collaborate with a Working Group to improve the process by which these medical support orders are implemented.

I am happy that we were able to reach agreement on this important language. I want to take this opportunity to thank Senators KENNEDY and COATS, and their staff, for all their assistance. Also, I thank Chairman BILL GOODLING of the House Workforce Committee, Chairman BILL ROTH of the Senate Finance and Senator JAY ROCKEFELLER, for their help and guidance in reaching an agreement. In particular, Mr. Bill Sweetnam, Senior Counsel to the Finance Committee and Ms. Mary Bissell of Senator ROCKEFELLER's staff provided the technical expertise, knowledge of State programs and support we needed to finish the job.

I look forward to the Labor and Human Resources Committee exercising its oversight authority to see that this legislation is properly implemented and that we work toward improving collection of medical child support for every child to which such support is legitimately owed.

Mr. MOYNIHAN. Mr. President, I rise today in support of H.R. 3130, the Child Support Performance and Incentive Act of 1998. This legislation contains two important components to improve child support collections: a better system of making incentive payments to states for their performance in collecting child support and a new penalty system to help ensure that state child support systems meet basic data processing standards. While both of these components are rather technical, they do represent concrete steps forward and should result in thousands of children—many of them poor—receiving critical financial assistance from absent parents, something all too many poor children do not receive today.

In addition, the bill contains provisions to improve enforcement of the medical aspects of child support and to help ensure data privacy. These latter provisions we owe to the hard work of my colleagues Senator ROCKEFELLER and Senator BAUCUS, and I thank them for these improvements to the legislation.

Mr. President, I urge that H.R. 3130 be passed.

Mr. GRAHAM. Mr. President, I would like to commend the efforts of the conferees of the Child Support Performance and Incentive Act of 1998 for the hard work they have done to secure passage of child support reform legislation. The legislation that has passed the House and Senate represents a significant victory for children who are getting the support they need from both parents. I am pleased that the conferees accepted a provision offered by Senator GRASSLEY and I to further enhance the states' efforts along with banks to streamline the matching process that is required to gather financial information to support our children.

The changes we have proposed through this provision will allow the Federal Parent Locator Service to aid our State agencies in their collection efforts. Financial institutions doing business in two or more States would be able to use the Federal Parent Locator Service to assist them in matching data for child support enforcement purposes. The language included in this provision will provide a structure for a centralized and coordinated matching process, thereby streamlining data matches for the financial institutions and state child support enforcement programs. We believe that such measures will prevent the duplication of efforts by states and banks and assist us in the ultimate aim of getting more money to more children more quickly.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate concur to the amendments of the House to the amendments of the Senate to the bill.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 634, which is Major General Jack Klimp to be lieutenant general; 655, through 661. That is a whole series of ambassadorial nominations reported by the Foreign Affairs Committee on June 23; 664–673; 698, which is William Massey, to be a member of the Federal Energy Regulatory Commission; 699, Michael Copps to be an Assistant Secretary of Commerce; and 700, Awilda R. Marquez, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, and the nomination on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be confirmed, the motion to consider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Jack W. Klimp, xx...

DEPARTMENT OF STATE

Nancy E. Soderberg, of the District of Columbia, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations, to which position she was appointed during the last recess of the Senate.

Nancy E. Soderberg, of the District of Columbia, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador, to which position she was appointed during the last recess of the Senate.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Vivian Lowery Derryck, of Ohio, to be an Assistant Administrator of the Agency for International Development.

DEPARTMENT OF STATE

Shirley Elizabeth Barnes, of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Madagascar.

Charles Richard Stith, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Eric S. Edelman, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

Nancy Halliday Ely-Raphel, of the District of Columbia, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Slovenia.

William Davis Clarke, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Eritrea.

George Williford Boyce Haley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Gambia.

Katherine Hubay Peterson, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Jeffrey Davidow, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

John O'Leary, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

Michael Craig Lemmon, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

Rudolf Vilem Perina, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Paul L. Cejas, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Cynthia Perrin Schneider, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Kenneth Spencer Yalowitz, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Georgia.

FEDERAL ENERGY REGULATORY COMMISSION

William Lloyd Massey, of Arkansas, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2003. (Reappointment)

DEPARTMENT OF COMMERCE

Michael J. Copps, of Virginia, to be an Assistant Secretary of Commerce.

Awilda R. Marquez, of Maryland, to be Assistant Secretary of Commerce, and Director General of the United States and Foreign Commercial Service.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

Foreign Service nomination of John M. O'Keefe, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

NOMINATION OF MICHAEL J. COPPS'S TO BE ASSISTANT SECRETARY OF COMMERCE FOR TRADE DEVELOPMENT

Mr. HOLLINGS. Mr. President, I urge this body to confirm Michael J. Copps to be the Assistant Secretary of Commerce for Trade Development. Mike Copps has been enormously effective as the Deputy Assistant Secretary of Commerce for Basic Industries; the sooner the Senate approves his nomination, the sooner he can go to work to further our nation's economic interests and develop new trade opportunities for American industry.

It has been my privilege to know Mike Copps for over 25 years. He served on my staff for 15 years and was my administrative assistant for over a decade. In that time, I came to know and respect Mike; and today there is no one whose judgment I value more highly or in whose abilities I place greater confidence. In fact, Mr. Chairman, I can think of no one better suited to serve as the Assistant Secretary of Commerce for Trade Development than Michael Copps.

Mike is a man of measured judgment and extraordinary maturity, and he possesses a keen, analytical mind. I can state from personal experience that he is the consummate chief of staff—cool and collected, Mike Copps leads by example. In moments of crisis, he was calm. In times of indecision, he was resolute. And he always demonstrated high-minded principle and professionalism.

I have been an elected servant of the people over the span of six decades, Mr. Chairman; and in this time, I have seen many people forget the purpose of public service. But Mike Copps never has forsaken his dedication to the public good. His moral compass has never wavered. I can pay no greater tribute to Mike Copps than to say he is a public servant without equal. Truly, this is the greatest accolade one can garner.

Perhaps one way to underscore Mike Copps' unique temperament and keen intellect is to explain the origins of my relationship with him. Mike came to my staff in 1970, to help with writing and other tasks. From this humble beginning, he rose in less than five years to be my administrative assistant. Now, I pride myself on my staff, and for someone to rise from a newly hired assistant to chief of staff in the Senate in just five years is highly unusual. But Mike Copps has made a career out of making the unusual seem routine.

Just look at what he has accomplished since taking over as the Deputy Assistant Secretary of Commerce for Basic Industries in 1993. His tenure has been one of the busiest and most purposeful in that office's history. DAS Copps has conceived, organized, and successfully achieved public sector-private sector partnerships in the belief that we can succeed in the world of global commerce only through close cooperation between industry and government. This has been the guiding light of his tenure at Commerce: fostering public sector-private sector cooperation to strengthen U.S. industry and benefit U.S. consumers.

For example, under Mike Copps' leadership, the Commerce Department's Basic Industries division has administered seven highly innovative Market Development Cooperator Program Awards. This competitive matching grants program provides two private sector dollars for every federal dollar and builds public-private partnerships by providing assistance to non-profit export multipliers.

DAS Copps chairs the U.S.-Russia Business Development Committee's Oil and Gas Working Group. The BDC is the principal venue for bilateral discussions on trade between America and Russia. Chairman Copps played an important role in pushing successfully for the removal of the export tax for U.S. companies shipping oil out of Russia and in reducing Russian oil excise taxes.

In China, Copps negotiated the terms of reference for working groups in the electrical power, chemical, and automotive industries; developed policy and trade promotion programs for each; and started a broad range of working group activities involving both the private and public sectors.

Copps also helped create similar partnerships involving forest products and agribusiness in Russia, energy and agribusiness in the Ukraine, and electrical power in Turkey.

To see how effectively Deputy Assistant Secretary Copps has promoted U.S. industries, just look at what he has done for the automotive industry. Under his leadership, the Commerce Department's Office of Automotive Affairs has become the lead agency of the U.S. Government in providing both the expertise for our nation's global automotive negotiations and its trade promotion initiatives. During the past two years, for example, the Office has convened meetings to successfully resolve 23 outstanding Japanese vehicle standards issues.

The Office of Automotive Affairs also contributed its expertise and participation to ongoing U.S.-Korean automotive negotiations, an ASEAN automotive trade initiative, and to U.S.-Brazil automotive talks. All these initiatives have helped reinvigorate the U.S. auto industry and have helped it achieve a level playing field and a competitive edge overseas.

Mike Copps has been able to compile this impressive record of achievement because he combines a tremendous work ethic, wonderful diplomatic skills, and a rigorous and analytical mind. In addition, he possesses a historical perspective unmatched by anyone I have met in government. Before joining my staff in 1970, he had earned his Ph.D. in history and taught courses at Loyola University for three years. His appreciation for the forces of history and the perspective his studies gave him make Mike Copps especially suited for this job, which requires an understanding not only of economic forces and trade negotiation, but also of America's role in the world and the cultures of our trading partners.

Mike Copps possesses all the qualities we admire in our public servants. Professional and grave in matters of the public trust, he is also witty and diplomatic. He values good policies over politics, but he understands the importance of both in the arena of international trade. After working in the Senate, private industry, and the Department of Commerce, he appreciates the concerns and needs of both sectors and knows the compromises necessary to create successful public-private partnerships.

Finally, I would note that Mike Copps' dedication begins at home. He is a devoted family man, and I know his wife Beth and his five children are justifiably proud of his service and achievements. Unlike some in Washington, Mike has never forgotten the values and ideals that count the most. I believe his moral compass points him in the right direction so infallibly because it is grounded in the family he treasures above all else.

Mr. President, I urge speedy confirmation of Michael J. Copps to be Assistant Secretary of Commerce for Trade Development. We cannot afford to delay action on such an effective and dedicated public servant.

NOMINATION OF JOHN O'LEARY TO BE UNITED STATES AMBASSADOR TO CHILE

Ms. SNOWE. Mr. President, I rise today to express my strong support for the nomination of John O'Leary to be the next United States Ambassador to Chile, and my appreciation to the Foreign Relations Committee for their prompt and favorable review. I urge the Senate to do likewise.

I know that Mr. O'Leary will be a credit to his fellow Mainers and the citizens of the United States. On June 13th, I was proud to join with my colleagues in the Maine delegation—Senator COLLINS, Representative ALLEN, and Representative BALDACCI—to introduce this outstanding candidate to the Foreign Relations Committee. Mainers have had a long and proud tradition of service to this nation and John O'Leary is the latest individual to carry on this tradition. We in Maine are proud of him and know he will make the nation proud as well.

Mr. O'Leary brings a wealth of talents to the table, and a review of his background reveals a man well-qualified for the demands and responsibilities of the post for which he has been nominated.

Since his graduation from Yale Law School in 1974, John O'Leary has built an impressive career in law distinguished by a strong intellect and a commitment to the highest ethical standards. He is a leader in the American legal field, having recently served as the Chair of the American Bar Association's eleven-person Standing Committee on Environmental Law. He has also been entrusted with one of eight seats on the First Circuit Advisory Committee on Rules.

Mr. O'Leary's outstanding leadership and organizational skills are also evidenced by his management of complex litigation. In fact, his efforts led one major national retailer to choose Mr. O'Leary's firm, Pierce Atwood, for its annual award for quality and value—the first time a law firm had ever been chosen from among the retailer's global vendors for such an honor. His analytical mind coupled with a studious attention to detail would be of tremendous benefit to the United States' interests in Chile.

Mr. O'Leary is also no stranger to public and community service. His commitment to civic affairs in Maine are evidenced by his election to the City Council of Maine's largest city, Portland, and his service as Mayor. He has also contributed of his time and talents as a trustee and president of the Portland Public Library.

Finally, John O'Leary's extensive background and interest in Latin American affairs would be invaluable to U.S.-Chile relations. His impressive resume includes participation on an arbitration panel for the Inter-American Commercial Arbitration Commission, working on a matter involving Venezuela; and service on a three member United States team that assisted Bolivia in sustainable development matters. From 1991 to 1997, Mr. O'Leary also served as President of the Natural Resources and Environmental Protection Committee of the Inter-American Bar Association (IABA), which was charged with overall responsibility for the IABA committee's activities in Chile and throughout the Americas.

And finally, in March of 1997, he both chaired and organized a major conference in Argentina on "Development, the Environment and Dispute Resolution in the Americas"—which incidentally was the first such American Bar Association program ever run in South America.

Mr. President, we in the Senate have the solemn responsibility of ensuring that those Americans we send abroad to represent our nation and her interests are individuals of the highest character and most outstanding qualifications. Today, we have before us a nominee who fulfills those criteria most ably. I met with Mr. O'Leary prior to his confirmation hearing and that meeting only confirmed what I have already stated—that I believe him to be an outstanding choice for Ambassador. He is a man of intellect and integrity, who knows how to work with people and knows how to get things done.

Mr. President, I am pleased that the Senate is about to act to confirm John O'Leary as our next Ambassador to Chile. It is a decision I believe all of my colleagues will be proud that we made.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. LOTT. I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. 2052 and the Senate proceed to its consideration. This is the intelligence authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2052) to authorize appropriations for fiscal year 1999 for intelligence and intelligence related activities for the U.S. government 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.

Mr. SHELBY. Mr. President, I rise in strong support of S. 2052, the Intelligence Authorization Act for Fiscal Year 1999, to authorize appropriations for intelligence-related activities and programs of the United States Government. This important legislation was reported favorably out of the Committee on May 7, 1998, by unanimous vote, consistent with the long-standing, bipartisan nature of the Select Committee on Intelligence.

Following receipt of the President's budget, the Select Committee undertook a thorough review of the budget request for intelligence for fiscal year 1999. That review was informed, in part, by several hearings and briefings as well as the findings and recommendations of a group of outside experts—known as the Technical Advisory Group—that the distinguished Vice Chairman of the Committee, Senator KERREY, and I tasked last December to address key questions facing the Community.

In addition, the Committee staff recently completed indepth audits and reviews of the use of "cover" by the Central Intelligence Agency and the administration of the Foreign Intelligence Surveillance Act of 1978. These reviews and audits led to Committee action with respect to the authorities, applicable laws, and budget of the activity or program concerned.

As a product of these reviews, the Committee came to some rather startling and disconcerting conclusions about the overall health and direction of the Intelligence Community. For example:

First, the CIA's foremost mission of providing timely intelligence based on human sources ("HUMINT") is in grave jeopardy. CIA case officers today do not have the training or the equipment needed to keep their true identities hidden, to communicate covertly with agents, or to plant sophisticated listening devices and other collection tools that will provide timely intelligence on an adversary's intentions.

Second, what many see as the "crown jewel" of U.S. Intelligence—the National Security Agent's SIGINT capability—likewise is in dire need of modernization. The digital and fiber-optic revolutions are here-and-now, but NSA is still predominantly oriented toward Cold War-era threats. The Director of NSA, Lieutenant General Kenneth Minihan, has recommended major changes in how NSA performs its vital mission—changes our Committee endorses—but these changes were not reflected in the President's budget request.

Third, promising technologies and systems for detecting missiles and other threats have been short-changed in the budget request. Likewise, robust funding for new tools for conducting information warfare, new sensors to detect and counter proliferation, and moving to smaller and cheaper satellites to support the war-fighter are not included in the budget request.

And fourth, the quality of analysis within the Intelligence Community is poor and getting worse. Responding to the failure to predict the Indian nuclear tests, the Director of Central Intelligence commissioned retired Admiral David Jeremiah to review what went wrong and why. Among other findings, Admiral Jeremiah concluded

that intelligence community analysts were complacent; they based their analyses on faulty assumptions; and engaged in wishful thinking. It is my belief that such is the state of analysis as it relates to many issues and problems, including political-military developments in China, the ballistic missile threat, and more. We can and should expect more from the Intelligence Community.

The Intelligence Community has been forced by budgetary pressures to choose between funding current operations (such as Bosnia) and investing in the future. This is the case even after personnel reductions of over 20 percent in the Intelligence Community have been made over the past decade. In many ways, then, the problem confronting U.S. Intelligence is similar to that confronting the Department of Defense: How to pay for the necessary investments in future, "winning-edge" capabilities when the policymakers emphasize current operations? And, equally important, how to sustain the quality of life and skills-level of personnel who are already stretched thin by high operations tempo and lengthy overseas deployments?

To address these challenges, Senator KERREY and I tasked the staff to find and cut any and all poorly justified or redundant programs out of the budget. And, in fact, significant cuts were made to a wide range of lower-priority intelligence programs and activities. If it was poorly justified, redundant, or low-priority, then we cut it. These actions are entirely consistent with our oversight responsibilities, and the American people would expect no less.

The Select Committee then took those funds and applied them against the highest priority intelligence needs and targets. Earlier this year, Senator KERREY and I prepared intelligence budget guidance to direct the staff's budget work. That guidance emphasized the need for strengthened investment in areas such as advanced research and development, counter-proliferation, counter-terrorism, counter-narcotics, personnel training, information operations, effective covert action, and enhanced analysis. These are precisely the areas the Committee has historically supported and the keys to future intelligence successes—whether to support military commanders, policymakers in Washington, or American diplomats.

This approach of cutting low-priority projects and redirecting those funds into high-payoff, futuristic technologies and systems, is fiscally responsible and reflects the need for difficult choices in an era of scarce resources.

This budget is full of tough choices. For example, the Committee recommended cutting certain "legacy" programs and activities at NSA in order to pay for the collection systems and processes of the future, as recommended in General Minihan's study of the future SIGINT architecture needs (the "Unified Cryptologic Architecture"). Likewise, the Committee recommended cutting the number of CIA contractors, and reduced spending on costly infrastructure programs.

None of these actions were easy—and in fact I am concerned that the Select Committee may have cut the intelligence budget too deeply in order to reach agreement with the Senate Armed Services Committee. That being said, this legislation is sound, it is balanced, and it is worthy of strong bipartisan support.

My colleagues and the American people must come to understand that to save lives on the battlefield, to preclude terrorist attacks against Americans, to root out spies in our midst, and to give diplomats the information they need to forestall conflict in the first place, we need an effective, revitalized Intelligence Community. And that is precisely what the Intelligence Authorization Act seeks to do.

In summary, the Select Committee made the tough choices. We cut programs in order to invest in the future. We concluded that the intelligence budget can be cut, but it must be done in a careful, precise way, and based on specific programmatic recommendations. And we did it in a fully bipartisan manner.

I applaud and appreciate the efforts of the Vice Chairman of the Committee, Senator KERREY from Nebraska, and all the Members of the Committee, who labored long and hard on this bill. It is one of the most important pieces of legislation this body will consider this year, and I urge its passage.

Pursuant to the unanimous consent agreement, the Armed Services Committee has been discharged from consideration of the Intelligence Authorization Bill. Although the Chairman of the Armed Services Committee and I had previously agreed that the Armed Services Committee would not report the Intelligence Authorization Bill until three days following completion of Senate Floor consideration of the Defense Authorization Bill, the Chairman of the Armed Services Committee has informed me that his committee has completed its review of the Intelligence Authorization Bill and does not recommend any amendments. We agree that it is appropriate for the Senate to consider the intelligence Authorization Bill at this time. We also agree, however, that this unanimous consent agreement to discharge the Armed Services Committee from further review of the Intelligence Authorization Bill will not serve as a precedent for requiring the Armed Services Committee to report future Intelligence Authorization Bills until it has had an adequate amount of time to review such legislation.

I ask unanimous consent to have printed in the RECORD the cost estimate for the bill.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 1998.

Hon. RICHARD C. SHELBY,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2052, the Intelligence Authorization Act for Fiscal Year 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dawn Sauter, who can be reached at 226-2840.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

S. 2052: INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999, AS REPORTED BY THE SENATE SELECT COMMITTEE ON INTELLIGENCE ON MAY 7, 1998

SUMMARY

S. 2052 would authorize appropriations for fiscal year 1999 for intelligence activities of the United States government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System (CIARDS).

This estimate addresses only the unclassified portion of the bill. On that limited basis, CBO estimates that enacting S. 2052 would result in additional spending of $174 million over the 1999-2003 period, assuming appropriation of the authorized amounts. The unclassified portion of the bill would affect direct spending; thus, pay-as-you-go procedures would apply. However, CBO cannot give a precise estimate of the direct spending effects because data to support a cost estimate are classified.

The Unfunded Mandates Reform Act of 1995 (UMRA) excludes from application of the act legislative provisions that are necessary for the national security. CBO has determined that all of the provisions of this bill either fit within that exclusion or do not contain intergovernmental or private-sector mandates as defined by UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the unclassified portions of S. 2052 is shown in the following table. CBO is unable to obtain the necessary information to estimate the costs for the entire bill because parts are classified at a level above clearances held by CBO employees. The costs of this legislation fall within budget function 050 (national defense).

	By fiscal year, in millions of dollars—					
	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for the Community Management Account:						
Budget Authority[1]	94	0	0	0	0	0
Estimated Outlays	104	36	7	2	0	0
Proposed Changes:						
Authorization Level	0	174	0	0	0	0
Estimated Outlays	0	108	52	10	3	0
Spending Under S. 2052 for the Community Management Account:						
Authorization Level[2]	94	174	0	0	0	0
Estimated Outlays	104	144	59	12	3	0
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	0	(2)	(2)	(2)	(2)
Estimated Outlays	0	0	(2)	(2)	(2)	(2)

[1] The 1998 level is the amount appropriated for that year.
[2] CBO cannot give a precise estimate of direct spending effects because data to support a cost estimate are classified.

The bill would authorize appropriations of $174 million for the Community Management Account. In addition, the bill would authorize $202 million for CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. The payment to CIARDS is considered mandatory, and the authorization under this bill would be the same as assumed in the CBO baseline.

Section 401 of the bill would extend the CIA's authority to offer incentive payments to employees who voluntarily retire or resign. This authority, which is currently scheduled to expire at the end of fiscal year 1999, would be extended through fiscal year 2001. Section 401 would also require the CIA to make a deposit to the Civil Service Trust Fund equal to 15 percent of final pay for each employee who accepts an incentive payment. CBO estimates that these payments would amount to less than $5 million. We believe that these deposits would be sufficient to cover the cost of any long-term increase in benefits that would result from induced retirements, although the timing of the agency payments and the additional benefit payments would not match on a yearly basis. CBO cannot provide a precise estimate of the direct spending effects because the data necessary for an estimate are classified.

Section 501 of the bill would require the President to inform certain federal employees and contract employees that they may disclose classified and unclassified information to Congressional oversight committees if they believe that information provides direct and specific evidence of wrongdoing. CBO estimates that the costs of implementing section 501 would not be significant because the number of employees covered by the bill would be small and the cost associated with each notice would be minimal.

For purposes of this estimate, CBO assumes that S. 2052 will be enacted by October 1, 1998, and that the full amounts authorized will be appropriated for fiscal year 1999. Outlays are estimated according to historical spending patterns for intelligence programs.

PAY-AS-YOU-GO CONSIDERATIONS

Section 401 of the bill would affect direct spending, and therefore the bill would be subject to pay-as-you-go procedures. CBO cannot estimate the precise direct spending effects because the necessary data are classified.

INTERGOVERNMENTAL AND PRIVATE SECTOR IMPACT

The Unfunded Mandates Reform Act of 1995 (UMRA) excludes from application of the act legislative provisions that are necessary for the national security. CBO has determined that all of the provisions of this bill either fit within that exclusion or do not contain intergovernmental or private-sector mandates as defined by UMRA.

PREVIOUS CBO ESTIMATE

On May 5, 1998, CBO issued an estimate for H.R. 3694, the Intelligence Authorization Act for Fiscal Year 1999, as ordered reported by the House Permanent Select Committee on Intelligence. CBO estimated that section 401 of that bill would increase direct spending by $1 million or more in at least one year during the 2000–2003 period. Like section 401 in S. 2052, the provisions in H.R. 3694 would extend the CIA's authority to offer incentive payments to employees who voluntarily retire or resign. However, H.R. 3694 would not require the CIA to make a deposit equal to 15 percent of final pay to the Civil Service Trust Fund for each employee who receives an incentive payment. The bills also authorize different amounts of appropriations for the Community Management Account.

CBO prepared a cost estimate on February 25, 1998, for S. 1668, as reported by the Senate Select Committee on Intelligence on February 23, 1998. Section 501 of S. 2052 duplicates the provisions of S. 1668, a bill to encourage the disclosure to Congress of certain classified and related information. CBO's estimates for these provisions are identical.

Estimate prepared by

Federal Costs: Estimate for Voluntary Separation Pay: Eric Rollins (226–2820), and Estimate for Remaining Provisions: Dawn Sauter (226–2840).

Impact on State, Local, and Tribal Governments: Teri Gullo (225–3220).

Impact on the Private Sector: Bill Thomas (226–2900).

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

Mr. KERREY. Mr. President, I rise to urge my colleagues to support the Intelligence Authorization Bill. This bill is the product of the Intelligence Committee's efforts to match national intelligence resources and activities with today's and tomorrow's threats. Under Chairman SHELBY's leadership, the Committee has tried to move the Intelligence Community toward new technologies which address emerging threats like weapons proliferation, terrorism, and information operations, while at the same time keeping intelligence strong against the mature threats, such as Russian nuclear forces, which still can kill scores of millions of Americans.

Most of this bill is secret, contained in a classified annex available to all Members for review in S–407. However, it has been reported that the bill authorizes less money for intelligence programs than the President requested. I am not pleased with this outcome. But as the national security budgets are currently organized, the Intelligence Authorization bill must respond to larger Defense requirements. The dependent relationship of intelligence to defense is anachronistic, in my view, but it exists and Chairman SHELBY and I have worked with our colleagues on the Armed Services Committee to make the best of a bad budgetary situation for both Committees. Let me add, I am equally concerned that the Defense budget is skirting the level of inadequacy, especially with regard to our conventional forces. National security is the principal function of government, and we should fund it better.

The Intelligence Committee looked at the way intelligence is collected—through imagery, signals, human, and measurements and signatures—and saw mature technologies which have served America well for many years pitted against revolutionary change in the collection environments. The Committee studied solutions to this imbalance. In addition to its own evaluation, the Committee gathered a group of outside scientific experts, including some who have had no previous connection to intelligence, to recommend solutions to our shortfalls in signals and human intelligence. This panel's recommendations are also reflected in this bill. So Chairman SHELBY and I have a strong basis in evidence for the new technologies and initiatives which would be authorized by this bill.

The recent nuclear tests in India brought accusations of "intelligence failure" in our media. In fact, I think the episode might be more accurately called a policy failure, but intelligence could certainly have done a better job. Director of Central Intelligence Tenet quickly tasked Admiral David Jeremiah to review the Intelligence Community's performance, and a summary of his recommendations have been declassified at the Committee's request.

The India nuclear case offers many lessons, but two are especially important to intelligence. The first is that the Director of Central Intelligence needs to run the national Intelligence Community to ensure agency efforts

are focused and priorities across the individual agencies are clear. I am holding off on legislation to increase the DCI's management powers because new officials are in place in positions already created by Congress to help manage the Community better. I want to see what progress Deputy Director Joan Dempsey and her new Assistant Directors make in harnessing the DCI's existing powers, before Congress creates new ones. Congress and the American people hold the DCI accountable for these problems. We need the DCI to be in charge.

The second India lesson is the tendency to "mirror image", to assume Indians, in this case, would behave as we do. This tendency increases when there is unanimity among analysts and no one is asking contrarian questions. To insure such questions are always asked during the analysis of significant intelligence, Chairman SHELBY and I are offering an amendment today which, among other things, will require competitive analysis as an integral, routine part of the analytic process. The fundamental purpose of intelligence is to keep our policymakers and military commanders from being surprised. Competitive analysis should at least reduce the chance of surprise.

Finally, Mr. President, I understand Chairman SHELBY will introduce an amendment to name the CIA headquarters building after the only U.S. President who has also served as DCI, former President George Bush. While I am not enthusiastic about the current fad of naming things after living politicians, I make an exception in this case. In political terms, service as DCI carries considerable risk. Your apparent failures are big news, while your successes are secret and the fruits of your leadership are harvested by your successor. But in peace or war, George Bush never calculated risks when there was an opportunity to serve his country, and I think he particularly relished the hardest tasks. Naming his old headquarters in his honor is a fitting tribute which I am proud to support.

Mr. President, I urge my colleagues to support this important bill, and I yield the floor.

AMENDMENTS NOS. 3051 THROUGH 3053, EN BLOC

Mr. LOTT. There are several manager amendments at the desk, and I ask they be considered and agreed to en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes amendments No. 3051 through 3053, en bloc.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 3051

(Purpose: To authorize the Assistant Director of Central Intelligence for Analysis and Production to direct competitive analysis of analytical products having National importance)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. AUTHORITY TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) direct competitive analysis of analytical products having National importance;".

AMENDMENT NO. 3052

(Purpose: To require annual studies and reports on the safety and security of Russian nuclear facilities and nuclear military forces)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. ANNUAL STUDY AND REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.

(a) ANNUAL STUDY.—The Director of Central Intelligence shall, on an annual basis, conduct a study of the safety and security of the nuclear facilities and nuclear military forces in Russia.

(b) ANNUAL REPORTS.—(1) The Director shall, on an annual basis, submit to the committees referred to in paragraph (4) an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each report shall include a discussion of the following:

(A) The ability of the Russia Government to maintain its nuclear military forces.

(B) Security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each report shall be submitted in unclassified form, but may contain a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on International Relations of the House of Representatives.

AMENDMENT NO. 3053

(Purpose: Relating to a quadrennial intelligence review)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. QUADRENNIAL INTELLIGENCE REVIEW.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities;

(2) each review under paragraph (1) should—

(A) include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(3) the results of each review should be shared with the appropriate committees of Congress; and

(4) the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the committees referred to in subsection (b)(2) from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) REPORT.—(1) Not later than August 15, 1998, the Director and the Secretary shall jointly submit to the committees referred to in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(4)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on Appropriations of the House of Representatives.

THE QUADRENNIAL INTELLIGENCE REVIEW

Mr. COATS. Mr. President, I strongly support an initiative to establish a Quadrennial Intelligence Review and an independent, nonpartisan National Intelligence Panel. This process can be modeled after the Military Force Structure Review Act of 1986 which passed the Senate by a unanimous vote of 100–0. This Act directed the Quadrennial Defense Review (QDR) and the National Defense Panel (NDP) which conducted comprehensive reviews of all aspects of defense. These reviews have produced a much needed update of our defense strategy, a revised defense program, and a vibrant debate on the course of our defense capabilities.

I believe that a process of internal and external comprehensive review fashioned on this QDR and NDP model can be equally effective in the area of intelligence. I intend to work with the Committee to develop a provision establishing a Quadrennial Intelligence Review and an independent National Intelligence Panel for inclusion in the Intelligence Authorization Act for Fiscal Year 1999.

AMENDMENT NO. 3050

(Purpose: To provide for the designation of the Headquarters Building of the Central Intelligence Agency as the George Herbert Walker Bush Center for Central Intelligence)

Mr. LOTT. Mr. President, Senator SHELBY has an additional amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. SHELBY, proposes an amendment numbered 3050.

Mr. LOTT. 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:

On page 11, between lines 18 and 19, insert the following:

SEC. 307. DESIGNATION OF HEADQUARTERS BUILDING OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE.

(a) DESIGNATION.—The Headquarters Building of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the "George Herbert Walker Bush Center for Central Intelligence".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Headquarters Building referred to in subsection (a) shall be deemed to be a reference to the George Herbert Walker Bush Center for Central Intelligence.

"GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE"

Mr. SHELBY. Mr. President, this Amendment will add a section to the Intelligence Authorization Act for Fiscal Year 1999 that will designate the headquarters building of the Central Intelligence Agency as the "George Herbert Walker Bush Center for Central Intelligence."

I believe that this is a fitting tribute to a man that has had a remarkable and distinguished career in public service not only as President, but also as Vice President, Member of Congress, U.N. Ambassador, the Chief of the U.S. Liaison Office to the Peoples' Republic of China, and Director of Central Intelligence.

President Bush, of course, is the only Director of Central Intelligence to become President of the United States.

I know that he has always been particularly proud of his tenure as the Director of Central Intelligence. I also know that he guided the Agency through a difficult time and continues to be held in high regard by not only CIA employees, but also the Intelligence Community at large.

Currently, the headquarters building at Langley does not have a formal name and this would be the only facility in the Washington, D.C. area named after President Bush. This amendment has been cleared on both sides and I urge its immediate adoption.

Mr. LOTT. Mr. President, I ask unanimous consent the amendment be agreed to and, further, a classified change be incorporated in the classified schedule of authorizations which has been available for all Members' review.

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

The amendment (No. 3050) was agreed to.

Mr. LOTT. I ask unanimous consent that the bill be considered read the third time and the Intelligence Committee then be discharged from further consideration of H.R. 3694.

I further ask unanimous consent that the Senate proceed to its immediate consideration, all after the enacting clause be stricken, and the text of S. 2052, as amended, be inserted in lieu thereof. I ask consent that the bill be read the third time, and passed, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees, and I ask unanimous consent that the statements related to the bill appear in the RECORD and S. 2052 be placed on the calendar.

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

The bill (H.R. 3694), as amended, was considered read the third time, and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3694) entitled "An Act to authorize appropriations for fiscal year 1999 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.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1999".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Extension of application of sanctions laws to intelligence activities.
Sec. 304. Extension of authority to engage in commercial activities as security for intelligence collection activities.
Sec. 305. Modification of National Security Education Program.
Sec. 306. Technical amendments.
Sec. 307. Authority to direct competitive analysis of analytical products having national importance.
Sec. 308. Annual study and report on the safety and security of Russian nuclear facilities and nuclear military forces.
Sec. 309. quadrennial intelligence review.
Sec. 310. Designation of Headquarters Building of Central Intelligence Agency as the George Herbert Walker Bush Center for Central Intelligence.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Extension of separation pay program for voluntary separation of CIA employees.
Sec. 402. Additional duties for Inspector General of Central Intelligence Agency.

TITLE V—DISCLOSURE OF INFORMATION TO CONGRESS

Sec. 501. Encouragement of disclosure of certain information to Congress.

TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

Sec. 601. Pen registers and trap and trace devices in foreign intelligence and international terrorism investigations.
Sec. 602. Access to certain business records for foreign intelligence and international terrorism investigations.
Sec. 603. Conforming and clerical amendments.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The National Reconnaissance Office.
(11) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1999, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 3694 of the One Hundred Fifth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian

personnel in excess of the number authorized for fiscal year 1999 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1999 the sum of $173,633,000.

(2) AVAILABILITY OF CERTAIN FUNDS.—Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee, the Advanced Technology Group, and the Environmental Intelligence and Applications Program shall remain available until September 30, 2000.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized a total of 283 full-time personnel as of September 30, 1999. Personnel serving in such elements may be permanent employees of the Community Management Account element or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there is also authorized to be appropriated for the Community Management Account for fiscal year 1999 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2000.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 1999, there is hereby authorized such additional personnel for such elements as of that date as is specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 1999, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of an element within the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), the amount of $27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and evaluation purposes shall remain available until September 30, 2000, and funds provided for procurement purposes shall remain available until September 30, 2001.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General of the United States funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the Center.

(3) LIMITATION.—Amounts available for the Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) AUTHORITY OVER CENTER.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the Center.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1999 the sum of $201,500,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. EXTENSION OF APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out "January 6, 1999" and inserting in lieu thereof "January 6, 2000".

SEC. 304. EXTENSION OF AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

Section 431(a) of title 10, United States Code, is amended in the second sentence by striking out "December 31, 1998" and inserting in lieu thereof "December 31, 2000".

SEC. 305. MODIFICATION OF NATIONAL SECURITY EDUCATION PROGRAM.

(a) ASSISTANCE FOR COUNTERPROLIFERATION STUDIES.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended as follows:

(1) In section 801 (50 U.S.C. 1901), by inserting "counterproliferation studies," after "area studies," each place it appears in subsections (b)(7) and (c)(2).

(2) In section 802 (50 U.S.C. 1902)—

(A) by inserting "counterproliferation studies," after "area studies," each place it appears in paragraphs (1)(B)(i), (1)(C), and (4) of subsection (a); and

(B) by inserting "counterproliferation study," after "area study," each place it appears subparagraphs (A)(ii) and (B)(ii) of subsection (b)(2).

(3) In section 803(b)(8) (50 U.S.C. 1903(b)(8)), by striking out "and area" and inserting in lieu thereof "area, and counterproliferation".

(4) In section 806(b)(1) (50 U.S.C. 1906(b)(1)), by striking out "and area" and inserting in lieu thereof "area, and counterproliferation".

(b) REVISION OF MEMBERSHIP OF NATIONAL SECURITY EDUCATION BOARD.—Section 803(b) of that Act (50 U.S.C. 1903(b)) is further amended—

(1) by striking out paragraph (6); and

(2) by inserting in lieu thereof the following new paragraph (6):

"(6) The Secretary of Energy.".

SEC. 306. TECHNICAL AMENDMENTS.

(a) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—(1) Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended—

(A) by striking out "subparagraphs (B) and (C) of section 102(a)(2), subsections (c)(5)" and inserting in lieu thereof "paragraphs (2) and (3) of section 102(a), subsections (c)(6)"; and

(B) by striking out "(50 U.S.C. 403(a)(2)" and inserting in lieu thereof "(50 U.S.C. 403(a)".

(2) Section 6 of that Act (50 U.S.C. 403g) is amended by striking out "section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))" and inserting in lieu thereof "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))".

(b) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking out "section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))" and inserting in lieu thereof "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))".

SEC. 307. AUTHORITY TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) direct competitive analysis of analytical products having National importance;".

SEC. 308. ANNUAL STUDY AND REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.

(a) ANNUAL STUDY.—The Director of Central Intelligence shall, on an annual basis, conduct a study of the safety and security of the nuclear facilities and nuclear military forces in Russia.

(b) ANNUAL REPORTS.—(1) The Director shall, on an annual basis, submit to the committees referred to in paragraph (4) an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each report shall include a discussion of the following:

(A) The ability of the Russian Government to maintain its nuclear military forces.

(B) Security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each report shall be submitted in unclassified form, but may contain a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on International Relations of the House of Representatives.

SEC. 309. QUADRENNIAL INTELLIGENCE REVIEW.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities;

(2) each review under paragraph (1) should—

(A) include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(3) the results of each review should be shared with the appropriate committees of Congress; and

(4) the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the committees referred to in subsection (b)(2) from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) REPORT.—(1) Not later than August 15, 1998, the Director and the Secretary shall jointly submit to the committees referred to in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(4)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on Appropriations of the House of Representatives.

SEC. 310. DESIGNATION OF HEADQUARTERS BUILDING OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE.

(a) DESIGNATION.—The Headquarters Building of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the "George Herbert Walker Bush Center for Central Intelligence".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Headquarters Building referred to in subsection (a) shall be deemed to be a reference to the George Herbert Walker Bush Center for Central Intelligence.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. EXTENSION OF SEPARATION PAY PROGRAM FOR VOLUNTARY SEPARATION OF CIA EMPLOYEES.

(a) EXTENSION.—Subsection (f) of section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2001".

(b) CONFORMING AMENDMENT.—Subsection (i) of that section is amended by striking out "fiscal year 1998 or fiscal year 1999" and inserting in lieu thereof "fiscal year 1998, 1999, 2000, or 2001"

SEC. 402. ADDITIONAL DUTIES FOR INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.

Section 17(c) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(c)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) to review existing and proposed legislation relating to the programs and operations of the Agency and to make recommendations in the semiannual reports required by subsection (d) concerning the impact of such legislation on economy and efficiency in the administration of, or prevention and detection of fraud and abuse in, the programs and operations administered or financed by the Agency;".

TITLE V—DISCLOSURE OF INFORMATION TO CONGRESS

SEC. 501. ENCOURAGEMENT OF DISCLOSURE OF CERTAIN INFORMATION TO CONGRESS.

(a) ENCOURAGEMENT.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the President shall take appropriate actions to inform the employees of the covered agencies, and employees of contractors carrying out activities under classified contracts with covered agencies, that—

(A) except as provided in paragraph (4), the disclosure of information described in paragraph (2) to the individuals referred to in paragraph (3) is not prohibited by law, executive order, or regulation or otherwise contrary to public policy;

(B) the individuals referred to in paragraph (3) are presumed to have a need to know and to be authorized to receive such information; and

(C) the individuals referred to in paragraph (3) may receive information so disclosed only in their capacity as members of the committees concerned.

(2) COVERED INFORMATION.—Paragraph (1) applies to information, including classified information, that an employee reasonably believes to provide direct and specific evidence of—

(A) a violation of any law, rule, or regulation;

(B) a false statement to Congress on an issue of material fact; or

(C) gross mismanagement, a gross waste of funds, a flagrant abuse of authority, or a substantial and specific danger to public health or safety.

(3) COVERED INDIVIDUALS.—The individuals to whom information described in paragraph (2) may be disclosed are the members of a committee of Congress having as its primary responsibility the oversight of a department, agency, or element of the Federal Government to which such information relates.

(4) SCOPE.—Paragraph (1)(A) does not apply to information otherwise described in paragraph (2) if the disclosure of the information is prohibited by Rule 6(e) of the Federal Rules of Criminal Procedure.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the actions taken under subsection (a).

(c) CONSTRUCTION WITH OTHER REPORTING REQUIREMENTS.—Nothing in this section may be construed to modify, alter, or otherwise affect any reporting requirement relating to intelligence activities that arises under the National Security Act of 1947 (50 U.S.C. 401 et seq.) or any other provision of law.

(d) COVERED AGENCIES DEFINED.—In this section, the term "covered agencies" means the following:

(1) The Central Intelligence Agency.

(2) The Defense Intelligence Agency.

(3) The National Imagery and Mapping Agency.

(4) The National Security Agency.

(5) The Federal Bureau of Investigation.

(6) The National Reconnaissance Office.

(7) Any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities.

TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 601. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title IV as title VI and section 401 as section 601, respectively; and

(2) by inserting after title III the following new title:

"TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

"DEFINITIONS

"SEC. 401. As used in this title:

"(1) The terms 'foreign power', 'agent of a foreign power', 'international terrorism', 'foreign intelligence information', 'Attorney General', 'United States person', 'United States', 'person', and 'State' shall have the same meanings as in section 101 of this Act.

"(2) The terms 'pen register' and 'trap and trace device' have the meanings given such terms in section 3127 of title 18, United States Code.

"(3) The term 'aggrieved person' means any person—

"(A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by this title; or

"(B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by this title to capture incoming electronic or other communications impulses.

"PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

"SEC. 402. (a) Notwithstanding any provision of title I of this Act with respect to electronic surveillance under that title as defined in section 101(f)(4) of this Act, the Attorney General or a designated attorney for the Government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to gather foreign intelligence information or information concerning international terrorism which is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

"(b) Each application under this section shall be in writing under oath or affirmation to—

"(1) a judge of the court established by section 103(a) of this Act; or

"(2) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap or trace device on behalf of a judge of that court.

"(c) Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

"(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application;

"(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General; and

"(3) information which demonstrates that there is reason to believe that the telephone line

to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with—

"(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

"(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States.

"(d)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and trace device if the judge finds that the application satisfies the requirements of this section.

"(2) An order issued under this section—

"(A) shall specify—

"(i) the identity, if known, of the person who is the subject of the foreign intelligence or international terrorism investigation;

"(ii) in the case of an application for the installation and use of a pen register or trap and trace device with respect to a telephone line—

"(I) the identity, if known, of the person to whom is leased or in whose name the telephone line is listed; and

"(II) the number and, if known, physical location of the telephone line; and

"(iii) in the case of an application for the use of a pen register or trap and trace device with respect to a communication instrument or device not covered by clause (ii)—

"(I) the identity, if known, of the person who owns or leases the instrument or device or in whose name the instrument or device is listed; and

"(II) the number of the instrument or device; and

"(B) shall direct that—

"(i) upon request of the applicant, the provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish any information, facilities, or technical assistance necessary to accomplish the installation and operation of the pen register or trap and trace device in such a manner as will protect its secrecy and produce a minimum amount of interference with the services that such provider, landlord, custodian, or other person is providing the person concerned;

"(ii) such provider, landlord, custodian, or other person—

"(I) shall not disclose the existence of the investigation or of the pen register or trap and trace device to any person unless or until ordered by the court; and

"(II) shall maintain, under security procedures approved by the Attorney General and the Director of Central Intelligence pursuant to section 105(b)(2)(C) of this Act, any records concerning the pen register or trap and trace device or the aid furnished; and

"(iii) the applicant shall compensate such provider, landlord, custodian, or other person for reasonable expenses incurred by such provider, landlord, custodian, or other person in providing such information, facilities, or technical assistance.

"(e) An order issued under this section shall authorize the installation and use of a pen register or trap and trace device for a period not to exceed 90 days. Extensions of such an order may be granted, but only upon an application for an order under this section and upon the judicial finding required by subsection (d). The period of extension shall be for a period not to exceed 90 days.

"(f) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance under subsection (d) in accordance with the terms of a court under this section.

"(g) Unless otherwise ordered by the judge, the results of a pen register or trap and trace device shall be furnished at reasonable intervals during regular business hours for the duration of the order to the authorized Government official or officials.

"AUTHORIZATION DURING EMERGENCIES

"SEC. 403. (a) Notwithstanding any other provision of this title, when the Attorney General makes a determination described in subsection (b), the Attorney General may authorize the installation and use of a pen register or trap and trace device on an emergency basis to gather foreign intelligence information or information concerning international terrorism if—

"(1) a judge referred to in section 402(b) of this Act is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to install and use the pen register or trap and trace device, as the case may be, on an emergency basis; and

"(2) an application in accordance with section 402 of this Act is made to such judge as soon as practicable, but not more than 48 hours, after the Attorney General authorizes the installation and use of the pen register or trap and trace device, as the case may be, under this section.

"(b) A determination under this subsection is a reasonable determination by the Attorney General that—

"(1) an emergency requires the installation and use of a pen register or trap and trace device to obtain foreign intelligence information or information concerning international terrorism before an order authorizing the installation and use of the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 402 of this Act; and

"(2) the factual basis for issuance of an order under such section 402 to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

"(c)(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

"(A) when the information sought is obtained;

"(B) when the application for the order is denied under section 402 of this Act; or

"(C) 48 hours after the time of the authorization by the Attorney General.

"(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 402 of this Act is issued approving the installation and use of the pen register or trap and trace device, as the case may be, no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

"AUTHORIZATION DURING TIME OF WAR

"SEC. 404. Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

"USE OF INFORMATION

"SEC. 405. (a)(1) Information acquired from the use of a pen register or trap and trace device installed pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this section.

"(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

"(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

"(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the United States shall, before the trial, hearing, or the other proceeding or at a reasonable time before an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

"(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the State or political subdivision thereof against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

"(e)(1) Any aggrieved person against whom evidence obtained or derived from the use of a pen register or trap and trace device is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, or a State or political subdivision thereof, may move to suppress the evidence obtained or derived from the use of the pen register or trap and trace device, as the case may be, on the grounds that—

"(A) the information was unlawfully acquired; or

"(B) the use of the pen register or trap and trace device, as the case may be, was not made in conformity with an order of authorization or approval under this title.

"(2) A motion under paragraph (1) shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the aggrieved person concerned was not aware of the grounds of the motion.

"(f)(1) Whenever a court or other authority is notified pursuant to subsection (c) or (d), whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to the use of a pen register or trap and trace device authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from the use of a pen register or trap and trace device authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law and if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the use of the pen register or trap and trace device, as the case may be, as may be necessary to determine whether the use of the pen register or trap and trace device, as the case may be, was lawfully authorized and conducted.

"(2) In making a determination under paragraph (1), the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the use of the pen register or trap and trace device, as the case may be.

"(g)(1) If the United States district court determines pursuant to subsection (f) that the use of a pen register or trap and trace device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

"(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

"(h) Orders granting motions or requests under subsection (g), decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

"CONGRESSIONAL OVERSIGHT

"SEC. 406. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this title.

"(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

"(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this title; and

"(2) the total number of such orders either granted, modified, or denied.".

SEC. 602. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 601 of this Act, is further amended by inserting after title IV, as added by such section 601, the following new title:

"TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

"DEFINITIONS

"SEC. 501. As used in this title:

"(1) The terms 'foreign power', 'agent of a foreign power', 'foreign intelligence information', 'international terrorism', and 'Attorney General' shall have the same meanings as in section 101 of this Act.

"(2) The term 'common carrier' means any person or entity transporting people or property by land, rail, water, or air for compensation.

"(3) The term 'physical storage facility' means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof.

"(4) The term 'public accommodation facility' means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

"(5) The term 'vehicle rental facility' means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

"ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

"SEC. 502. (a) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

"(b) Each application under this section—

"(1) shall be made to—

"(A) a judge of the court established by section 103(a) of this Act; or

"(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

"(2) shall specify that—

"(A) the records concerned are sought for an investigation described in subsection (a); and

"(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

"(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

"(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

"(d)(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

"(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Federal Bureau of Investigation has sought or obtained records pursuant to an order under this section.

"CONGRESSIONAL OVERSIGHT

"SEC. 503. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for records under this title.

"(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

"(1) the total number of applications made for orders approving requests for records under this title; and

"(2) the total number of such orders either granted, modified, or denied.".

SEC. 603. CONFORMING AND CLERICAL AMENDMENTS.

(a) CONFORMING AMENDMENT.—Section 601 of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 601(1) of this Act, is amended by striking out "other than title III" and inserting in lieu thereof "other than titles III, IV, and V".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of the Foreign Intelligence Surveillance Act of 1978 is amended by striking out the items relating to title IV and section 401 and inserting in lieu thereof the following:

"TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

"401. Definitions.
"402. Pen registers and trap and trace devices for foreign intelligence and international terrorism investigations.
"403. Authorization during emergencies.
"404. Authorization during time of war.
"405. Use of information.
"406. Congressional oversight.

"TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

"501. Definitions.
"502. Access to certain business records for foreign intelligence and international terrorism investigations.
"503. Congressional oversight.

"TITLE VI—EFFECTIVE DATE

"601. Effective date.".

The Presiding Officer (Mr. ENZI) appointed:

Mr. SHELBY, Mr. CHAFEE, Mr. LUGAR, Mr. DEWINE, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. ALLARD, Mr. COATS, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr.

BAUCUS, Mr. ROBB, Mr. LAUTENBERG, Mr. LEVIN, and from the Committee on Armed Services, Mr. THURMOND.

EXECUTIVE SESSION

CONVENTION FOR THE PROTECTION OF PLANTS

INTERNATIONAL GRAINS AGREEMENT, 1995

TRADEMARK LAW TREATY WITH REGULATIONS

AMENDMENTS TO THE CONVENTION ON THE INTERNATIONAL MARITIME ORGANIZATION

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following treaties on today's Executive Calendar: Nos. 17, 18, 19, 20.

I further ask unanimous consent the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; all committee provisos, reservations, understandings, declarations be considered agreed to; that any statements be inserted in the CONGRESSIONAL RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, when the resolutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of these treaties the Senate return to legislative session.

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

Mr. LOTT. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the resolution will rise and stand until counted.

(After a pause.)

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

(The texts of the resolutions of ratification will be printed in a future edition of the RECORD.)

Mr. LOTT. Mr. President, these treaties are the Convention for the Protection of Plants, International Grains Agreement, Trademark Law Treaty with Regulations and Amendments to the Convention of the International Maritime Organization.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. I ask unanimous consent that on Thursday, July 2, committees have from the hours of 11 to 1 p.m. in order to file legislative or executive reported items.

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

REMOVAL OF INJUNCTION OF SECRECY

Mr. LOTT. As in executive session, I ask unanimous consent the injunction of secrecy be removed from the following treaties transmitted to the Senate on June 26, 1998, by the President: Tax Convention with Estonia, Tax Convention with Lithuania, Tax Convention with Latvia.

I further ask that the treaties, having been considered read the first time, be referred with accompanying papers to the Committee on Foreign Affairs be reported and the President's message be printed in the RECORD.

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

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Republic of Estonia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1998.*

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Government of the Republic of Lithuania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1998.*

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Republic of Latvia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1998.*

ORDER FOR RECORD TO REMAIN OPEN

Mr. LOTT. Mr. President, I ask unanimous consent the RECORD remain open until 3 p.m. today in order for Senators to introduce legislation and statements.

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

COMMENDING THE LIBRARY OF CONGRESS FOR 200 YEARS OF OUTSTANDING SERVICE

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 255, submitted earlier today by Senators WARNER, FORD, STEVENS, and MOYNIHAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 255) to commend the Library of Congress for 200 years of outstanding service to Congress and the Nation, and to encourage activities to commemorate

the bicentennial anniversary of the Library of Congress.

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

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

Mr. LOTT. I ask unanimous consent the resolution be agreed, the preamble be agreed to, a motion to consider be laid upon the table, and a statement of explanation appear in the RECORD.

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

The resolution (S. Res. 255) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 255

Whereas the Library of Congress was established in 1800 and will celebrate the 200th anniversary of the Library of Congress in 2000;

Whereas the goal of the bicentennial commemoration is to inspire creativity in the century ahead and ensure a free society through greater use of the Library of Congress and libraries everywhere;

Whereas the bicentennial goal will be achieved through a variety of national, State, and local projects, developed in collaboration with the offices of the Members of Congress, the staff of the Library of Congress, and special advisory committees; and

Whereas the bicentennial commemorative activities include significant acquisitions, symposia, exhibits, issuance of a commemorative coin, and enhanced public access to the collections of the Library of Congress through the National Digital Library: Now, therefore, be it

Resolved, That the Senate commends the Library of Congress on 200 years of service to Congress and the Nation, and encourages the American public to participate in activities to commemorate the bicentennial anniversary of the Library of Congress.

NEXT GENERATION INTERNET RESEARCH ACT OF 1998

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 334, S. 1609.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1609) to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.

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

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

AMENDMENT NO. 3054

(Purpose: To change the authorization levels for the Department of Defense and the National Aeronautics and Space Administration, and to provide that the FY 1999 DOD authorization is under the National Defense Authorization Act for Fiscal Year 1999)

Mr. LOTT. Senators FRIST and ROCKEFELLER have an amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. FRIST, for himself, and Mr. ROCKEFELLER, proposes an amendment numbered 3054.

Mr. LOTT. 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:

On page 9, in the matter appearing after line 18—

(1) strike "$42,500,000" in the column headed FY 1999 and insert "$40,000,000";

(2) strike "$45,000,000" in the column headed FY 2000 and insert "$42,500,000";

(3) strike "$5,000,000" in the column headed FY 1999 the second place it appears and insert "$10,000,000";

(4) strike "$5,000,000" in the column headed FY 2000 and insert "$10,000,000";

(5) strike the closing quotation marks at the end of the table; and

(6) after the table insert the following:

The amount authorized for the Department of Defense for fiscal year 1999 under this section shall be the amount authorized pursuant to the National Defense Authorization Act for Fiscal Year 1999.".

Mr. LOTT. I ask unanimous consent the amendment be considered as read and agreed to.

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

The amendment (No. 3054) was agreed to.

AMENDMENT NO. 3055

(Purpose: To authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures)

Mr. LOTT. I ask unanimous consent that the Senate proceed to the consideration of an amendment offered by Senators LEAHY and ASHCROFT, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. LEAHY, for himself, and Mr. ASHCROFT, proposes an amendment numbered 3055.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. ___. STUDY OF EFFECTS ON TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS OF ADDING GENERIC TOP-LEVEL DOMAINS.

(a) STUDY BY NATIONAL RESEARCH COUNCIL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive study, taking into account the diverse needs of domestic and international Internet users, of the short-term and long-term effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

(b) MATTERS TO BE ASSESSED IN STUDY.—The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes relating to—

(1) the short-term and long-term effects on the protection of trademark and intellectual property rights and consumer interests of increasing or decreasing the number of generic top-level domains;

(2) trademark and intellectual property rights clearance processes for domain names, including—

(A) whether domain name databases should be readily searchable through a common interface to facilitate the clearing of trademarks and intellectual property rights and proposed domain names across a range of generic top-level domains;

(B) the identification of what information from domain name databases should be accessible for the clearing of trademarks and intellectual property rights; and

(C) whether generic top-level domain registrants should be required to provide certain information;

(3) domain name trademark and intellectual property rights dispute resolution mechanisms, including how to—

(A) reduce trademark and intellectual property rights conflicts associated with the addition of any new generic top-level domains; and

(B) reduce trademark and intellectual property rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark and intellectual property rights disputes relating to domain names, including which jurisdictions should be available for trademark and intellectual property rights owners to file suit to protect such trademarks and intellectual property rights;

(5) trademark and intellectual property rights infringement liability for registrars, registries, or technical management bodies; and

(6) short-term and long-term technical and policy options for Internet addressing schemes and the impact of such options on current trademark and intellectual property rights issues.

(c) COOPERATION WITH STUDY.—

(1) INTERAGENCY COOPERATION.—The Secretary of Commerce shall—

(A) direct the Patent and Trademark Office, the National Telecommunications and Information Administration, and other Department of Commerce entities to cooperate fully with the National Research Council in its activities in carrying out the study under this section; and

(B) request all other appropriate Federal departments, Federal agencies, Government contractors, and similar entities to provide similar cooperation to the National Research Council.

(2) PRIVATE CORPORATION COOPERATION.—The Secretary of Commerce shall request that any private, not-for-profit corporation established to manage the Internet root server system and the top-level domain names provide similar cooperation to the National Research Council.

(d) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the National Research Council shall complete the study under this section and submit a report on the study to the Secretary of Commerce. The report shall set forth the findings, conclusions, and recommendations of the Council concerning the effects of adding new generic top-level domains and related dispute resolution procedures on trademark and intellectual property rights holders.

(2) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than 30 days after the date on which the report is submitted to the Secretary of Commerce, the Secretary shall submit the report to the Committees on Commerce and the Committees on the Judiciary of the Senate and House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $800,000 for the study conducted under this Act.

Mr. LEAHY. Mr. President, from its origins as a U.S.-based research vehicle, the Internet has matured into a democratic, international medium for communication, commerce and education. As the Internet evolves, the traditional means of organizing its technical functions such as the Domain Name System (DNS) need to evolve as well.

It is for this reason, in part, that I viewed S.1609, legislation to authorize the Next Generation Internet (NGI) program, as the appropriate vehicle for my domain name amendment. This amendment is based on S.1727, legislation I introduced on March 6 to authorize the National Research Council (NRC) of the National Academy of Sciences to conduct a comprehensive study of the effects on trademark and intellectual property rights holders of adding new generic top level domain names (gTLDs), and related dispute resolution procedures.

At the outset, I would like to thank Senator ASHCROFT, who is a cosponsor of this domain name amendment to S. 1609 as well as a cosponsor of my original domain name bill, S.1727. I would also like to thank Senators ROCKEFELLER, FRIST, HOLLINGS and MCCAIN who enabled this domain name amendment to be considered along with S.1609.

On today's Internet, the domain name system (DNS) works through a hierarchy of names. At the top of this hierarchy are a set of Top Level Domains that can be classified into two categories: generic Top Level Domains (gTLD), such as ".gov," ".net," ".com," ".edu," ".org," ".int," and ".mil," and the country code Top Level Domain names, such as ".us" and ".uk". Before each TLD suffix, is a Second Level Domain name.

Since the Internet is an outgrowth of U.S. government investments carried out under agreements with U.S. agencies, major components of the DNS are still performed by or subject to agreements with U.S. agencies. Examples include assignments of numerical addresses to Internet users, management of the system of registering names for Internet users, operation of the root server system, and protocol assignment.

For the past five years, a company based in Herndon, Virginia, named Network Solutions, Inc., has served under a cooperative agreement with the National Science Foundation as the exclusive registry of all second level domain names in several of the gTLDs (e.g., .com, .net, .org, and .edu). This contract ended in March 1998, but the Federal Government has exercised an optional ramp-down period that is scheduled to expire in September 1998. With this date quickly approaching, many of us have been concerned about what would happen at the end of that company's exclusive contract. Simply put, how will we avoid chaos on the Internet and the potential risk of multiple registrations of the same domain name for different computers?

On January 30, 1998, the Commerce Department released a "Green Paper", or discussion draft, entitled A Proposal to Improve Technical Management of Internet Names and Addresses, proposing privatization of the management of the DNS through the creation of a new, not-for-profit corporation. The Green Paper suggested that during the period of transition to this new, not-for-profit corporation, the U.S. Government, in cooperation with IANA, would undertake a process to add up to five new gTLDs to the DNS.

Although adding new gTLDs, as the Green Paper proposed, would allow more competition and more individuals and businesses to obtain addresses that more closely reflect their names and functions, I was concerned as were many businesses, that the increase in gTLDs would make the job of protecting their trademarks from infringement or dilution more difficult. In addition, increasing the number of gTLDs without an efficient dispute resolution mechanism had the potential of fueling litigation and the threat of litigation, with an overall chilling effect on the choice and use of domain names.

The Green Paper properly raised the important questions of how to protect consumers' interests in locating the brand or vendor of their choice on the Internet without being deceived or confused, how to protect companies from having their brand equity diluted in an electronic environment, and how to resolve disputes efficiently and inexpensively. It did not, however, answer these complex and important questions. Dictating the introduction of new gTLDs without analyzing the impact that these new gTLDs would have on trademark and intellectual property rights holders and related dispute resolution procedures seemed like putting the cart before the horse.

The bill that I introduced, S. 1727, was intended to get the horse back in front of the cart. It directs the Secretary of Commerce to request the National Research Council (NRC) of the National Academy of Sciences to conduct a comprehensive study of the effects on trademark and intellectual property rights holders of adding new gTLDs and related dispute resolution procedures. The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes regarding:

(1) the short-term and long-term effects on the protection of trademark and intellectual property rights and consumer interests of increasing or decreasing the number of gTLDs;

(2) trademark and intellectual property rights clearance processes for domain names, including whether domain name databases should be readily searchable through a common interface to facilitate the "clearing" of trademarks and intellectual property rights and proposed domain names across a range of gTLDs; identifying what information from domain name databases should be accessible for the "clearing" of trademarks and intellectual property rights; and whether gTLDs registrants should be required to provide certain information;

(3) domain name trademark and intellectual property rights dispute resolution mechanisms, including how to reduce trademark and intellectual property rights conflicts associated with the addition of any new gTLDs and how to reduce trademark and intellectual property rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark and intellectual property rights disputes relating to domain names, including which jurisdictions should be available for trademark and intellectual property rights owners to file suit to protect their trademarks and intellectual property rights;

(5) trademark and intellectual property rights infringement liability for registrars, registries, or technical management bodies; and

(6) short-term and long-term technical and policy options for Internet addressing schemes and their impact on current trademark and intellectual property issues.

We should understand the effects on trademark and intellectual property rights holders of adding new gTLDs and related dispute resolution procedures before we move too quickly to add significant numbers of new gTLDs. Since its introduction in March, groups such as ATT, Bell Atlantic, Time Warner, the International Trademark Association, and the American Intellectual Property Law Association, have endorsed this legislation reflected in the Leahy-Ashcroft amendment.

The Administration's White Paper, released on June 5, acknowledges the concerns to be addressed in the study

called for in this legislation. The White Paper backed off the Green Paper's earlier suggestion to add five new gTLDs. Instead, the White Paper proposes that the new corporation would be the most appropriate body to make decisions as to how many, if any, new gTLDs should be added once it has global input, including from the study called for in the Leahy-Ashcroft domain name amendment. Specifically, the White Paper calls upon the World Intellectual Property Organization, inter alia, to "evaluate the effects, based on studies conducted by independent organizations, such as the National Research Council of the National Academy of Sciences, of adding new gTLDs and related dispute resolution procedures on trademark and intellectual property holders."

I commend the Administration for the deliberate approach it has taken to facilitate the withdrawal of the U.S. government from the governance of the Internet and to privatize the management of Internet names and addresses. We should have a Hippocratic Oath for the Internet—that before we adopt any new regimen that affects the Internet, we should make sure we are doing no harm to this dynamic medium.

We, in Congress, have not always lived up to the standard of this oath. Passage by an overwhelming vote of the unconstitutional Communications Decency Act to regulate constitutionally-protected online speech on the Internet is an example of wrong-headed legislation that Congress still has not lived down. Internet users generally remain skeptical about the heavy-headed regulatory actions Congress may take based on bumper-sticker politics.

The experience of the Communications Decency Act demonstrates that we should exercise caution in passing new laws for the Internet. This is a global phenomenon and its freedom from regulation has been primarily responsible for its explosive growth. This principle is important as we see increasingly intense disputes over whether or how to regulate this medium. Encouraging free markets and private sector self-regulatory approaches is a particularly American approach.

The best way to "export" our core American values, to preserve the free flow of commerce and individual expression and community self-governance on the Internet, is not to declare the Internet a U.S. territory. Rather, we should be seeking to support the growth of the Internet's own self-ordering properties, and fostering mechanisms by which policy will be set by groups accountable to all Internet participants on a global basis. If we succeed in creating a decentralized and truly global policy-making apparatus for the Internet, the core values we care most about will in fact propagate across the world.

On a number of issues pertaining to the Internet, from privacy to pornography to online gambling, governments are more and more faced with the question of when to defer to effective private action, rather than regulating in detail in the first instance. The Internet community is rapidly developing new technologies and practices that may well solve many of these new "public policy" problems before we can even begin effectively to debate them. For example, new labels for web sites will let users know which sites have privacy policies or content they can accept. New software standards will even allow the automated negotiation of privacy or content preferences. Other technologies will allow end users to control what information their web browsers surrender to the sites they visit. And many new types of filters and private sector practices are being deployed to bring the vice of unsolicited commercial E-mail (spam) under control.

I fully appreciate that we have some way to go before governments can declare the private sector self-governance mechanisms of the Internet adequate to solve the complex and multi-faceted problems of online privacy or protecting children from inappropriate material. But progress is being made every day, at a rapid pace, thanks to the ingenuity of engineers and concerted actions of public interest advocates and system operators.

We should be trying to persuade other countries to see the virtues of free enterprise and community self-governance. We can demonstrate by means of the sheer success of electronic commerce, unconstrained by heavy-handed top down regulation, that those who allow the market to work will be richly rewarded. We can develop new technological means and online trade practices to solve the new public policy problems of the Internet—demonstrating in the process that it is best to let those with the greatest stake in solving those problems and in building online commerce and community to attempt to do so in the first instance. We can show that diversity works best to fit individual needs to community rules—by allowing a diverse Internet to flourish and using filters and education and navigational aids to help everyone make sure they only go where they want to go and only deal with those they are prepared to trust.

We can, in short, spread the American faith in liberty and the pursuit of happiness by avoiding the futile, top-down lawmaking other countries are so fond of—and by demonstrating that an unconstrained Internet will form its own new kind of order and become the best kind of online place for those who participate there. That kind of American leadership cannot be justly accused of being a new form of imperialism. We'll make converts to our values one at a time, throughout the world, by showing the path to greater wealth, and the virtues of greater freedom, by example. And we'll be better able to resist counterproductive local regulation by other countries if we can show that we are not attempting to impose rules of our own on others without their consent.

As we debate new bills that directly or indirectly regulate the Internet and impose U.S. laws on a global medium, we should remember our core values, and try to export those values—free speech, freedom to associate, freedom of the press—to the rest of the world via the Internet. But the most effective way to do so is by the leadership of our example. By inviting Internet stakeholders to work together and form a new, private, not-for-profit corporation to manage the domain name and addressing system so critical to the governance of the Internet, the Administration has set an excellent example, and I commend them for it.

Mr. LOTT. I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 3055) was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read the third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 1609), as amended, was read the third time and passed, as follows:

S. 1609

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 "Next Generation Internet Research Act of 1998".

SEC. 2. DEFINITIONS.

(a) TERMS USED IN THIS ACT.—For purposes of this Act—

(1) INTERNET.—The term "Internet" has the meaning given such term by section 230(e)(1) of the Communications Act of 1934 (47 U.S.C. 230(e)(1)).

(2) GEOGRAPHIC PENALTY.—The term "geographic penalty" means the imposition of costs on users of the Internet in rural or other locations attributable to the distance of the user from network facilities, the low population density of the area in which the user is located, or other factors, that are disproportionately greater than the costs imposed on users in locations closer to such facilities or on users in locations with significantly greater population density.

(b) DEFINITION OF NETWORK IN HIGH-PERFORMANCE COMPUTING ACT OF 1991.—Paragraph (4) of section 4 of the High-Performance Computing Act of 1991 (15 U.S.C. 5503) is amended by striking "network referred to as the National Research and Education Network established under section 102; and" and inserting "network, including advanced computer networks of Federal agencies and departments; and".

SEC. 3. FINDINGS.

(a) IN GENERAL.—The Congress finds that—

(1) United States leadership in science and technology has been vital to the Nation's prosperity, national and economic security, and international competitiveness, and there is every reason to believe that maintaining this tradition will lead to long-term continuation of United States strategic advantages in information technology;

(2) the United States' investment in science and technology has yielded a scientific and engineering enterprise without peer, and that Federal investment in research is critical to the maintenance of United States leadership;

(3) previous Federal investment in computer networking technology and related fields has resulted in the creation of new industries and new jobs in the United States;

(4) the Internet is playing an increasingly important role in keeping citizens informed of the actions of their government; and

(5) continued inter-agency cooperation is necessary to avoid wasteful duplication in Federal networking research and development programs.

(b) ADDITIONAL FINDINGS FOR THE 1991 ACT.—Section 2 of the High-Performance Computing Act of 1991 (15 U.S.C. 5501) is amended by—

(1) striking paragraph (4) and inserting the following:

"(4) A high-capacity, flexible, high-speed national research and education computer network is needed to provide researchers and educators with access to computational and information resources, act as a test bed for further research and development for high-capacity and high-speed computer networks, and provide researchers the necessary vehicle for continued network technology improvement through research."; and

(2) adding at the end thereof the following:

"(7) Additional research must be undertaken to lay the foundation for the development of new applications that can result in economic growth, improved health care, and improved educational opportunities.

"(8) Research in new networking technologies holds the promise of easing the economic burdens of information access disproportionately borne by rural users of the Internet.

"(9) Information security is an important part of computing, information, and communications systems and applications, and research into security architectures is a critical aspect of computing, information, and communications research programs.".

SEC. 4. PURPOSES.

(a) IN GENERAL.—The purposes of this Act are—

(1) to serve as the first authorization in a series of computing, information, and communication technology initiatives outlines in the High-Performance Computing Act of 1991 (15 U.S.C. 5501 et seq.) that will include research programs related to—

(A) high-end computing and computation;

(B) human-centered systems;

(C) high confidence systems; and

(D) education, training, and human resources; and

(2) to provide for the development and coordination of a comprehensive and integrated United States research program which will—

(A) focus on the research and development of a coordinated set of technologies that seeks to create a network infrastructure that can support greater speed, robustness, and flexibility than is currently available and promote connectivity and interoperability among advanced computer networks of Federal agencies and departments;

(B) focus on research in technology that may result in high-speed data access for users that is both economically viable and does not impose a geographic penalty; and

(C) encourage researchers to pursue approaches to networking technology that lead to maximally flexible and extensible solutions wherever feasible.

(b) MODIFICATION OF PURPOSES OF THE 1991 ACT.—Section 3 of the High-Performance Computing Act of 1991 (15 U.S.C. 5502) is amended by—

(1) striking the section caption and inserting the following:

"SEC. 3. PURPOSES.";

(2) striking "purpose of this Act is" and inserting "purposes of this Act are";

(3) striking "universities; and" in paragraph (1)(I) and inserting "universities;";

(4) striking "efforts." in paragraph (2) and inserting "network research and development programs;"; and

(5) adding at the end thereof the following:

"(3) promoting the further development of an information infrastructure of information stores, services, access mechanisms, and research facilities available for use through the Internet;

"(4) promoting the more rapid development and wider distribution of networking management and development tools; and

"(5) promoting the rapid adoption of open network standards.".

SEC. 5. DUTIES OF ADVISORY COMMITTEE.

Title I of the High-Performance Computing Act of 1991 (15 U.S.C 5511 et seq.) is amended by adding at the end thereof the following:

"SEC. 103. ADVISORY COMMITTEE.

"(a) IN GENERAL.—In addition to its functions under Executive Order 13035 (62 F.R. 7231), the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet, established by Executive Order No. 13035 of February 11, 1997 (62 F.R. 7231) shall—

"(1) assess the extent to which the Next Generation Internet program—

"(A) carries out the purposes of this Act;

"(B) addresses concerns relating to, among other matters—

"(i) geographic penalties (as defined in section 2(2) of the Next Generation Internet Research Act of 1998); and

"(ii) technology transfer to and from the private sector; and

"(2) assess the extent to which—

"(A) the role of each Federal agency and department involved in implementing the Next Generation Internet program is clear, complementary to and non-duplicative of the roles of other participating agencies and departments; and

"(B) each such agency and department concurs with the rule of each other participating agency or department.

"(b) REPORTS.—The Advisory Committee shall assess implementation of the Next Generation Internet initiative and report, not less frequently than annually, to the President, the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Science on its findings for the preceding fiscal year. The first such report shall be submitted 6 months after the date of enactment of the Next Generation Internet Research Act of 1998 the last report shall be submitted by September 30, 2000.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Title I of the High-Performance Computing Act of 1991 (15 U.S.C 5511 et seq.), as amended by section 5 of this Act, is amended by adding at the end thereof the following:

"SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the purpose of carrying out the Next Generation Internet program the following amounts:

"Agency	FY 1999	FY 2000
"Department of Defense	$40,000,000	$42,500,000
"Department of Energy	$20,000,000	$25,000,000
"National Science Foundation	$25,000,000	$25,000,000
"National Institutes of Health	$5,000,000	$7,500,000
"National Aeronautics and Space Administration	$10,000,000	$10,000,000
"National Institute of Standards and Technology	$5,000,000	$7,500,000.

The amount authorized for the Department of Defense for fiscal year 1999 under this section shall be the amount authorized pursuant to the National Defense Authorization Act for Fiscal Year 1999.".

SEC. 7. STUDY OF EFFECTS ON TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS OF ADDING GENERIC TOP-LEVEL DOMAINS.

(a) STUDY BY NATIONAL RESEARCH COUNCIL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive study, taking into account the diverse needs of domestic and international Internet users, of the short-term and long-term effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

(b) MATTERS TO BE ASSESSED IN STUDY.—The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes relating to—

(1) the short-term and long-term effects on the protection of trademark and intellectual property rights and consumer interests of increasing or decreasing the number of generic top-level domains;

(2) trademark and intellectual property rights clearance processes for domain names, including—

(A) whether domain name databases should be readily searchable through a common interface to facilitate the clearing of trademarks and intellectual property rights and proposed domain names across a range of generic top-level domains;

(B) the identification of what information from domain name databases should be accessible for the clearing of trademarks and intellectual property rights; and

(C) whether generic top-level domain registrants should be required to provide certain information;

(3) domain name trademark and intellectual property rights dispute resolution mechanisms, including how to—

(A) reduce trademark and intellectual property rights conflicts associated with the addition of any new generic top-level domains; and

(B) reduce trademark and intellectual property rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark and intellectual property rights disputes relating to domain names, including which jurisdictions should be available for trademark and intellectual property rights owners to file suit to protect such trademarks and intellectual property rights;

(5) trademark and intellectual property rights infringement liability for registrars, registries, or technical management bodies; and

(6) short-term and long-term technical and policy options for Internet addressing

schemes and the impact of such options on current trademark and intellectual property rights issues.

(c) COOPERATION WITH STUDY.—

(1) INTERAGENCY COOPERATION.—The Secretary of Commerce shall—

(A) direct the Patent and Trademark Office, the National Telecommunications and Information Administration, and other Department of Commerce entities to cooperate fully with the National Research Council in its activities in carrying out the study under this section; and

(B) request all other appropriate Federal departments, Federal agencies, Government contractors, and similar entities to provide similar cooperation to the National Research Council.

(2) PRIVATE CORPORATION COOPERATION.—The Secretary of Commerce shall request that any private, not-for-profit corporation established to manage the Internet root server system and the top-level domain names provide similar cooperation to the National Research Council.

(d) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the National Research Council shall complete the study under this section and submit a report on the study to the Secretary of Commerce. The report shall set forth the findings, conclusions, and recommendations of the Council concerning the effects of adding new generic top-level domains and related dispute resolution procedures on trademark and intellectual property rights holders.

(2) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than 30 days after the date on which the report is submitted to the Secretary of Commerce, the Secretary shall submit the report to the Committees on Commerce and the Committees on the Judiciary of the Senate and House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $800,000 for the study conducted under this Act.

Mr. LOTT. Mr. President, I will go to the closing script now, unless there are any other issues pending. When I get to the close of this, we will have a final speaker today, Senator GORTON, and I appreciate his patience.

ORDERS FOR MONDAY, JULY 6, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of S. Con. Res. 297. I further ask that when the Senate reconvenes on Monday, July 6 at 12 noon, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 1 p.m., with Senators permitted to speak therein for up to 5 minutes each with the following exceptions: Senator LIEBERMAN, 30 minutes; Senator LOTT, or his designee, 30 minutes.

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

PROGRAM

Mr. LOTT. For the information of all Senators, when the Senate reconvenes on Monday, July 6, at 12 noon, there will be a period for morning business until 1. Following morning business, it will be my intention for the Senate to begin consideration of the VA/HUD Appropriations bill. I had earlier indicated that we might go directly to the Department of Defense Appropriations bill, but one of the managers will be necessarily absent. So we will go to the VA/HUD appropriations bill. It is hoped that Members will come to the floor during Monday's session to offer and debate amendments to the VA/HUD bill. We need to get a number of appropriations bills done in July, and if we could get this one done, working on Monday and Tuesday of that week—certainly not more than Thursday—that would be helpful. There will be no votes, though, during Monday's session.

Any votes ordered with respect to the VA/HUD Appropriations bill will be postponed to occur on Tuesday, July 7, at a time to be determined by the two leaders. A cloture motion was filed on the motion to proceed to the products liability bill, with a vote to occur Tuesday morning at 9:30 a.m. Also, on Tuesday evening, the Senate may vote on the IRS reform conference report. When I say Tuesday evening, I mean probably night.

Finally, I remind all Members that July will be a very busy month. We will have late night sessions during each week. We should expect to have votes on most Mondays and Fridays. The cooperation of all Members will be necessary for us to complete our work prior to the August recess.

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of H. Con. Res 297, following the remarks of Senator GORTON of Washington.

I yield the floor.

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

THE BATTLE AGAINST MICROSOFT

Mr. GORTON. Mr. President, my colleague, the senior Senator from Utah came to the Senate floor earlier today to continue his lonely and increasingly unsuccessful battle against Microsoft. His statement comes one day after the successful release of Microsoft's latest operating system software, Windows 98, and only three days after Microsoft won a major victory in a ruling by a three-judge panel of the Circuit Court of Appeals for the District of Columbia.

Senator HATCH said this morning that he is disappointed that Microsoft "has regrettably seen fit to deploy a massive PR campaign, as opposed to engaging the American public on the basis of the facts and the merits."

I find Senator HATCH's comments interesting, given that the appeals court panel took a long hard look at the very facts that Senator HATCH and the Department of Justice claim Microsoft is hiding and ruled that Microsoft's integration of Internet Explorer in Windows 95 is not a violation of U.S. antitrust law or of the 1995 consent decree. The ruling is significant because it covers the same issue that is the central focus of the Justice Department's current case against Microsoft—whether Microsoft can innovate by integrating new products, namely Internet Explorer, into Windows 98.

The Senator from Utah and the Department of Justice would have barred Windows 98 in its present form, frustrating millions of potential customers and imposing a major roadblock—the first major roadblock—in the way of the continuing triumph of American technology in this most cutting edge of all of our industries.

So Senator HATCH, instead, announced that his Judiciary Committee will examine those facts even further, in the hope, apparently, of finding something that the appeals court missed, or, as he explains in his statement, of finding a new issue with which to attack Microsoft.

The proper course of action would be precisely the opposite—the abandonment by both the Department of Justice and the chairman of the Judiciary Committee of an unsuccessful and wrongly directed crusade against the advancement of American technology.

I believe we are now relatively assured that the Department of Justice will not get the extra $7 million above the President's budget request that it asked for to pursue just this course. These actions are a waste of the taxpayers' money and represent the use of the taxpayers' money for the pursuit of private antitrust remedies which, if they are appropriate at all, should be financed by the competitors who seek them.

Regrettably, Mr. President, Senator HATCH and the Department of Justice are little interested in the facts or merits of the case but purely interested in bringing the most successful software company in the Nation to its knees, so that less successful, less competitive companies, that do not have the ability to succeed on their own, can do so with the help of the Clinton administration's Justice Department aided and abetted by the senior Senator from Utah.

Senator HATCH also discussed the release of a paper this week by the Software Publisher's Association attacking Microsoft's server business. Interestingly enough, this paper was released just 10 days after Microsoft's biggest competitor in the server business, Sun Microsystems, joined the Association.

The SPA paper claims that Microsoft is attempting to leverage its market dominance in desktop computer operating systems to gain control of the market for network servers with Windows NT.

Mr. President, Windows NT has enjoyed great success because it offers the price and performance Microsoft's customers demand. Microsoft Windows NT and the PC model have enabled a new generation of lower-priced computing for businesses worldwide. In fact, a recent study by the Business Research Group found that corporate systems based on Windows NT Server cost 52 percent less than comparable systems from Microsoft's biggest competitor.

It is not rocket science to determine that Microsoft's success is due to its ability to provide high performance software at low prices. That Senator HATCH and Microsoft's competitors represented by the Software Publishers Association want the American people to believe that Microsoft should be punished for providing what consumers want at prices consumers like is to turn the public interest on its head.

Senator HATCH and the Justice Department are fighting a losing battle, but in the process, are trampling on an American principle I and millions of Americans like me hold dear. That principle is that the free market economy, where innovation and unhindered competition have made this country the most successful economy in the world, should continue untrammeled by either Senator HATCH or the Clinton Justice Department.

ADJOURNMENT UNTIL MONDAY, JULY 6, 1998

The PRESIDING OFFICER. Under the previous order, the Senate is now adjourned until 12 noon, July 6, 1998.

Thereupon, the Senate, at 2:15 p.m., adjourned until Monday, July 6, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 26, 1998:

EXECUTIVE OFFICE OF THE PRESIDENT

SUSAN G. ESSERMAN, OF MARYLAND, TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE JEFFERY M. LANG, RESIGNED.

DEPARTMENT OF STATE

RICHARD E. HECKLINGER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

THEODORE H. KATTOUF, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED ARAB EMIRATES.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

CAPT. MARIANNE B. DREW, x...
CAPT. MARK R. FEICHTINGER, x...
CAPT. JOHN A. JACKSON, x...
CAPT. SAM H. KUPRESIN, x...
CAPT. JOHN P. MCLAUGHLIN, x...
CAPT. JAMES B. PLEHAL, x...
CAPT. MARKE R. SHELLEY, xx...

CONFIRMATIONS

Executive nominations confirmed by the Senate June 26, 1998:

DEPARTMENT OF STATE

NANCY E. SODERBERG, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

NANCY E. SODERBERG, OF THE DISTRICT OF COLUMBIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

VIVIAN LOWERY DERRYCK, OF OHIO, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF STATE

SHIRLEY ELIZABETH BARNES, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MADAGASCAR.

CHARLES RICHARD STITH, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA.

ERIC S. EDELMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FINLAND.

NANCY HALLIDAY ELY-RAPHEL, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SLOVENIA.

WILLIAM DAVIS CLARKE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF ERITREA.

GEORGE WILLIFORD BOYCE HALEY, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA.

KATHERINE HUBAY PETERSON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF LESOTHO.

JEFFREY DAVIDOW, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MEXICO.

JOHN O'LEARY, OF MAINE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

MICHAEL CRAIG LEMMON, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

RUDOLF VILEM PERINA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

PAUL L. CEJAS, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELGIUM.

CYNTHIA PERRIN SCHNEIDER, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THE NETHERLANDS.

KENNETH SPENCER YALOWITZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GEORGIA.

FEDERAL ENERGY REGULATORY COMMISSION

WILLIAM LLOYD MASSEY, OF ARKANSAS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2003.

DEPARTMENT OF COMMERCE

MICHAEL J. COPPS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

AWILDA R. MARQUEZ, OF MARYLAND, TO BE ASSISTANT SECRETARY OF COMMERCE, AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

THE JUDICIARY

A. HOWARD MATZ, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

VICTORIA A. ROBERTS, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JACK W. KLIMP, x...

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JOHN M. O'KEEFE, OF MARYLAND