SENATE—*Wednesday, July 29, 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, whose love casts out fear, You are our refuge and strength, a very present help in times of trouble. We come to You for the replenishment of our souls. Grant us a profound experience of Your concern for each of us, as if there were only one of us, and yet, for all of us as we work together. Break down the walls we build around our souls. So often, we hold You at arm's length, usually when we need You the most. Make our souls Your home. Fill us with the security and serenity we need to face the challenges of this day. Bless the women and men of this Senate. Grip them with the conviction that their labors today are sacred and that they will be given supernatural strength, vision, and guidance. Thank You in advance for a truly productive day. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. CAMPBELL. Mr. President, this morning the Senate will resume consideration of the Treasury-Postal appropriations bill. Senator ASHCROFT will be immediately recognized to offer his marriage penalty amendment. It is expected a motion to table the Ashcroft amendment will be offered after a reasonable amount of debate time. Following that vote, it is hoped that Members will come to the floor to offer and debate remaining amendments on the Treasury bill.

Upon disposition of the Treasury appropriations bill, the Senate may begin consideration of the foreign operations appropriations bill, health care reform, any other appropriations bills or conference reports as available, and any other legislative or executive items cleared for action. Therefore, Members should expect a late night session, with votes throughout the day, as the Senate attempts to complete its work prior to the August recess.

Finally, the leader would like to remind Members that the Senate will recess today from 12:30 until 2:15 to allow the weekly party caucuses to meet.

I thank the President and yield the floor.

RESERVATION OF LEADER TIME

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

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2312, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2312) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Thompson amendment No. 3353, to require the addition of use of forced or indentured child labor to the list of grounds on which a potential contractor may be debarred or suspended from eligibility for award of a Federal Government contract.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri, Mr. ASHCROFT, is recognized to offer an amendment regarding the marriage penalty.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, in collaborating with my colleague, the Senator from Kansas, I have agreed with him that he would offer the amendment on the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 3359

(Purpose: To amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals)

Mr. BROWNBACK. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for himself, Mr. ASHCROFT, Mr. INHOFE, Mr. GRAMS, Mr. SMITH of New Hampshire and Mrs. HUTCHISON, proposes an amendment numbered 3359.

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

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. ___. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

"(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

"(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

"(b) DETERMINATION OF TAXABLE INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the taxable income for each spouse shall be one-half of the taxable income computed as if the spouses were filing a joint return.

"(2) NONITEMIZERS.—For purposes of paragraph (1), if an election is made not to itemize deductions for any taxable year, the basic standard deduction shall be equal to the amount which is twice the basic standard deduction under section 63(c)(2)(C) for the taxable year.

"(c) TREATMENT OF CREDITS.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

"(d) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section."

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 of such Code as precedes the table is amended to read as follows:

"(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6013 the following:

"Sec. 6013A. Combined return with separate rates.

(d) BUDGET DIRECTIVE.—The members of the conference on the congressional budget resolution for fiscal year 1999 shall provide in

● 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

the conference report sufficient spending reductions to offset the reduced revenues received by the United States Treasury resulting from the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. BROWNBACK. Mr. President, the amendment we have offered would eliminate the marriage penalty, and that is an item of discussion we want to discuss this morning—the Senator from Missouri and myself. A number of people have been involved in this discussion. The Senator from Texas, Senator HUTCHISON, has been one of the leading proponents of this particular issue of doing away with the marriage penalty.

Our amendment to eliminate the marriage penalty, which is being cosponsored by Senator ASHCROFT, Senator INHOFE, Senator GRAMS, would reinstate income splitting and provide married couples who currently labor under the onerous burden of our Tax Code with much needed relief.

Our amendment doubles the standard deduction for married couples. It is a very simple amendment. It doubles the standard deduction for married couples.

Currently, the single standard deduction is $4,150, while the marriage standard deduction is only $6,900. Our amendment would raise the standard deduction for all married couples to $8,300, precisely double what it currently is for single people.

That is just the heart and soul—that is the guts of what this is about. We are trying to make the field the same for married couples as it is for singles. We think this will send a powerful signal to the institution of marriage that is central to family involvement in this country and saying that if you get married, we are not going to tax you more than if you are single living together.

That is the simple statement here. You ask people across the country, Is this a good thing to do? And they clearly say, yes. It makes no sense that right now we tax married couples, tax two-wage-earner families more than we do single individuals. This much needed amendment would provide hard-working American families with the tax relief they deserve but have not gotten from this Congress.

Over the past month, the Senate has considered several spending bills, bills which increase the size of Government and which call upon the taxpayers to yield even more of their personal income to the Federal Government.

As many of my colleagues know, during consideration of the budget resolution, I, along with several of my colleagues, Senator ASHCROFT, Senator HUTCHISON, Senator INHOFE, Senator SMITH, Senator GRAMS, called for larger tax cuts to be considered this year. Unfortunately, it appears with only a little amount of time left in this session that we are running out of time.

We have to put this issue forward now. We need to give the American taxpayers relief. We ought to have the integrity to keep our promises to the American people by eliminating the marriage penalty this session. The Senate leader has been very supportive of this effort. This is his top priority as well, to eliminate the marriage penalty. The American people sent us to Congress to lower taxes and to cut Government spending. And this Congress has gotten some of that done, but not enough. Clearly, we need to keep moving forward on tax cuts. Let us get our work done now and let us get it done for the American people.

Unfortunately, because we have failed to get a resolution that calls for elimination of the marriage penalty, I am offering this amendment, along with five of my colleagues, in order to give the taxpayers the relief they deserve.

Mr. President, at the appropriate time I will be calling for the yeas and nays. I just want to make a point about what this amendment does. We currently have in our Tax Code that if you have a two-wage-earner family, and their combined income is between $22,000 and $70,000, you have what is called effectively a marriage penalty. You pay more tax if you exist in this category—a two-wage-earner family between $22,000 and $70,000—you pay more tax than if the two people would just live together. It is called the marriage penalty. It amounts to about $150 billion over a 5-year time period that we are taxing people.

I have letters here, testimonials of people who said, "You know what? We were thinking about getting married, and then we couldn't because of the tax structure that was penalizing us for getting married."

Listen to this gentleman. He is from Columbus, OH, a gentleman by the name of Thomas, who I will leave out his last name.

Thank you so much for addressing this issue. I am engaged to be married and my fiance and I have discussed the fact that we will be penalized financially. We have postponed the date of our marriage in order to save up and have a "running start" in part because of this nasty, unfair tax structure.

There are two economists in this country who every year get divorced at the end of the year so that they can file separately and then are married the first part of the next year and then use the money to have a celebration with. Is that the sort of tax policy that we should have in America that encourages that type of situation to take place?

This is a lady from Alberton, MT:

My husband and I both work. We are 50 and 55 years old. This is a second marriage for both of us. We delayed our marriage for a number of years because of the tax consequences, and lived together. I caused a great deal of stress and lots of anguish amongst our family as this was not the way we were raised. We finally took the tax hit—

Listen to that—

We finally took the tax hit and married to make my family happy. This marriage penalty is awful!

That is from Alberton, MT, that that couple writes.

Is that the sort of thing we want to encourage our couples to be a part of or to have that sort of difficulty? I just don't think so.

This one from Iowa: "I think the marriage penalty is an outrage, yet another way the government stops us from being moral citizens." Can you believe that? They are writing, it "stops us from being moral citizens."

"I really hope this bill passes. I'm taxed enough as it is. I don't mind paying taxes, but enough is enough." That is Joe from Des Moines, IA, writing that.

This from Wichita, KS, my home State: "I appreciate you helping me and millions of other Americans." And I should mention, this affects 21 million American families—21 million American families—many of them just getting started as family members. "I appreciate your helping me and millions of other Americans who are struggling to keep their families together. I work full time for county government. My wife is a stay at home mom who works. I have four children and it is a challenge to pay the bills but we still do it. It would help us if the government helped us and killed the marriage penalty. A fair tax system would certainly be helpful to us."

They go on and on. I have pages of people who are writing in about the marriage penalty and the impact that it has had upon them. Listen to this from Union, KY: "Before we set a wedding date, I calculated the tax implications. Since we each earned in the low $30,000s, the Federal marriage penalty [was how this gentleman cited it] was over $3,000. What a wonderful gift from the IRS." Are those the sort of gifts we want to send?

This is from Indiana: "I can't tell you how disgusted we both are over this tax issue. If we get married, not only would I forfeit my $900 refund check, we would be writing a check to the IRS for $2,800. Darrell and I would very much like to be married and I must say it break our hearts to find out we can't afford it." Can't afford to get married, thanks to the marriage penalty.

From Ohio: "I'm engaged to be married and my fiance and I have discussed the fact that we will be penalized financially."

Here is from Baltimore, MD: "I am a 23-year-old, a marriage penalty victim for 4 years now. I'm a union electrician who works hard to put food on the table to take care of my family." Then

he asks a simple question: "Why is the government punishing me just because I'm married?"

That is a simple question that Senator ASHCROFT from Missouri and I and a number of other people ask who want to do away with this most onerous, wrongheaded, bad signal of a tax. That is the marriage penalty. That is why we are putting this bill forward here today, to deal with this particular situation. It is time we do it.

I want to address one other topic on this before allowing other Senators to speak, because I know a number want to address this particular issue; that is, whether or not we can pay for this issue. Let me say simply we can pay for this issue and wall off all the payments coming to Social Security that are in surplus for Social Security. You are going to hear a number of people attacking from the other side, saying we cannot do this because it will take from Social Security. Then they try to pit Social Security against marriage. It is a false choice.

We can preserve the entire flow of resources going to Social Security, the entire payroll tax, and do this marriage penalty lifting, which ought to be done for a positive signal and for the working families of this country.

CBO last week said we had $520 billion surplus they projected over the next 5 years—$520 billion. We are talking, with this particular marriage penalty, just over $151 billion. So about $1.5 out of $5. Any surplus that is coming into Social Security we wall off and we say that should go to Social Security, and we can do it. Do not listen to the other side saying we are taking from Social Security to deal with the marriage penalty. We are not. We don't have to do it that way. We are not doing it that way. I do not support doing it that way.

We support keeping Social Security safe and sound, and any flow of resources into Social Security stays in there. We should create a real trust fund and actually put the resources there. We can and we should. I believe we must, for the foundational institution of this democracy, the family, and particularly the marriage, do this repealing of this marriage penalty that penalizes two-wage-earner families making between $22,000 and $70,000. Many of those are newlywed, starting a family, with young children involved. This involves 21 million American families. It is time we do away with this terrible tax penalty.

At a later date, I will respond to some of the accusations I think will probably be coming from the other side. The Senator from Missouri, Senator ASHCROFT, has been a key champion of this particular issue, as I have noted, and a number of other people have as well, including Senator HUTCHISON of Texas, and I know they want to speak on this particular issue.

I yield to the Senator from Missouri on this particular amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CAMPBELL. 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. CAMPBELL. Mr. President, I ask unanimous consent the following be the only amendments in order, other than the pending amendment to the pending legislation, subject to relevant second-degree amendments. The list has about 56 amendments on it, and with Senator KOHL's approval, I will submit the list rather than going through the reading.

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

The list is as follows:

Campbell—Relevant.
Lott—Relevant.
Lott—Relevant.
Faircloth—Sense of the Senate breast cancer stamp.
Faircloth—Exchange stabilization.
DeWine—Abortion Federal health plans.
DeWine—Customs drug interdiction.
B. Smith—Employee benefit programs.
Mack—Immigration.
KB Hutchison—SEHBP.
Jeffords—Postal location.
Ashcroft—Marriage tax.
Brownback—2nd degree to Ashcroft.
McConnell—Relevant.
Domenici—Fed. law enforcement training center.
Coverdell—Fed. Law Enforcement training center.
Abraham—Family impact statement.
Jeffords—Fed. contractor retirement report.
Stevens—Duty free stores.
Stevens—Relevant.
Mack—GSA land conveyance.
Jeffords—Child care.
Thompson—Federal regulatory programs.
Hatch—Relevant.
Gramm—Relevant.
Managers package.
Lott—Relevant.
Lott—Relevant.
Lott—Relevant.
Baucus—Post office locations.
Bingaman—Relevant.
Bingaman—HIDTA.
Bingaman—Relevant.
Byrd—Relevant.
Byrd—Relevant.
Cleland—FEC—independent litigation authority.
Cleland—FEC—7th member.
Cleland—FEC—fully fund.
Conrad—High intensity drug trafficking.
Daschle—Relevant.
Daschle—Relevant.
Daschle—Internal Revenue Code.
Daschle—Internal Revenue Code.
Daschle—Internal Revenue Code.
Dorgan—Canadian grain.
Dorgan—Advisory cmte intergovernmental relations.
Feingold—Relevant.
Feingold—Relevant.
Feingold—Relevant.
Glenn—$2.8 million FEC—offset GSA.
Graham—Haiti.
Graham—HIDTA.
Graham—Counter drug funding.
Harkin—Environmental preferably products.
Harkin—Drug control.
Kohl—Managers amendment.
Kohl—Relevant.
Kohl—Relevant.
Kerrey—Sense of the Senate: Priority on payroll tax cuts.
Lautenberg—Sense of Congress.
Reid—Contraceptives.
Wellstone—P.O. designation.
Wellstone—Relevant.
Wellstone—Relevant.
Wellstone—Relevant.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ASHCROFT. Mr. President, I rise to support this amendment, the Brownback-Ashcroft amendment, to eliminate the marriage penalty in the Tax Code. I do so with a sense of enthusiasm.

As I have had the opportunity to engage citizens in my home State of Missouri, or whether I am in some other location, I have found, and I do find on a regular basis, that people understand that the most important component of this culture is not its Government in Washington, DC. It is not even the governments that we find in the State capitals of the United States. The best and most important component of governing America is to be found in families. As a matter of fact, I had the privilege of saying on this floor several weeks ago that if moms and dads in America can do their job, governing America will be easy. But if moms and dads in America can't do their job, governing America will be impossible.

I think this is an understanding that we share and is shared from Boston to Brooklyn to Bozeman. It doesn't matter what town you are in, people understand that the future, the success, the survival of this Republic in the next century is probably more related to whether or not we have successful families than any other single component of what happens in this society. Sure, it is important what we do in Congress. Sure, it is important what happens on Wall Street. But what happens on Main Street and on Elm Street and in the subdivisions of America where families exist, where families work to transmit values from one generation to the next, in an institution which has long been revered and always will be revered, an institution which shapes the character of our culture—that is what is truly important.

As I rise to support this amendment that would eliminate the attack on the

family that is leveled by our Tax Code, I do so with a sense that this elimination is long overdue. If we really want to be successful in the future—and I think that is the business of government, helping create an environment in which individuals can succeed and in which institutions can succeed—there are lots of reasons to think we are here. But I think we simply want to build a setting in which we have the right conditions for people to flourish, for people to grow, for people to reach the maximum of the potential that God has placed within them. If we are going to do that, we need to do things that encourage structures like the family, instead of attack structures like the family.

The marriage penalty attack is really not just on the family, but it attacks the core institution of the family. A marriage is what a family is built around. It is built on the durable, lasting, legally sanctioned, and enforced commitment of individuals to be together and to help each other as long as they live. There aren't very many things that work that way in our culture. There are a few things they claim to have lifetime guarantees on, and the like. But I don't think there are any institutions that are quite as lasting and helpful, which really strengthen our culture as effectively as families do.

You can get products that say they are guaranteed for life. I was amused by the fellow who said he was running a parachute company. Somebody asked, "Are they any good?" He said, "We guarantee them for life." I don't know if we would be particularly impressed with that. But the family is focused on and built on marriage, which is designed to be a lasting, durable relationship, sanctioned by law. I think we should do what we can to foster it, since it is most likely to be the thing that provides the basis for our success. This isn't something new, as a matter of fact, in our culture.

America hasn't been great because we had great government or because we had great business; we have had greatness in America because of the hearts of the people. Alexis de Tocqueville, about 160 years ago, came here from France to try to assess what is it about this country that makes it dynamic, that makes this country something that is catching the eye of the entire world. He wrote back—and I have to paraphrase—that he didn't find the greatness of America in the Halls of Congress, but he found it in the homes of the people. He didn't find it in politics; he found it in pulpits. He was really saying that the greatness of America is something that is resident in the values and character of America. He focused on the fact that that happens down beneath the big, overarching concerns of Government, found in the institution that is singularly identified as the most important institution in our culture—the family.

So it is no wonder that people raise their eyebrows when they finally learn what is happening to the family as a result of the Tax Code. I support this effort to eliminate the penalty that the Tax Code imposes on people when they get married. I commend the Senator from Kansas for his outstanding recounting and relating the individual details of the couple from Montana and another couple from Indiana, and different people around the country, who have written to say, for goodness' sake, stop penalizing us and making it impossible for us to really make the kind of marriage that we want to have, making Government attack marriage through the Tax Code.

Frankly, American policy should reflect the principles of the American people. It is time, instead of our policy attacking the principles, to reinforce the principles. One principle is that we don't want to say to people: Don't get married. We don't want to say that we will make it more expensive to get married, we will fine you or penalize you. We want to say: Look, we think marriage is a good thing, and we understand that the values that are transmitted in marriages, the character that is formed there, is the basis for societal success, not only in this but the next century. We want to encourage it.

So it is time for us to get out our eraser, if you will, and to return America to a tax policy that does not discriminate against marriage. I say "return" America, because we haven't always had a discriminatory policy against marriage. But the marriage penalty began to creep into our tax law a couple of decades ago. Its onerous, negative impact on this most important institution is really a scar on the body politic, and it is a wound that we can ill afford to allow to deepen. We must close this wound and restore this culture to the kind of health that has made America great.

Last April, a group of like-minded Senators and I, including the good Senator from Kansas, Senator BROWNBACK, and others, stated our intention to oppose the Senate's budget resolution, unless meaningful tax cuts were added. We have noted that the United States of America is now charging people to live here more than we have ever charged people to live here before—the highest tax rates in history. Our Government is charging more. We are taking more of people's money for Government, leaving less of people's money for themselves and their families than ever before in the history of the country.

For some, I guess, who like Government and prefer not to make their own decisions about how they live and want to have a bureaucrat buy for them what is to be purchased in the less than efficient system known as "Government," that might be OK. But to me, I am shocked. Why in the world should we be paying the highest taxes in history when we are not at war? As a matter of fact, the highest taxes have not even gone to support defense. I think a number of us are a little bit alarmed about the condition of the Nation's defense. We have slashed the defense budget. We have curtailed it immeasurably to the point where I am not sure we are ready to prepare ourselves. We have skyrocketed other bureaucratic spending in Government. While we have slashed the spending of the defense establishment, we have also slashed the capacity of families to spend their own money. So we are rocking along at the highest tax rates in history, and it is peacetime.

So last April, a group of us said we were not going to vote for a budget from this Senate, unless we put meaningful potentials for tax relief in that budget. We were promised that eliminating the marriage penalty would be the Senate's top priority for 1998. The leadership of the Senate promised us we would not only have an opportunity to try to reduce taxes substantially and significantly—not the $30 billion gesture over 5 years—incidentally, $30 billion over 5 years would buy about one cup of coffee per month per person, if you left a little tip. That is really not tax relief.

So here we are; today is July 29 and there are only 31 legislative days left in the session. Yet, we are not any closer to giving the American people tax cuts than we were 3 months ago. I have led the mini revolt against the budget in order to get real potentials for tax relief on the table. I believe it is time for us to say we need real tax relief, and the marriage penalty would be the brightest and best opportunity to provide tax relief that not only reduces taxes, but it would begin to align the policy of the United States with the principles of the American people. Of course, that embracing principle that everybody understands is the need for strong families.

Now, to add insult to injury—I don't know whether it is an insult or not—but the Congressional Budget Office came out with new numbers on the projected Government surplus. Here the Senate had agreed that we would do $30 billion, maybe, in tax cuts. The Congressional Budget Office just announced in the last 10 days that the projected surplus is over $520 billion. Wait a second—$30 billion to let the people have, which they earned, and we were going to take the other $490 billion and spend it, in spite of the fact that we were already taxing people at the highest rates in history. I wonder about that.

So we have come forward today. I thank Senator BROWNBACK and Senator HUTCHISON for sponsoring this kind of legislation. I am honored to be a person

who is helping organize this approach to say we need substantial and significant tax relief. We are not asking that we take the entire $520 billion. We are not even asking that we take a majority. But we are asking that at least the onerous affront to the values of the American people, this attack on marriages, be taken from our Tax Code.

It would cost about $151.3 billion, I think, to do this over 5 years. So, if you subtract that from the $520 billion, you could figure out that you still have about $360 billion over the next 5 years. That is an amazing sum.

We are not even asking for 1 out of 3 dollars, or what would be equivalent to 1 out of 3 dollars, of the surplus to say leave it in the pockets of people who work hard to earn it. Don't sweep that money away to be spent by the bureaucracy. And, for heaven's sake, let's not send a signal to people, don't get married in this culture, don't begin to form the basis for this most important institution of America. We need to say, indeed, we want marriages; we want intact families; we want the lasting, durable—yes, legally recognized—formal commitments of marriage upon which to build our family.

We stand here at the end of July on the heels of a month-long recess coming up in August. And there is a real possibility that Congress will not pass a budget reconciliation and will not deliver on the tax cut that was promised to the American people. We ought to shout at the top of our lungs, "No, no." We do not want to miss this opportunity, with this substantial capacity in our system, to begin to grant relief to the people, especially to have a cease-fire on American marriages. It is time for us to declare peace instead of declaring war on the principles of the American people when it comes to tax policy. We need a tax policy that represents the people's principles. Let's declare peace in terms of our policy on marriage.

Mr. President, our society has affirmed the importance of marriage and family for a long time. Most Americans would agree that persistent, durable marriages and strong families are absolutely necessary if we are to succeed as a nation in the 21st century. Yet, for 30 years—nearly 30 years—in the last three decades politicians have idly watched as the Federal Income Tax Code has systematically penalized millions of people for having been married. In fact, this last year, 42 million married taxpayers collectively paid $29 billion—that is with a "b," not with an "m"—$29 billion more in taxes than they would have paid had they been single.

I find it important for me to once in a while review what $1 billion means.

We all know that $1 million is a lot of money. One billion dollars is 1,000 million dollars. So we have 29,000 billion dollars in tax penalty because people are married. When you boil that down to what it means to the average marriage penalty for a family what this tax anomaly, this tax assault, is, it turns out that is about $1,400 per family. I have to say that is about $1,400 of after-tax income. If you relieve them of that, that is actually spendable money. In order to have a spendable result of about $1,400 of more money for a family to spend, I think you have to allow in terms of a salary of about $2,000. So this would give those families about a $2,000 increase in their wages, or about $1,400 in spendable income.

Or, another way, that is well over $100 a month that families could either add to their payments for better housing, they could add to their budget for better nutrition, they could add to their clothing budget so that their children could be better clothed and that they could be better clothed. This is $1,400 they could use to promote things that are beneficial to the community.

Yet here we have this marriage penalty that sweeps that $1,400 right off the kitchen table at budget time merely because these individuals are married.

I believe this marriage penalty is a grossly unfair assault on the bedrock of our culture and civilization. As a matter of fairness, principle, and public policy, Congress should put an end to the Tax Code discrimination against marriage. The marriage penalty exists today because Congress legislated ill-advised changes to the Tax Code in the late 1960s. Fortunately, eliminating the marriage penalty simply requires Congress to amend the code.

I want to just mention that the marriage penalty tax has a pretty substantial negative impact on women. It hurts marriages when their income is equivalent to their husband's income. When their income is equivalent, it hurts them most of all. We enact policies to help women in the workplace, yet we have a Tax Code which penalizes those women once they earn income that is comparable to that of their spouse. There is significant evidence that such tax consequences have a direct impact on women's labor participation choices. People make judgments based on these taxes.

We have already heard from our good friend, the Senator from Kansas. As a matter of fact, he stated that single people are living together in a way that many of them feel bad—disappointed their families, set bad examples for the communities—and they didn't want to do this.

The amendment which Senator BROWNBACK, Senator GRAMS, and Senator INHOFE, Senator SMITH of New Hampshire, and Senator HUTCHISON have proposed would eliminate the marriage penalty. And, of course, I am proposing it with them by allowing husbands and wives to split incomes as equivalent and filing as if both were single.

Over the next 5 years, the Federal Government is expected to collect $9.6 trillion in revenues. Eliminating the marriage penalty will reduce that total by 1.6 percent, and that is less than a third of the projected surplus. That is, the surplus is expected to be $520 billion. That is money in excess of what we expect to spend. If we continue to make plans to spend it, we ought to make plans to give it back at least to curtail the marriage penalty.

There is no excuse for withholding tax relief from American families, especially tax relief that is necessary to allow them to continue to be American families. We have no reason to continue to punish Americans with a Tax Code that is designed to make it tough for them to be family. For years Washington has told taxpayers, "You send it, we spend it." We ought to change that. It is time for a new message to be sent to America. It should be, "You earned it, we returned it."

I rise today to say that I find it unconscionable that the policy of the United States would be an assault on the principles of the American people, especially a sacred principle of American families that are built on the core institution of marriage, and that this Government, frankly, should hang its head in shame to think that it has agreed to spend the money of individuals and that it would not provide relief from this war on the principles of America called the "marriage penalty."

In my judgment, we have but one alternative, especially in the face of the kind of projected surplus which we have before us. That opportunity is to say that we are going to declare peace when it comes to the American family, and we are going to tell people that, "We will not penalize you any longer because you have chosen to be married; as a matter of fact, we are going to provide a way for you to enjoy the same kind of treatment under the Tax Code that you would have if you were to have remained single."

The end of the 105th Congress is coming quickly upon us. I call upon my colleagues to join me for the elimination of the marriage penalty once and for all.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that Senator FAIRCLOTH be added as a cosponsor to this.

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

Mr. BROWNBACK. Mr. President, I want to give a couple of facts and some figures that I think are important to have.

The average marriage penalty in this country for people who are paying the

marriage penalty is just over $1,400 a year; $1,425 a year is the average amount that families are paying for the marriage penalty in America. I think that is just far too high.

It may not seem like a lot to some people. But in paying electric bills, you could pay an average one for over 9 months. For some families, it would pay for a week-long vacation at Disneyland. It would make four payments on a minivan. You can go out to dinner, buy over 1,000 gallons of gasoline, you can buy over 1,200 loaves of bread. Those are important things to do with $1,425.

I want to show this chart to my colleagues as well. There are some who suggested last time when we entered into this debate that there is also a marriage bonus, and that if you will do away with the marriage bonus, we will do away with the marriage penalty. I have no problem whatsoever giving a bonus to people who are married. I think that we should honor this institution, and if they want to propose raising taxes on people who are married, they can go ahead and do so. I oppose that.

But I want to show who it hits. Again, you are talking about the highest proportion of the marriage penalty going to those families when the higher-earning spouse is making somewhere between $20,000 and $75,000. These are middle-income, a lot of times just starting to be wage-earner families, and it hits two-wage-earner families as well. These are the people that we should be trying to help out the absolute most. I just find it a completely wrongheaded policy, at a time when we are struggling so much in this country with the set of values we are putting forward, to say we are not only going to not help people making between $20,000 and $75,000, or are just starting a family, we are actually going to tax them, we are going to tax them more.

Mr. ASHCROFT. Will the Senator yield?

Mr. BROWNBACK. Yes, I yield.

Mr. ASHCROFT. It occurs to me you said this has its most substantial incidence in young families where people are getting started, both individuals working.

Mr. BROWNBACK. That is correct.

Mr. ASHCROFT. Is the Senator aware that when they interview people about family problems, and when families break up, that there is a high incidence of correlation between families that are overstressed economically and those that do not make it to last as families?

Mr. BROWNBACK. I thank the Senator from Missouri for the question. Absolutely. You hear that in any number of cases where people are breaking up, frequently the No. 1 cited problem is financial stress. But it then embellishes and builds into further stresses on them.

Mr. ASHCROFT. So if the average marriage penalty is $1,445 a year, you wonder about how many marriages might actually survive if the Government were not in there with its bureaucratic hand, extracting an extra $1,445 a year. You wonder in how many marriages the stress would be relieved enough that some of that financial friction that eventually sometimes flares into the flame which consumes the marriage, and burns down the house, could just be avoided.

Mr. BROWNBACK. The Senator raises a good consideration. We don't know the number of marriages that would be saved. But we do know that a lot of times people know this tax is on them. I think too many times my colleagues think people don't really know this tax exists on them, and that it exists there, but it is not a real tax, it is not one that anybody cites to. But we found, time and time again, people act rationally. They act economically rationally. So if you send a signal that you are going to tax something, they will do less of it. And if you send a signal you are going to subsidize something, they do more of it. So we tax marriage, and what do you think happens in that type of situation where you put more financial pressure on the family? The $1,445 is the average. There are some that are taxed substantially more.

I read to my colleagues, and the Senator from Missouri, letters from a number of people who have written in and said, "I cannot believe you guys would talk about family values, all of you, everybody saying that families are critical, families are important, yet here is such a classic example of where you are penalizing the family, and it still exists, and you guys are still talking about family values."

One thing I am very pleased about is the majority leader, TRENT LOTT, has been a strong proponent of doing away with this marriage penalty because he knows the importance of what this is about. He knows people act economically rationally and is supportive of this debate and is supportive of our efforts to try to get the marriage penalty done away with. I think it is important, and he has cited to it as well. This is not for high-wage-earning families, I point out to my colleagues as well. We are talking about hitting families the most where the highest earning spouse earns somewhere between $20,000 and $75,000. That is important.

Just because some of these testimonials are so touching, I want to read some more of them to my colleagues, because I think they are very, very telling. This is not just about statistics. This is not just about economists saying this has an impact. This is about real people looking at their real situation of real taxes they are paying. Listen to this one—Steve from Tennessee:

> My wife and I got married on January 1, 1997. We were going to have a Christmas wedding last year, but after talking to my accountant, we saw that instead of both of us getting money back on our taxes, we were going to have to pay in, so we postponed it. Now, after getting married, we have to have more taken out of our checks just to break even and not get a refund. We got penalized for getting married.

And then he says something that I think is prophetic and simple and straightforward. He just says, ". . . and that is just not right."

That is our point with this tax. We have the wherewithal to pay for it in the surplus. We will not touch Social Security surpluses coming into it. And this tax "is just not right."

Here is one from Dayton, OH:

> Penalizing for marriage flies in the face of common sense. This is a classic example of government policy not supporting that which it wishes to promote. In our particular situation, [he gives us his own situation] my girlfriend and I would incur a net annual penalty of $2,000, or approximately $167 per month. Though not huge, this is enough to pay our monthly phone, cable, water and home insurance bills.

We may sit here and look at this and say $2,000 a year, $167 a month, that is not a big deal—it is a big deal. It is a big signal we are sending to families that we are going to tax you and penalize you if you decide to get married. People act economically rational. They are going to look at this and they will understand it. They will also act economically rational if we say we are doing away with this marriage penalty. We think this is a bad tax, bad tax policy. It is not a place that we ought to tax, and they will act rationally there as well, and it sends a signal to families.

This is one I thought was excellent, from Marietta, GA.

> We always file as "married filing separately" because that saves us about $500 a year over "married filing jointly." When we figured our 1996 return, just out of curiosity, we figured what our tax would be if we lived together instead of married. Imagine our disgust when we discovered that, if we just lived together instead of being married, we would have saved an additional $1,000. So much for the much vaunted "family values" of our government. Our government is sending a very bad message to young adults by penalizing marriage this way.

That is from Bobby and Susan in Marietta, GA.

Is that the sort of signal we want to send? Listen to this one from Ohio:

> No person who legitimately supports family values could be against this bill. The marriage penalty is but another example of how, in the past 40 years the federal government has enacted policies that have broken down the fundamental institutions that were the strength of this country from the start.

That is Thomas from Ohio that writes that in.

I have studies here. We have Joint Economic Committee studies of the impact of a marriage penalty. We have studies from other institutions, citing

about the marriage penalty. None of them could put it more succinctly than Thomas has right here: "This is but another example of a policy that has broken down the fundamental institutions that were the strength of this country from the start."

Let us hear the people. Let us hear their cry. Let us hear them say what they are saying to us, that this is a wrongheaded idea, what we are doing.

This one, David from Indiana:

This is one of the most unfair laws that is on the books. I have been married for more than 23 years and would really like to see this injustice changed [And then he says, not for himself, but, he says] so my sons will not have to face this additional tax. Please keep up the great work. We need more people in office who are interested in families.

Then this one from North Carolina:

It is unfortunate that the government makes a policy against the noble and sacred institution of marriage.

Here is somebody, Andrew from North Carolina, who is looking at his Federal Government and he says:

It is unfortunate the government makes a policy against the noble and sacred institution of marriage. I also feel it is unfortunate it seems to hit young, struggling couples the hardest.

Let us hear the people. Let us hear their sense of what they are saying about this particular situation, about this particular tax that is in place.

This gentleman, Michael from California:

I believe a majority of families do not realize the government is stealing from them because of this marriage penalty and indirectly has created this pressure to have both parents work to get by and pay for their family's future. This indirectly is driving a wedge between families.

Michael in California.

I disagree with the first portion of it, where I think the families do know about this, but in the last portion of it he is saying, "This indirectly is driving a wedge between families."

I think anybody here on this floor, if you ask people about this particular bill, "Do we want to drive a wedge between families?" There would be 100 Senators here saying "No, we don't want to drive a wedge between families."

That being the case, then why aren't we doing something at this point in time when we have a chance to deal with this particular issue?

Mr. President, I want to cite some of the studies in case people think we are just citing the people calling in who want a tax cut.

I have a Joint Economic Committee study, "Reducing Marriage Taxes, Issues and Proposals," that talks about the various bills that are put forward within the marriage penalty. What we are talking about is putting in income-splitting proposals. They are similar.

This is the study on page 10, ". . .to optional filing because they adjust for differences in the tax schedules between single and joint filers." This is the Joint Economic Committee report.

However, the proposals differ from optional filing because they make no distinction regarding the division of income between spouses. In other words, couples are treated as if each spouse earns half of their total income regardless of which spouse actually generates that income. Income splitting would, therefore, provide all couples with the most favorable tax treatment by effectively treating them like two singles with a 50-50 income split. This favorable treatment would reduce taxes for nearly all married couples. Couples with equal incomes would receive equal tax cuts, thus maintaining horizontal equity.

Moreover, income splitting would create marriage bonuses for most couples and increase bonuses for couples already receiving them, including one-earner couples. Thus, the proposals reduce marriage neutrality by [they are saying] heavily favoring marriage.

This is in the study they are putting forward. They are saying, "OK, we are going to create a positive situation for some and we are going to do away with disparity for others."

I say, Mr. President, this is a good thing. This is the sort of thing that we ought to do in doing away with this marriage penalty, and this is according to the Joint Economic Committee study that we have.

I showed you the chart earlier about the differences between marriage penalty and bonuses. What we are trying to get at is this zone of people making between $20,000 and $75,000 and just do away with the marriage penalty. That is a good thing, and that is the signal we ought to send.

Mr. ASHCROFT. Mr. President, will the Senator from Kansas yield for a question?

Mr. BROWNBACK. I will be happy to. But first I ask unanimous consent that Senator ABRAHAM from Michigan be added as a cosponsor to this amendment.

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

Mr. BROWNBACK. I will be happy to yield for a question.

Mr. ASHCROFT. I wonder if the Senator from Kansas is aware of the fact that among people who are concerned about the culture, they have not only been concerned about families that are dissolved, and the divorce problem that we have, but the absence of family formation, the fact that there are lower rates of marriage than people had anticipated, than we have had in the past. I wonder, if given that situation, which individuals who have studied our culture are concerned about, I wonder if the Senator from Kansas might comment on whether or not the fact that we have a penalty on a number of people taxwise if they enter a marriage, if that might affect this challenge to our culture where we have had lower rates of individuals getting married?

Mr. BROWNBACK. I appreciate the question, and I think it is absolutely right on target that we are having a reduction in family creation. If you ask people in this body is that a good thing to have taking place, they would say no. We need to have more families, not less families, and part of the problem with government is we have had to create more and more government doing more and more things because we have fewer and fewer families proportionally doing less and less things.

If there is anything that we have been about, it is trying to reinstill a sense of family and values and virtues in this culture, and everybody agrees with that. Here you have a direct policy that is hurting creation of families, hurting creation of that foundational unit within a society and culture, that if it is weakened, the Government is weakened; if it is stronger, the Government is going to be stronger, too, because you have that foundational unit.

You can't create enough police forces or militaries or welfare institutions to take the place of the family. We have had a decline percentagewise in the creation of cohesive family units. This policy contributes to that of having a marriage penalty. The removal of that policy would help in the other direction of creating a family unit together.

I might note to the Senator from Missouri and to my colleagues, when we were looking at the welfare reform debate, we were very concerned about what has happened to our families and saying, "Are we sending the right signals or wrong signals to family creation?" We decided we were sending the wrong signals and we needed to change them to the right signals.

Do you know what is taking place? In my State of Kansas, we have a reduction in welfare rolls of 50 percent. I have met with a number of people who are off welfare now who were on welfare. I asked them, "What do you think of the changes we did?" And they said, "Thank goodness you did it. Welfare, to me, was like a drug. I got hooked on it. I got addicted to it, and you said, 'If you can work, you have to work, and we are going to let the States decide if we are going to subsidize additional children born out of wedlock.'"

They were thanking me for forcing them to do something that they needed to do. That was a policy signal that we sent from the Government. For many years we said if you don't want to work, you don't have to work; if you can work and you don't want to work, you still don't have to work; if you want to have more children out of wedlock, fine, we will pay you for doing that.

We said, "No, no, no, if you can work, you need to work." Here let's support marriage.

Mr. ASHCROFT. Will the Senator yield for an additional question?

Mr. BROWNBACK. Yes, I yield.

Mr. ASHCROFT. It occurs to me what you are saying, because families have begun to replace welfare in a

number of settings, they have done a better job and people are becoming independent; that the number of people on welfare is going down, and when the number of people on welfare goes down, the cost to government goes down.

It seems to me that as these costs go down, when families begin to do their jobs and do them well, we ought to share some of the reduced costs of government with families by reducing the cost of families so that we can actually—and I wonder, if you will agree that since families are helping us reduce the cost of government by reducing the cost of welfare, if you agree that it might be appropriate for us, given the fact that families are helping us in this respect, to say to families, "and thank you very much, and we would like to reduce your costs now that you are helping us reduce ours."

Mr. BROWNBACK. Thank you for the question. My guess is—and we ought to probably have an economic study done on this—that for every dollar we help out the families, we probably get $10 in reduction of costs to the government. I don't have that based upon studies, but I do have that based upon personal experience of families reaching out and how much more effective they are with heart and soul and arms that can hug and love instead of a cold government check that really doesn't do anything other than make people hooked to it. We need to support, and we need to encourage that.

Mr. President, I will continue to have additional people wanting to be added as cosponsors. Senator LOTT has asked to be added as a cosponsor to this amendment.

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

Mr. BROWNBACK. Thank you very much. Mr. President, these are commonsense issues. They are commonsense results of what we need to have. If we support marriage, if we support the family, we will have less cost to government. This is a good thing. This is something we ought to support. It is something we ought to readily do. It is something that should pass with 100 votes.

We will shortly have a chance to vote on this particular issue. Whether we get a vote directly on it or we vote on a motion to table, I am asking my colleagues to support us in this effort to do away with the marriage penalty when this comes up. It is not taking the entire surplus of the $520 billion that the CBO is now projecting. It would actually score CBO $151.3 billion. I support walling off Social Security for flow of payments for Social Security. This is a statement of marriage to families. We don't have to pay a Social Security against marriage. We don't have to do this.

I support what the President has been saying, "Let's keep Social Security to Social Security. Let's create a real trust fund." We have real problems there. We also have real problems in marriage. We also have real problems with families in this country. We can do this.

Mr. President, $1.50 of every $5 coming in on the surplus would address this marriage penalty that is a horrific signal we are sending out to the country right now, that we would actually tax marriage more.

Perhaps this is getting somewhat long with people when they keep hearing from folks. These are the commonsense responses from people across country.

A gentleman in Texas:

If we are really interested in putting children first, then why would this country penalize the very situation—marriage—where kids do best? When parents are truly committed to each other through their marriage vows their children's outcomes are enhanced.

And that is Gary from Houston, TX.

This one I could not believe. This lady is from Virginia.

I am a 61-year-old grandmother still holding down a full-time job, and I remarried 3 years ago.

A 61-year-old grandmother, full-time job, remarried 3 years ago.

I had to think long and hard about marriage over staying single as I knew it would cost us several thousand dollars a year just to sign the marriage license. Marriage has become a contract between two individuals and the Federal Government.

This one is from Pennsylvania:

My wife and I have actually discussed the possibility of obtaining a divorce, something neither of us wants or believes in, especially myself.

He said he was the product of a marriage that has difficulty, but they were considering divorce. He says "simply because my family cannot afford to pay the price."

This is Jeffrey from Pennsylvania who says that.

This gentleman from Illinois says:

You try and be honest and do things straight, and you get penalized for it. That's just not right.

That is Mike from Illinois who sent that letter in.

Person after person coming in and writing in saying that, "Look, this just isn't right."

This one from Sarah that was published in the Ottawa Daily Times:

The marriage penalty is essentially a tax on working wives because the joint filing system compels married couples to identify a primary earner and a secondary earner, and usually the wife falls into the latter category. Therefore, from accountants' point of view, the wife's first dollar of income is taxed at the point where her husband's income has left her. If the husband is making substantially more money than the wife, the couple may even conclude it is not worth it for the wife to earn income. In fact—

And she is quoting from a book by a Professor McCaffrey at the University of Southern California.

In fact, McCaffrey's book details the plight of one woman who realizes her job was actually losing money for her family—

Actually losing money for her family.

by her working.

We are overtaxing the American public now anyway, with people having to pay roughly about 40 percent of their income in taxes, taxes at all levels—Federal, State, and local, with Federal being the highest portion. I think that ought to be lowered. But, clearly, you hear there are cases where they are not only being taxed but we are forcing people with two-wage-earner families to work and one just working for the Government, but even in that case you are even taxing them more, to the point where it isn't even worth working.

Mr. President, this amendment needs to pass. We need to have this debate. We can afford to do this. We can do this and still set Social Security, payroll taxes, aside; and I am calling on my colleagues to do just that.

With that, Mr. President, I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

PRIVILEGE OF THE FLOOR

Mr. ASHCROFT. I ask unanimous consent that Heather Oellermann be given floor privileges during the duration of this debate. She serves in my office.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. 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. CAMPBELL. Mr. President, I ask that my name be added as a cosponsor to the Ashcroft-Brownback amendment to S. 2312.

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

Mr. CAMPBELL. I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I rise to speak further in support of the elimination of the marriage penalty. Some people have asked, "Well, isn't there also a marriage bonus, or isn't there a situation in which people might do better because they are married than if they're not married?" And there are areas of the Tax Code where some individuals do slightly better, but they are supported by very sound logic. I would like to talk for a few moments about them, those instances.

I indicate that in no way do I think that the existence of this so-called "marriage bonus" in some places in the Tax Code—that that bonus really is

any reason why we should impose a penalty in some other area of the Tax Code. As a matter of fact, there are sound reasons for us to support the concept of the marriage bonus where it exists.

Currently, the standard deduction for a single person is $4,150, while the standard deduction for a married couple filing jointly is only $6,900. I did not major in mathematics, but I did one time have the privilege of serving as the State auditor. I can add $4,150 twice; that would be $8,300. And when you put the $8,300 that you would get for two single people together, and you look at the $6,900 deduction that you get for a married couple filing jointly, you clearly understand there is a $1,400 deduction that simply does not exist.

The marriage penalty elimination amendment that Senator BROWNBACK and I, and others, including the majority leader, have offered today will increase the standard deduction for a married couple to equal twice what it is for singles—that would be the $8,300 figure.

Now the Government rationale for the difference in deduction for singles and married couples is to reduce the so-called marriage bonus that occurs when only one spouse works. So the idea is, why should a spouse get a full deduction if the spouse isn't actually in the workforce? I think that sort of partakes of a myth that we ought to disabuse ourselves of and that I think most people understand. The suggestion that if someone works outside the home they are working, but if someone isn't working outside the home they are not working—I don't think that is really the case.

I think what we really indicate is not so much a bonus if we give a deduction for the person who is nonworking outside the home but stays home, it is a recognition of the substantial contribution that the nonemployed spouse makes to the family.

We have had a pretty substantial experience with marriage in my household. There are three decades plus that my wife and I have been married. There have been times when both of us have been employed, times when only my wife was employed, times when only I was employed. I think in every one of those instances to ignore the sort of contribution that the nonemployed spouse makes to the work product, even of the employed spouse and of the household, would be a tremendous injustice.

I think what we really have, instead of the so-called marriage bonus, is just a recognition of the fact that the nonemployed, in-a-formal-sense, spouse is contributing to the income that comes to that household by virtue of the capacity that is expanded to the other spouse who is employed and by virtue of the expanded well-being of the family. American families need help from the ever-increasing tax load which we are imposing on them. Men who stay at home or women who stay at home to care for the children should not be penalized by the Tax Code.

I have been somewhat distressed in recent years that we have begun to extend this myth and to provide incentives for people not to stay at home, to have a prejudice against people who would stay at home. Our Government policy should work in favor of children, not against them. Sometimes when we have a massive tax prejudice in favor of both parents leaving the house, that is not in the best interests of children. I think most of the data we have seen in recent years is that children really thrive when they have the attention of parents, and, obviously, if you have one of the parents who can stay at home, it really helps children significantly.

Our current Tax Code rewards the dependent child tax credit for families who put their children in child care, for example, and, therefore, provides an incentive for people to institutionalize their children rather than to care for them in the home. A mother who stays at home with her child makes the sacrifice in the total combined paycheck for the family and for her career, perhaps, or the father who does the same, should that family be penalized? I think the answer is clearly no. As a matter of fact, that person may be doing our culture a great favor by providing attention from a loving, compassionate parent in a way that no institution would be able to provide attention or training for that child.

The Tax Code should acknowledge that contributions made by spouses who stay at home, be they male or female—and we have done it both ways in my household from time to time; there have been times when my wife was the earner and I was either doing something at home or running for office or the like—and either way, we should acknowledge that the contributions by the so-called nonemployed spouse are not ignored, and no marriage bonus could ever begin to compensate those individuals for their contributions to the family.

Now, if Members on the other side of the aisle want to eliminate the small "bonus" in the Tax Code, I think that would be ill advised. I predict it would be soundly defeated, as it should be. It is antifamily, it is antimarriage, and given the fact that most of these are women in this setting, it is antiwomen to suggest a full-time homemaker provides no value that should be recognized in the Tax Code. I believe their contribution should continue to be recognized and applauded. The marriage bonus is a way to recognize some of the non-economic contributions of stay-at-home spouses.

What we are really here for, I don't think there is a serious legal attempt to take away those recognitions, but there is a very serious assault on the values of American families. When we are taxing the average family that endures the marriage penalty, we are taxing them $1,400 a year more in taxes than we would if they were single. It seems to me that assault on the values of the American public is a tragic, tragic invasion of the strongest institution which we need desperately for the success and survival of our country. We should recognize that we need to eliminate that penalty on marriage.

It is with that in mind that I am pleased so many Senators have agreed to cosponsor this measure. I hope we will vote to make sure that this becomes a part of the philosophy and policy of American Government. A government which is at war with the values of its people cannot long endure. No value is more cherished in America than the value of durable families. We simply have to eliminate the assault on marriage, the assault on our families, that is included in a Tax Code which undermines and curtails the value of families in our culture.

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. INHOFE. 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. INHOFE. Mr. President, I rise in support of the efforts that have been brought to the floor by the Senator from Kansas. I would like to make a few comments and observations about tax cuts and some misconceptions. I was somewhat distressed at the beginning of this administration when a statement was made by Laura Tyson, who was the chief financial advisor at that time. She said—and this is almost a direct quote—that there is no relationship between the level of taxation that a country pays and its economic activity. If you would carry that to its logical conclusion, you would say you could tax somebody by 100 percent and they are going to be just as motivated to work hard and to contribute to the economy and take risks and to hire people as if they had no tax at all. As we know, history has shown us that this is not true.

One of the interesting things that is so overlooked by many of the liberals nowadays is that for every 1 percent increase in economic activity, it produces new income of approximately $24 billion. Three times in this century we have had administrations that have had massive tax cuts, and each time this has happened we have actually increased the revenue. What I am hoping we will get to is a discussion and a debate along the lines that you can actually increase revenue by reducing taxes. History has shown us that, in

fact, this is true. The first time this happened was in the 1920s, during the Warren Harding and Calvin Coolidge administrations. They had consecutive tax cuts, reducing the top tax rate from 73 percent to 25 percent. The lower rates of taxation helped expand the economy dramatically. In fact, between 1921 and 1929, in spite of—or maybe because of—dramatic reductions in personal income tax rates, revenues increased from $719 million in 1921 to $1.16 billion in 1928, an increase of more than 60 percent. Now, over a 10-year period, that would have been about a doubling of the tax revenues that came as a result of reducing tax rates.

Then in the 1960s, along came the Kennedy administration. Of course, when you hear some of the things that President Kennedy said at the time that didn't sound that prophetic, they turned out to be true. At that time, he said we needed to have more revenues and the best way is to reduce our tax rates and expand the economy. Again, going back to the assumption that has been proven over and over again that your tax revenues increase with certain types of marginal tax rate reductions, in the 1960s, President Kennedy initiated a series of tax cuts where he took the top income tax rate and reduced it from 91 percent to 70 percent. These cuts, in part, helped increase the growth by some 42 percent between 1961 and 1968. So again, you have a very similar type of growth that we experienced back in the 1920s.

Then in 1980, we remember so well Ronald Reagan coming along and the criticisms that he has had. At that time, he was working with a Congress that was not that friendly—at least a House that wasn't that friendly. He was able to probably make the most dramatic reductions in the tax rates than at any period during any administration in this country's history, knocking the top tax rates from 70 percent in 1980 down to 28 percent by 1988.

The results of this were very interesting in that if you look at total revenues raised to run this country in 1980, it was $517 billion. By 1990, that figure was increased to $1.3 trillion. So revenues doubled during that period of time that he reduced the tax rates. As far as the revenues that were generated from the marginal rates, or from income tax, that went from $244 billion in 1980 to $466 billion in 1990. So you have almost a doubling in that case, also.

So I think those people who are saying that we don't want to reduce taxes are saying we don't want to reduce the revenues. We have need for more revenues when, in fact, some of the tax reductions that we will be talking about could have the opposite effect. I can remember in Ronald Reagan's speech—one of the speeches he made called "A Rendezvous With Destiny" in the sixties, it was prophetic. He said, "There is nothing closer to immortality on the face of this Earth than a Government agency once formed." I think this is one of the problems we are dealing with now, in that it is so difficult to cut down the size of Government.

Sometimes it is necessary to reduce taxes in order to overcome that temptation to spend the money that is out there. We know the political reality of that. By the way, when many of the Democrats—liberals—were saying, "Look at how the deficits increased during the Reagan administration," yes, that is true, they did, but that was not as a result of reducing taxes; that was a result of increased spending. I think that, in retrospect, the President should have adopted a policy of issuing more vetoes, and I don't think we would have had the deficits that we had.

The bottom line is that we are not an undertaxed Nation. We are a Nation that needs to reduce taxes. This is an opportunity to do it. I can't imagine that in this day and age when we have the projected, huge surpluses that are out there, we would consider anything less than making major tax reductions. The tax reduction that has been promoted on the floor by the various speakers regarding the marriage penalty is certainly one that is justified. I would like to see, in addition, some marginal rate reductions. I hope we will be able to do that before this debate is all over.

Lastly, we have come so dangerously close to what has been stated in history. People have observed this country. When Alexis de Tocqueville came here, he came to study the penal system and to write about that. After he saw the great wealth in this Nation and the freedoms, he wrote a book about the wealth. In the last paragraph, he said that once the people of this country find that they can vote themselves money out of the public trust, the system will fail. I think we have come dangerously close to that. This is the time to reduce taxes and allow individuals to have more control of the money they earn.

I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise in opposition to the Ashcroft amendment on marriage penalty tax relief. Let me quickly point out that I strongly support the Senator from Kansas' intentions and believe that most, if not all, of my Senate colleagues do as well. Americans should be free to marry or remain single based on much more important considerations than those related to tax liability.

That said, the Treasury-General Government appropriations bill is not the proper context for the marriage penalty debate. Now is simply not the right time or place. The Senate voted in favor of marriage tax relief during debate on the tobacco bill. And we all look forward to resuming this debate if and when we are able to take up, and it's my hope that we do take up, a comprehensive tax relief measure later this year. The marriage tax relief issue should be debated at that time, in the context of our overall budget priorities. Simply put, we've come too far in our efforts to enforce fiscal discipline to change course now and arbitrarily adopt major and expensive tax policy mesaures on appropriations bills.

I will oppose the Aschcroft amendment and urge my colleagues to do the same.

Mr. MACK. Mr. President, I rise to state my views on the elimination of the marriage penalty.

Before 1969, the federal income tax treated married couples like partnerships, in which husbands and wives shared their incomes equally. This practice was called income-splitting. It was ended in 1969, creating what is commonly known as the marriage penalty—the extra taxes couples have to pay because they are married rather than single. According to the Congressional Budget Office, about 21 million couples now pay these penalties, which average about $1,400 per couple.

This unfair treatment of married couples is fundamentally wrong. The tax code ought to treat married couples no worse than it treats single people. It ought to recognize that marriages are partnerships in which husbands and wives share their incomes equally for the good of their families. Until it does this, the tax code is punishing the most important institution our society has.

This amendment is explicitly pro-family. It is a direct way of letting families keep more of their hard-earned money, which can be used for child-care, taking care of a sick parent, education expenses or whatever else the family wants to do with it. It sends a message to the American people that marriage should be a welcome occasion, not just another excuse for higher taxes.

Mr. President, I encourage my colleagues to support this amendment to eliminate the marriage penalty.

Mr. KYL. Mr. President, there are a lot of things wrong with our nation's Tax Code, but two things in the code that have always struck me as particularly egregious are the steep taxes imposed on people when they get married and when they die. Today, we will have a chance to vote to end the marriage penalty.

All of us say we are concerned that families do not have enough to make ends meet—that they do not have enough to pay for child care or college, or to buy their own homes. Yet we tolerate a system that overtaxes American families.

According to Tax Foundation estimates, the average American family

pays almost 40 percent of its income in taxes to federal, state, and local governments. To put it another way, in families where both parents work, one of the parents is nearly working full time just to pay the family's tax bill. It is no wonder, then, that parents do not have enough to make ends meet when government is taking that much. It is just not right.

The marriage penalty alone is estimated to cost the average couple an extra $1,400 a year. About 21 million American couples are affected, and the cost is particularly high for the working poor. Two-earner families making less than $20,000 often must devote a full eight percent of their income to pay the marriage penalty. The highest percentage of couples hit by the marriage penalty earns between $20,000 and $30,000 per year.

Think what these families could do with an extra $1,400 in their pockets. They could pay for three to four months of day care if they choose to send a child outside the home—or make it easier for one parent to stay at home to take care of the children, if that is what they decide is best for them. They could make four to five payments on their car or minivan. They could pay their utility bill for nine months.

Mr. President, it seems to me that if couples need advice about their decision to marry, they should be encouraged to look to their minister or rabbi, or their family, not their accountant or the Internal Revenue Service. This amendment represents an effort to strengthen families and give them a chance to spend their hard-earned money in the way they best see fit.

Given that federal revenues as a share of the nation's income, as measured by Gross Domestic Product, will set a peacetime record this year—a whopping 20.5 percent of GDP—and given that we are anticipating a budget surplus of more than $63 billion, it seems to me that there is no excuse for the Senate to allow the marriage-penalty tax to continue any longer.

I urge my colleagues to join me today in voting to end the egregious marriage-penalty tax.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the Brownback-Faircloth marriage penalty relief amendment.

In fact this amendment is the same as the legislation I originally offered with Senator KAY BAILEY HUTCHISON and many others to provide relief from the marriage penalty tax.

Mr. President, in listening to my colleagues, I find very little opposition to the notion that couples should not be penalized with additional taxes simply because they choose to marry.

As several members have stated, the Congressional Budget Office has determined that married couples are taxed an extra $1,400 on average more than singles. This legislation would correct that problem.

Relief from the marriage penalty tax is an idea which enjoys broad, bipartisan support in the Senate. In fact, legislation which I offered as an amendment to the Fiscal Year 1999 Budget resolution established marriage penalty tax relief as among the highest priorities of the Senate this year. That amendment passed this body by a vote of 99 to 0.

Clearly, there is no objection to providing this much needed relief.

Some of my colleagues have suggested that the bill before us is not the appropriate bill to serve as a vehicle for this tax relief. In fact, the only objections I can find to this amendment are based on procedure, and not about the merits of the issue.

I understand the concerns raised about procedure, but I would urge my colleagues to consider the injustice of this marriage penalty tax, and join me and the other sponsors of this amendment to eliminate this unfair burden. I urge my colleagues to vote no on the motion to table the Brownback-Faircloth amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MEASURE PLACED ON CALENDAR—H.R. 4250

Mr. CAMPBELL. Mr. President, I understand H.R. 4250, regarding patient protection, is at the desk and is awaiting second reading.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 4250) to provide new patient protection under group health plans.

Mr. CAMPBELL. Mr. President, I object to the consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3359

Mr. ROTH. Mr. President, I rise to address the amendment offered by Senator BROWNBACK. I appreciate the work he and others have done. I agree with the premise of this amendment.

We need to provide much needed marriage penalty relief to American families. We all know how unfair the marriage penalty is. We have heard from our constituents. We see how it cuts into the family budget. We realize that it must be changed. Our laws should not penalize married couples and their families.

Over the years, I have been a forceful advocate for marriage penalty relief. In fact, during the recent consideration of the tobacco bill, I cosponsored an amendment that would have provided such relief. I have also stated many times that marriage penalty relief should be included in any package of tax cuts. As chairman of the Finance Committee, I remain committed to that position.

As we look to real and meaningful tax reform, we will take care of the marriage penalty. This will be one of our top priorities. But addressing this important issue must be done at the proper time and in the proper way. This is not the time, nor is this appropriations bill the appropriate vehicle to proceed with this amendment. This is a tax issue. It does not belong on this appropriations bill. It did not come through the committee of jurisdiction. That committee is the Finance Committee.

I know many of my colleagues agree with me when it comes to the marriage penalty. They are seeking an opportunity, as I am, to address it and find a remedy as quickly as we can. This will be our objective in the future. We intend to take care of this in the right way. I ask our colleagues outside the committee to support it.

Adoption of this amendment at this time would not only disrupt the proper order of things and result in the loss of appropriate and constructive debate within the Finance Committee, but, equally important, it would subject the entire Treasury-Postal appropriations bill to a blue slip from the House of Representatives. Revenue measures must originate in the House. If not, any Member—I emphasize "any Member"—of the House can raise an objection. The result would be that this appropriations bill dies. And that is not in anyone's interest.

While I completely agree with the objective and necessity of this amendment, while I remain a staunch ally of those who seek to provide marriage penalty relief, I cannot vote for this amendment.

I ask my colleagues to vote with me. Allow the Finance Committee and the Senate to address this important issue in a way that is correct and will bring real and lasting tax relief to married couples and families.

Mr. President, I understand the distinguished Senator from Texas wants to address this matter.

Mrs. HUTCHISON. Mr. President, before the Senator would make any motion, I would like to be able to speak for a few minutes on the amendment. I didn't want to be shut out.

If that is the Senator's intention, I would just ask if he would allow me at the appropriate time——

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

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished Senator from Delaware, because I wanted to be able to speak on this matter. I have just come from a committee markup. But the bill that is on the floor as an amendment is actually a bill that Senator FAIRCLOTH and I introduced.

I am very pleased that Senator BROWNBACK and Senator ASHCROFT and others have pursued this, because I think it is at the core of what we should be doing in this Congress; that is, to try to give people back the money they worked so hard to earn.

It is so important that we address the issue of the couple from Houston whom I met recently. He is a police officer. He makes $33,500 a year. She is a teacher in the Pasadena Independent School District. She earns $28,200 per year. They were married and immediately had to pay an increased tax of over $1,000.

Mr. President, this is a young couple who just got married who want to begin to save to purchase a new home, and they are hit with a $1,000 penalty because they got married.

This is of the utmost importance. It is an issue that we must address this year.

I appreciate that the Senator from Delaware, who is the chairman of the Finance Committee, has said if we have tax cuts, this will be the first priority. I know he agrees with us on the merits. He may disagree on process or on whether we use this bill as a vehicle. That is understandable. But in the end, Mr. President, it is very important that we speak for the working young people of our country to make sure they get a fair shake when it comes to taxes.

Twenty-one million couples are paying a penalty because they are in that middle-income level, and when they get married, they get assessed an average of $1,400 a year more. Simply because they wanted to get married and raise a family, they are penalized by the U.S. Government.

We must correct this inequity. That is what our bill, the Faircloth-Hutchison bill does. That is what Senator BROWNBACK and Senator ASHCROFT are trying to do with this amendment. We are together on this.

If this isn't the right process, if this isn't the right time, let's find the right time. Let's commit to the right time, because we must correct this inequity. I hope the Senate will speak very firmly that this is our priority.

I want to address one last issue, and that is Social Security.

Do we have to compete between tax cuts and Social Security? Absolutely not. In fact, I think many of us are going to support all of the surplus of the Social Security system going into saving Social Security. That is our first priority. We are going to have a budget surplus that is separate and apart from the surplus in Social Security. We are saying that the surplus should go to tax cuts, because those of us who have been around here for a few years have begun to see that if there is any excess revenue in this budget, all of a sudden we get very creative about how to spend taxpayer dollars. We must remember, the money does not belong to us, it belongs to the people who work so hard to earn it. And it must be returned to them before somebody gets very creative with some new program that would take the money from the families who earn it. That is the issue.

Let's set aside the surplus from Social Security. And let's start the process of saving Social Security and making it even better, which I think we are going to be able to do in a bipartisan way in this Senate. But let's also take the surplus from the revenue that is coming in and give it back to the people who earn it—the people to whom it makes a big difference. If they have that $1,400, that is six or seven car payments, several payments on a student loan or maybe the couple is saving for their first home. We can help them with those expenses, and we should.

Thank you, Mr. President. I thank the distinguished Senator from Delaware for allowing me to make those points.

I hope we will do the right thing. I hope we will make this our highest priority in this Congress, along with saving Social Security. We can do both.

Thank you, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I also would like to rise and join Senators BROWNBACK and ASHCROFT in offering an amendment to correct the injustices of the marriage penalty. I want to take a few minutes to speak on behalf of that. It is vitally important, I believe, that Congress pass this amendment, and as quickly as possible.

I also would like to note that Senator HELMS of North Carolina would like to be added as a cosponsor of this amendment.

Mr. President, we have debated this issue now for quite some time. It is clear to me that this is noncontroversial and should have support from all Members of this body.

Everyone in this debate agree that the family has been and will continue to be the bedrock of American society. We all agree strong families make strong communities; strong communities make for a strong America. We all agree that this marriage penalty tax treats married couples unfairly. Even President Clinton agrees that the marriage penalty is unfair.

But still Washington refuses to get rid of this bad tax policy that discourages marriage—the most basic institution of our society.

As a result, millions of married couples will be forced to pay more taxes simply for choosing to commit to a family through marriage.

A 1997 study by the Congressional Budget Office, entitled "For Better or Worse: Marriage and the Federal Income Tax," estimated 21 million couples, or 42 percent of couples incurred marriage penalties in 1996. This means 42 million individuals pay $1,400 more in taxes than if they are divorced, or living together.

But marriage penalties can run much higher than that. Under the current tax law, a married couple could face a Federal tax bill that is more than $20,000 higher than the amount they would pay if they were not married.

Again this is extremely unfair. This was not the intention of Congress when it created the marriage penalty tax in the 1960s by separating tax schedules for married and unmarried people.

The marriage penalty is most unfair to married couples who are both working. It discriminates against low-income families and is biased against working women.

The trends show that more couples under age 55 are working, and the earnings between husbands and wives are more evenly divided since 1969. As a result, more and more couples have received, and will continue to receive, marriage penalties and while fewer couples receive bonuses.

The marriage penalty creates a second-earner bias against married women under the federal tax system. The bias occurs because the income of the secondary earner is stacked on top of the primary earner's income.

As a result, the secondary earner's income may be taxed at a relatively higher marginal tax rate. Married women are often the victims of the second earner bias.

During the 1970's and 1980's, as more and more women went to work, their added incomes drove their households into higher tax brackets. Today, women who return to the work force after raising their kids face a tax rate as high as 50 percent.

The CBO study also found "small but statistically significant effects of marriage penalties in reducing the likelihood of marriage for women."

Mr. President, what this finding means is that the marriage penalty tax has discouraged women from marriage.

This is shameful. This is a direct insult to our most basic and most stable institutions. We must put an end to it.

American families today are taxed at the highest levels since World War II, with nearly 40 percent of a typical family's budget going to pay taxes on the Federal, State, and local level. They deserve a tax break. Last year's tax relief was too little and too late. More meaningful tax relief must be provided.

In the next 5 years, the Federal Government will take $9.6 trillion from the pockets of working Americans. The revenue windfall will generate a huge budget surplus. This surplus comes directly from taxes paid by the American people. It is only fair to return it to the taxpayers.

Repealing the marriage penalty will allow American Families to keep $1,400 more each year of their own money to pay for health insurance, groceries, child care, or other family necessities.

Mr. President, some argue that repealing the marriage penalty will only benefit the affluent. This is completely false. The fact is, the elimination of the injustice of the marriage penalty will primarily benefit minority, low- and middle-class families. Data suggests the marriage penalty hits African-Americans and lower income working families hardest.

According to the CBO, couples at the bottom end of the income scale who incur penalties paid an average of nearly $800 in additional taxes, which represented 8 percent of their income. Eight percent, Mr. President. Repeal the penalty, and those low-income families will immediately have an 8 percent increase in their income or an 8 percent cut in their taxes.

Some also argue that repealing the marriage penalty would affect families receiving marriage bonuses. This is not true either. Although there are couples who receive marriage bonuses, this doesn't justify the Federal Government penalizing another 21 million couples just for being married.

We should give more bonuses to all American families in the form of tax relief, whether both spouses or only one of them are working.

In closing, I must point out that this amendment takes the approach of income splitting to repeal the marriage penalty. Married couples would be allowed to split their income down the middle, regardless of who earned it, and be taxed at the lower rate. This would protect working couples without punishing women who remain at home.

In his book "The Decline (And Fall?) of the Income Tax," Michael Graetz, former Treasury Department tax whiz, writes "A tax system can't survive when it departs from the fundamental values of the people it taxes". I couldn't agree with him more.

Mr. President, it is unfair and immoral to continue the marriage penalty tax. Today, let us just get rid of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I rise in very strong support of the marriage penalty amendment. I am pleased to be a cosponsor of the amendment. I want to say, under our current tax system, getting married increases your taxes. That does not make a lot of sense.

The typical family pays more than $100 per month in extra taxes because of the marriage penalty. I have looked at this matter for years and never understood the rhyme or reason for the policy in the first place. Why on Earth such legislation would ever pass the U.S. Congress is mind-boggling. I guess there are some out there who think the institution of marriage has no special importance.

Even if there are those people who feel that way, it would be hard not to acknowledge that taxing people simply because they got married is discriminatory, pure and simple, no matter how you feel about marriage. Why should you be discriminated against in the Tax Code because you get married?

Let's not overlook the importance of marriage and the family to our country's success. Children do best when they are raised by two happily married parents. We have some in the liberal establishment who would probably take issue with that as well, but I believe that is the case. I think the statistics speak for themselves. Study after study indicates that children raised in such families are more successful in school, are less likely to commit crime, do drugs, or bear illegitimate children. They do better in the workplace when they get out of school. They do better and they are more likely to stay married as adults if they have that kind of family unit to learn from.

So, imposing a tax penalty on marriage is probably one of the most antichild and antifamily policies that we could have. Often, those hardest hit by the marriage tax are those young married couples who are just trying to get started. We hear all the time from our constituents—I know I do—about this. Here is a letter from a young man in Salem, NH. I am not going to have the letter printed in the RECORD, just for the purpose of protecting the individual's privacy, but let me quote from that letter:

> You see, Senator, my wife and I are both working very hard to make a decent life for ourselves and our future children, if we can ever afford to have them. Unfortunately, we made a tactical error some 15 months ago. We decided that we loved each other enough to get married, and now I realize that before making such a decision, I should have consulted the Tax Code to see what the incremental tax liabilities would be. In 1997, our tax liability was approximately $1,100 more than it would have been had we simply decided to live together out of wedlock.

That is a very powerful statement from a young couple who love each other, who got married, and then paid a penalty in the Tax Code for doing that.

There is one other letter from a constituent in Lee, NH.

> My husband and I got married this past August. He is a police officer and I started a new job as a project engineer for a large plastics manufacturer. We purchased our first home together in September, thinking we would get taxed on our savings for a home. We thought we were establishing ourselves quite well as a young married couple. It was to our surprise that when we met with our CPA we found out that there was a couple of thousand dollars tax penalty just for being married, which has cost us $2,700. This, of course, increased the amount of money that we owed to the IRS. We both expected to owe taxes, a small amount, due to the fact that we are a double income family without children as yet.
>
> However, the last thing we expected to be taxed on was our marriage. This has placed a very large burden on my husband and me and since it wasn't in our budget it is affecting our home security.
>
> In our country, I think that one of the last things we need to penalize is marriage. We have enough divorcees, deadbeat parents, and abusive families to worry about. Does it really make sense to attack the families that do not fall into these categories? I understand the money has to come from somewhere, but families like ours also have to control our expenses. Why can't the Government bring in funds without this tax penalty and control its expenses?

Mr. President, these constituents are very perceptive. I agree with them. There is no excuse for withholding tax relief from American families. I agree with them. There is no better place to start cutting taxes than the marriage penalty. There is no excuse for maintaining a tax policy that undermines children and marriage.

This amendment, which would allow a husband and a wife to each claim half of their joint incomes and be taxed in the lower brackets that apply, will send a very clear message to the American people from this Congress that marriage is a valued institution, that we want to encourage it, not discourage it, and that we ought not to be penalized in the Tax Code for being married. We want to adopt a policy that does not discriminate against marriage by effectively eliminating this marriage penalty.

New CBO projections call for Federal budget surpluses exceeding $500 billion over the next 5 years. Thus, the full elimination of the marriage penalty would equal less than one-third of the projected budget surplus. This surplus gives us the opportunity to have a positive impact upon millions of American

families, hard-working American families who are trying to do the right thing to raise their children in the right way and send a message saying that marriage is important to our culture.

This amendment is long overdue—long overdue—and I agree with the Senator from Missouri that the business of Government is to create an environment in which the family can flourish, and we need to encourage institutions like the family. The more we encourage the family, the less need we are going to have for Government to step in. Maybe that is the reason why we had the marriage penalty in the first place.

Mr. President, I urge my colleagues to support this amendment. There will be all kinds of reasons given why we shouldn't, but I urge my colleagues to support this amendment to eliminate the penalty that the Tax Code imposes on the American family. I yield the floor, Mr. President.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I come to the floor today to join with my colleagues from Missouri and Kansas in their amendment to eliminate the marriage penalty. There has been a growing level of frustration amongst most of us in the Senate and, I am sure, our colleagues on the other side of the Rotunda, as the Congressional Budget Office and others predict and justify by their analysis higher and higher budget surpluses, as to what we will do with this revenue. As most of my colleagues know, I, amongst others, have fought for decades to bring about a balanced budget knowing that from that budget we would have opportunities to significantly change the way our Government does business, but most importantly, the way our Government impacts the lives of American citizens in the form of rules and regulations and laws, because balanced budgets limit Government, but most importantly, as a result of the kind of impact the Federal Government, through its taxing policies, have on wage earners' ability to earn and to spend their money for themselves, for their families, for their children.

Over the course of creating tax policy the last good number of decades, one of the great tragedies that I think the public recognizes is that Congress can use tax policy as a form of social engineering. You can cause the public to move their moneys in one direction or another by the way you tax them. You can also cause the public or individuals to act differently.

There was a recent article in a newspaper, a national wire story just this past week. More couples are living together without being married than ever in the history of our country. They cited a lot of reasons. One of the reasons they didn't cite was tax policy. But in talking with citizens of my State and couples who have chosen to live together without marriage, the marriage penalty is clearly one of those issues.

Tragically enough, that is either by intent or by mistake, but the reality is clear: Tax policy driven by this Congress and by the American Government has caused a lifestyle change in our country, a change in the forming of the family unit that many of my colleagues today have said, and rightfully spoken to, as being the foundation of our society, the strength of our communities and, therefore, the strength of our country.

Tax policy should not do that, and here we are in an opportune time, an opportunity that we have never had in the years I have spent here, to make these kinds of changes, and we ought to do it.

I must also tell you that with the projected surplus over the next 5 years of $500 billion plus, there are a lot of other things we can do. For future generations, we ought to fix the Social Security system. Fix it, I mean by not making it a chain letter, by not creating a tremendous precipice of problems as it relates to the year 2018 or whenever the spiking of the baby boomers arrives and those necessary checks must go out to our citizens. We ought to fix it now.

On that issue—I don't often side with this President—but I think he is right. We ought to use this opportunity to stabilize and change and adjust the Social Security system.

By offering this amendment today, what my colleagues are not saying is don't fix Social Security. They are saying we have an opportunity to address a nagging problem inside the tax structure of this country, while at the same time we ought to deal with Social Security. I hope the House and the Senate, before we adjourn this fall, speak very clearly to these issues. The public deserves a tax cut. When you have a surplus that you have collected from the American taxpayer, you ought to give it back, or at least you ought to give a substantial portion of it back.

Polling shows that the American public also expects us to pay off the debt, and one of the ways you pay off the debt or you eliminate a major portion of the debt structure of this country is by dealing with Social Security, because the debt is, in fact, the money that we have borrowed from the Social Security trust funds by the character of the unified budget under which we finance the activities of our Government.

I am going to support Senator ASHCROFT and Senator BROWNBACK today in their effort. We must deal with this. It is timely that we deal with it now, and I think it is important that the Senate express itself with this opportunity. The marriage penalty is a major first step in addressing what needs to be significant tax reform in this country that I hope can come in the 106th Congress that will convene in January of next year.

I applaud my colleagues today for bringing this issue to the floor for debate and for a vote, and I hope the Senate will concur with them. I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, this morning we will vote on an amendment that brings to light a particularly glaring injustice of the Federal Tax Code, and that is the marriage tax penalty.

In recent months, the Senate has debated this issue more than once. I think these efforts are significant. I congratulate Senators BROWNBACK and ASHCROFT for offering this amendment and also the many other Members who have championed the elimination of the marriage tax penalty.

Let me also say this: The U.S. Senate should not rest until we are able to eliminate this counterproductive, unfair, and regressive policy. I will continue to support amendments to end the marriage tax penalty until we are successful.

I ask myself one fundamental question before I make up my mind on any issue we deal with on the floor of the U.S. Senate. That is: Does this policy make sense for the American people?

Let us apply this question to our current Federal Tax Code, which quite simply penalizes a working couple for getting married. Should folks pay more tax because they are married? Absolutely not.

The marriage tax penalty raises revenue for the Government but it is poor public policy. It most often raises taxes on lower- and middle-income families who claim the standard deduction. That is wrong. We must strengthen the bonds of family to strengthen the fabric of our society.

Before 1969, marriages were treated by the Federal Tax Code like partnerships—allowing husbands and wives to split their incomes evenly. In 1969, the practice of income splitting was ended. By doing this, the Government did nothing less than penalize American couples for marrying.

Since that time, with the Nation's progressive tax rates, tax laws have meant that working married couples are forced to pay significantly more money in taxes than they would if they were both single. Currently, 42 percent of married couples suffer because of the marriage tax penalty.

Let me provide an example. A single person earning $24,000 per year is taxed at a rate of 15 percent. If two people, each earning $24,000, get married, the

IRS, by taxing them on their combined income, taxes them in the 28-percent bracket.

This amendment will phase out the marriage tax penalty by allowing married couples to file a combined return. By doing this, each spouse is taxed using the rates applicable to unmarried individuals so that one spouse's lesser income does not push a couple's combined income into a higher tax bracket.

Some might argue that it is the job of the Federal Government to promote good behavior; others might disagree. But I think that we could all agree on one issue: The Federal Government should not be penalizing marriages, a sacrosanct institution and the bedrock of our social structure. It is time for the Federal Government to end this injustice to the American family. I urge my colleagues to support this amendment.

How many times have we heard, Mr. President, statements by Senators on the floor of this institution talking about family values—family, the fabric of this society? Yet, here we have tax policy that penalizes families. It is time to end the injustice. Again, I support Senator BROWNBACK and Senator ASHCROFT and the leadership on this issue.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I am in the contradictory position of agreeing in substance with this amendment. There is no question in my mind that it is wrong to penalize married couples who pay more taxes than if they were single. As I have said, it is a matter that must be corrected. As chairman of the Finance Committee, I shall work mightily to see that this is accomplished.

But the fact is that this is a revenue measure. If this amendment is adopted, it subjects the entire Treasury-Postal appropriations to a blue slip from the House of Representatives. Under our Constitution, revenue measures must originate in the House. If not, any Member—and, again, I emphasize any Member—of the House can raise an objection. The result would be that this appropriations bill dies. I do not think that is in anyone's interest. For that reason, I move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the Brownback amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—48

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Boxer	Graham	Murray
Breaux	Harkin	Reed
Bryan	Inouye	Reid
Bumpers	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Roth
Conrad	Kerry	Sarbanes
Daschle	Kohl	Snowe
Dodd	Landrieu	Thompson
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Feingold	Levin	Wyden

NAYS—51

Abraham	Enzi	Lugar
Allard	Faircloth	Mack
Ashcroft	Frist	McCain
Bennett	Gramm	McConnell
Bond	Grams	Murkowski
Brownback	Grassley	Nickles
Burns	Gregg	Roberts
Campbell	Hagel	Santorum
Chafee	Hatch	Sessions
Coats	Hollings	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Hutchison	Smith (OR)
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thurmond
Domenici	Lott	Warner

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3359) was rejected.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, this is the amendment that I put forward——

Mr. GRAMM. May we have order, Mr. President, so we can hear the Senator from Kansas?

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 3359, WITHDRAWN

Mr. BROWNBACK. Mr. President, I appreciate greatly everybody's support of the notion that we should do away with the marriage penalty. It is the appropriate signal, and it is the appropriate thing for us to say to the American public. It is the appropriate sort of tax cut that we can certainly pay for it at the present time. I am particularly appreciative of the leadership's support and Senator LOTT's commitment to provide that sort of working relief to American taxpayers.

I am withdrawing my amendment because the Constitution does not allow tax-cutting legislation to originate in the Senate. This vote, however, sends a strong message to the House that we want to eliminate the marriage penalty. And that is what we hope to be able to get done yet this session of Congress.

I would like to yield to one of the cosponsors of this amendment, the Senator from Missouri, for comments as well.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I commend the Senator from Kansas for his outstanding work on this issue. I believe that it is simply wrong for America to launch through the tax system an assault on one of the major principles of our culture—enduring, lasting marriages. But I concur with his judgment that this would subject this bill to what is known as a blue slip in the House and could disrupt the business that we ought to be conducting. I commend him for withdrawing the amendment. I thank him for the excellent work that he has done.

I think this vote is a clear signal that this body understands this assault on the values of America, known as the marriage penalty, does not belong in the policy of this country.

I thank the Senator from Kansas. I thank those who supported this particular effort and hope that we will have an opportunity to rally as public servants to eliminate this scar on the body politic whereby we wound the primary institution of stability in our culture, the family, by penalizing marriages. It is time for us to stop that. I believe we can and will, and this vote demonstrates it.

I thank the Senator from Kansas. I thank the Chair.

The PRESIDING OFFICER. At the request of the Senator from Kansas, the amendment is withdrawn.

The amendment (No. 3359) was withdrawn

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I don't want anyone to misinterpret the vote just taken. Obviously, there are a lot of motivations in offering amendments like this on the appropriations bill. As the Senator from Missouri just noted, this legislation would have been blue-slipped had it gone over to the House. I appreciate the actions just taken in withdrawing the amendment.

So that there will be no doubt, we will be offering a similar marriage penalty amendment this afternoon—a marriage penalty amendment that will be paid for, that will be targeted, that will offer a far greater opportunity to address the real issue without using the Social Security surplus.

The previous amendment would have, without question, used Social Security to pay for it's tax benefits. One hundred billion dollars over the next 5 years out of the Social Security Trust Fund surplus is something most Democrats are unprepared to support. We don't have to use the Social Security trust fund. We don't have to use the surplus. We don't have to use a broad-based, completely untargeted approach to marriage penalty relief.

So we will have another opportunity this afternoon to vote on the marriage penalty in a reasonable and a direct and a far more responsible way. And I look forward to that debate as well.

Mr. DORGAN. Mr. President, will the Senator from South Dakota yield for a question?

Mr. DASCHLE. Yes, I yield.

Mr. DORGAN. I am trying to understand the difference. We voted on a tabling motion. We went actually to a recorded vote on a tabling motion on this amendment. Then, immediately after the tabling motion failed, the author of the amendment said he was going to withdraw it because apparently it would be blue-slipped and, therefore, inappropriate, and, second, violates the Budget Act.

What is the difference between voting to table and then being the author and deciding it violates the Budget Act and it is also a blue-slip problem, and therefore I am going to withdraw it? Is there any distinction between a vote to table and a decision by the author to withdraw, in the Senator's opinion?

Mr. DASCHLE. The Senator from North Dakota raises a good question. I don't know what motivation there may have been to simply put the Senate on record one more time. As everyone recalls, we had this debate on the tobacco bill. We had two versions of the marriage penalty proposed—the Democratic version and the Republican version. There are some very considerable differences. But, voting against the tabling motion and then withdrawing it seems somewhat of a convoluted approach to legislating. I am unclear as to what the motivation may have been.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. DASCHLE. Certainly, I will yield for a question.

Mr. DURBIN. I am glad the Senator reminded us that we had this morning penalty issues on the tobacco bill. The Senators who voted to table that tobacco bill had actually voted to table the marriage penalty then, did they not?

Mr. DASCHLE. The Senator from Illinois is correct. There was a motion to table the amendment at that time. They voted to do so at that time. Obviously, they will probably be voting again this afternoon to table a marriage penalty vote that we will be offering.

It will be interesting to see how this plays out. But, clearly, I think there was a political motivation as much as a substantive motivation on the part of our Republican colleagues. That was evidenced in the tobacco bill debate, and it will be evidenced again today.

Mr. DURBIN. Will the Senator yield for one more question?

Mr. DASCHLE. Yes.

Mr. DURBIN. For those of us who want to make certain the surplus is used first to guarantee the longevity and solvency of the Social Security trust fund, are we going to have an opportunity with the amendment that the Senator is going to offer to support tax reform consistent with that goal of protecting Social Security first?

Mr. DASCHLE. The Senator from Illinois is absolutely correct. We don't have to use Social Security trust funds. We don't have to use the surplus to pay for a marriage penalty amendment. We can find an appropriate offset and delineate that offset, which is what I think is the responsible thing to do. There was no delineation of an offset in the previous amendment, so one has to assume that the Republican amendment was, again, more of a demonstration of rhetoric than genuine effort to provide responsibly-funded tax relief. The rhetoric we get from our colleagues on the other side that they will not use the Social Security trust funds. The facts are otherwise. For example, in this amendment, $100 billion in Social Security trust funds were likely to be used.

There is a difference between our approaches to fiscal responsibility, protecting Social Security, and providing tax relief. I think that ought to be made clear in the RECORD. We will have an opportunity once more to debate that this afternoon.

Mr. DORGAN. I wonder if the Senator will yield for one additional question?

Mr. DASCHLE. I yield to the Senator.

Mr. DORGAN. I inquire of the Senator from South Dakota, the representation was made by the author of the amendment, after the vote, "We now have some expression of who in the Senate wants to abolish the marriage tax penalty." We have had other votes on that constructed in different ways, constructed in ways that don't use the Social Security trust funds in order to provide this kind of tax relief. But, could one also not make the point that those who voted against tabling were casting a vote to violate the Budget Act? If, in fact, the amendment as offered violated the Budget Act, could one not construe a vote in opposition to tabling to say, by those who cast that vote, we would like to violate the Budget Act here? I mean, there are all kinds of motives, I suppose. I don't want to ascribe motives to anyone. But it seems to me, to have a tabling vote here on the floor of the Senate and then decide by that tabling vote who cares or does not care about the marriage tax penalty, and then withdraw the amendment and then stand up and say, "Now we know who cares and doesn't care," it seems to me you could also put different interpretations on that same vote. Perhaps the people who decided they didn't care whether it violated the Budget Act cast a vote to say we didn't care about the Budget Act. Would that be a fair construction?

Mr. DASCHLE. I think it is a fair construction. I give great credit to the chairman of the Finance Committee for making that point. The chairman of the Finance Committee did the responsible thing and was certainly showing, once again, his leadership in this regard in making sure everyone understood this is not a tax bill. This is an appropriations bill. There is a time to address taxes. There is a time to address spending through appropriations. The chairman of the Finance Committee drew that distinction, as did most of us.

So, again, we will have another opportunity to discuss this matter, but I simply wanted at this point in the RECORD to be sure everyone understood what motivations there may have been for those of us who feel we ought to take a more responsible view with regard to the marriage penalty itself.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I appreciate the opportunity to explain to my colleagues what the issue was just about. I appreciate the opportunity, as well, to be able to address the question of motivation.

Make no mistake about the motivation here. Our motivation is to eliminate the marriage penalty tax. That is pure and simple. That is what we have been saying for the last couple of hours. It is to eliminate the marriage penalty tax.

We wanted to have this debate at this point in time and juncture because there are less than 30 legislative days until we finish up. Signals that have been coming out haven't been much about tax cuts. They have been mostly about spending. We wanted to send a very clear signal we are for cutting taxes, and in particular, first and foremost, the marriage penalty tax.

We needed to have some way to be able to have that debate. We spent a lot of time here on the Senate floor—we spent 4 weeks on a tobacco bill. We spent a lot of time on a lot of other issues. We have not spent much time on tax cuts. We are limited on the number of things we can talk about, and the vehicles we can talk about them on. This was one we could, and we decided it is getting to the end of

this session, we have to start talking about tax cuts. We have to start talking about families. This is one of the things that we can talk about, the marriage penalty tax.

Anybody looking at the Constitution can say, "Wait a minute; this has to originate in the House." And it does. Then there is a blue slip procedure in the House, which exists. We are soon to be going out for the August break, and we wanted to be able to say to our colleagues in the House: There is support for marriage penalty tax elimination. We wanted to get that debate started and moving on forward and to say that to them. That is what this debate was about. That is what the vote was for. That is what our motivation is. If anybody is questioning that, we have been standing here for 2 or 3 hours saying that is what we want to do.

I hope my colleagues on the other side of the aisle will join us, when it comes back from the House, to eliminate the marriage penalty tax. It is a ridiculous tax. I hope most of them would stand up and vote with us at that point in time. If they want to change their vote this time, maybe we can try it again here later on, to send that stronger signal to the House that the Democrat side supports this as well. That is what we are about and that is what we are trying to get through.

I think we spent plenty of time debating that and making that point clear. So if there is a question about motivation, that is what it is about. It is eliminating that marriage tax penalty and sending that signal back over to the House.

I appreciate the opportunity to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. The Senator from Kansas makes a fair point. I think he makes his point with some credibility on the issue of the marriage tax penalty. I understand that. I think most people find most Members of the Senate agree with him. When, in the Tax Code, you have a penalty with respect to the income tax for certain married couples, we ought to do something to address that. I just observed, however, that the Senator from Kansas and the Senator from Missouri offered an amendment that addresses it and then withdrew the amendment because it apparently violates the Budget Act and would be blue-slipped in any event because a revenue measure of this type must be advanced first in the House of Representatives by the Ways and Means Committee.

The reason I stood, following the vote on tabling this amendment, was I did not want this to be interpreted as the Senator from Kansas was interpreting it, that this tabling motion was a description of who in the Senate cares about the marriage tax penalty. I think there are many Members of the Senate who agree with the Senator that the marriage tax penalty ought to be eliminated. It ought to be eliminated. We ought to find a way to do that. We ought to find the right way to do that.

The question is, When you eliminate the marriage tax penalty, as the Senator from Delaware, the chairman of the Finance Committee indicated, where do you make up the revenue? Exactly how do you construct something that makes up the revenue you lose when you eliminate the marriage tax penalty? I think it is a worthy effort for this Congress and future Congresses to embark upon. But as we have discussed before, the proposition that was offered this morning would lose a substantial amount of revenue we now have. The proposal did not offer methods by which that would be made up. I think we have to do that. That is precisely why it violated the Budget Act.

I have heard a great deal of debate by a number of Senators here on the floor—the Senator from Kansas, from Missouri, and others. As the Senator knows, there have been other proposals to address the marriage tax penalty on the floor of the Senate that have also gotten a number of votes, and I have voted for addressing that issue, because I think it is a worthy issue to address.

So I just thought it was curious that we had a proposal that I think costs over $100 billion or so that had a blue slip problem and a problem of violating the Budget Act, that we debate it and then we have a tabling motion, and we allow people to vote not to table it, and then stand up and say those who voted not to table it care about dealing with the marriage penalty and, by inference, those who voted to table it do not care. Then the vote is over and it is not tabled, it is still prevailing here in the Senate, still pending as the Senate business, and then it is withdrawn precisely because it has the problems those who voted to table it allege that it had.

I just want to make the point, you will find support and we will find support, I think, when you and a number of us together address the marriage tax penalty in a thoughtful way and in a way that does not bust the Budget Act and does not create a blue slip and does not propose solutions for which there are not revenues in order to make up the shortfall.

I appreciate the attention of the Senator from Kansas and the Senator from Missouri. Let me end by saying, again, it is a worthy subject for the Senate to consider, but we cannot consider it in ways that violate the Budget Act.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Kansas. I thank the Senator from North Dakota. This is a matter that deserves our attention. It is an affront to the very institution that is most critical to the future of America. Some might say since this is not going to be included in a part of this bill because of the problems of originating such a measure in the Senate, that perhaps this was an endeavor which lacked merit.

I really think it is important for us to keep the pressure on in this arena. It is important for a very simple reason, and that is that there are proposals to spend, spend, spend constantly. They are insistent. They always have the support of the bureaucracy. They would fund a bigger and bigger Government, more bloated and more bloated. It is essential that we elevate into the consciousness of this body and to the consciousness of the American public that there are very important places in which we ought to provide relief to American families, particularly as it relates to the marriage penalty, which is an attack by our Government on a central value of our culture, that value of marriage.

You had but to look at this year and to see what it has contained. We started the year in January with some suggestion we were going to have additional revenues. The President came out virtually every day in January while we were preparing to come into session with what I call the "program du jour." It was like going to the diner and having the special. Every day there was a new program to expand spending, to enlarge the consumption of Government, and implicitly, to contract the ability of people to spend the money that they earned as families.

For those people who believe the success of America in the next generation is going to be based on Government, then that is, I think, a good strategy. But for those of us who believe the real success of America is not going to be based on Government programs, but is going to be based on whether or not we have solid families, then I think a strategy should exist to bring attention to the fact that we are penalizing, at the rate of $29 billion a year, people simply for being married. Some people think, "We need to be spending this money in Government."

Frankly, we ought to ask ourselves, do we think we are going to do more to foster the No. 1 institution in American culture, the family, by taking money from them and spending it in the bureaucracy, or letting those families spend the money on their own families in order to do what they need to do and to provide for a strong America.

This isn't a question about whether moneys are going to be spent or not. This is a question about whether people are going to spend money on their families or the bureaucracy is going to spend money on Government. Which do we believe builds a stronger America?

Frankly, the number of spending proposals that we are the recipient of continues to skyrocket. I have to say that the rules of this organization, the rules of the Senate, the rules of the Congress favor spending. It is hard to get something through to give money back to the people, and it should not be. But for so long, we have been so prejudiced toward taking money, and it has finally gotten to a point that is unacceptable. We are at the highest overall tax rate in Government in American history right now. It is time for us to say no more, especially as it relates to an assault on the American family.

It is true this measure has been withdrawn because it is awkward and not in accordance with the rules as relates to this measure, but it is time for us to begin to elevate this and to say, "Wait, we have to stop this insistent consumption by the Government that keeps us from being able to spend our own resources as families."

I thank the Senator from Kansas for an outstanding job. I was pleased to march shoulder to shoulder with him in this effort. I, frankly, welcome people from both sides of the aisle who feel keenly about this. We do need relief for American families, I don't think there is any question about it. I am delighted that some are expressing that and will continue to do so.

I have been delighted at every turn of the debate when individuals have understood that the future of America is far more likely to be guaranteed and ensured by strong families than it is by big Government. It is time for us to reflect that in our tax policy.

I thank the Senator from Kansas, and I look forward to working with him toward the realization of this goal of declaring peace on America's families. For too long, we have made war with our tax policy on America's families. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, we are only going to be another 10 minutes or so, and there are several Senators who want to make unanimous consent requests.

Since we only have a few minutes, and I hate to burden the two Senators who are waiting, I will wait and send the remainder of the amendments to the desk after the break. I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 3362

(Purpose: To require Federal agencies to assess the impact of policies and regulations on families, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. FAIRCLOTH, Mr. SESSIONS, Mr. HUTCHINSON, Mr. DEWINE, Mr. MCCAIN, Mr. BROWNBACK, Mr. ENZI, Mr. HELMS, Mr. COVERDELL and Mr. ASHCROFT, proposes an amendment numbered 3362.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES.

(a) PURPOSES.—The purposes of this section are to—

(1) require agencies to assess the impact of proposed agency actions on family well-being; and

(2) improve the management of executive branch agencies.

(b) DEFINITIONS.—In this section—

(1) the term "agency" has the meaning given the term "Executive agency" by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and

(2) the term "family" means—

(A) a group of individuals related by blood, marriage, or adoption who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.

(c) FAMILY POLICYMAKING ASSESSMENT.—Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether—

(1) the action strengthens or erodes the stability of the family and, particularly, the marital commitment;

(2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;

(3) the action helps the family perform its functions, or substitutes governmental activity for the function;

(4) the action increases or decreases disposable family income;

(5) the proposed benefits of the action justify the financial impact on the family;

(6) the action may be carried out by State or local government or by the family; and

(7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

(d) GOVERNMENTWIDE FAMILY POLICY COORDINATION AND REVIEW.—

(1) CERTIFICATION AND RATIONALE.—With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall—

(A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and

(B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.

(2) OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and

(B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).

(3) OFFICE OF POLICY DEVELOPMENT.—The Office of Policy Development shall—

(A) assess proposed policies and regulations in accordance with this section;

(B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and

(C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.

(e) ASSESSMENTS UPON REQUEST BY MEMBERS OF CONGRESS.—Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).

(f) JUDICIAL REVIEW.—This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Mr. ABRAHAM. Mr. President, in light of the hour, I will only speak briefly about this amendment now and then move to set it aside so the Senator from Delaware can speak, and then we can return to this sometime later today.

This is an amendment, obviously, to the Treasury-Postal appropriations bill. This amendment, essentially, accomplishes a very specific purpose: to reinstate an Executive order which was in effect for over 10 years intended to "ensure that the autonomy and rights of the family are considered in the formulation and implementation of policies by Executive departments and agencies."

I am offering the Family Impact Statement Act as a relevant amendment to the Treasury-Postal appropriations bill because it is this bill which funds the agency which will oversee its implementation and enforcement; namely, the Office of Management and Budget.

I believe that today, in an era during which observers and social scientists from all parts of the political spectrum have come to realize the profound importance of the family on character development, we should be doing everything we can to protect the health, security and autonomy of the American family.

This belief lay behind President Ronald Reagan's signing of the family impact Executive order in 1987. In my view, President Clinton made a mistake last April when he revoked this order as part of an Executive order on environmental policy. Now I believe, more than ever, we need to make our bureaucracy more supportive and respectful of families' interests. I believe my colleagues will have no trouble giving their enthusiastic support to this amendment.

Simply put, this amendment will require Federal agencies to assess the impacts of their policies and regulations on America's families. It provides that each agency assess policies and regulations that may affect family well-being.

This assessment will aim to determine:

One, whether the action strengthens or erodes the stability of the family and particularly the marital commitment;

Two, whether the action strengthens or erodes the authority and rights of parents in the education, nurturing and supervision of their children;

Three, whether the act helps the family perform its function or substitute governmental activity for that function;

Four, whether the action increases or decreases disposable family income;

Five, whether the benefits of the proposed action will justify its financial impact on the family;

Six, whether the governmental action may be carried out by State or local government or by the family itself;

And seven, whether the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of young people and the norms of society.

Simply put, Mr. President, agencies will be directed to assess whether proposed rules and policies will help or hurt families as they seek to provide mutual support and carry out their vital function of forming children into good adults, good citizens, good workers, and good neighbors.

On finishing this assessment, the agency heads will submit a written certification to the Office of Management and Budget and to Congress that the assessment has been made and provide adequate rationale for implementing each policy or regulation that may adversely affect family well-being.

The Director of the Office of Management and Budget will then use this information to ensure that agency policies and regulations are implemented consistent with this amendment, and compile, index, and submit annually to Congress the written certifications made by agency heads.

To ensure that no proposed policy or regulation that could adversely affect the family goes unassessed, this legislation also provides that a Member of Congress may request a family impact assessment and certification.

In addition, the Office of Policy Development will be directed by this amendment to assess proposed policies and regulations in accordance with it, provide evaluations to the Office of Management and Budget, and advise the President on policy and regulatory actions that may be taken to strengthen marriage and the family in the United States.

In my view—and I will limit my statement at this time—I believe that most Members of this body, as we have already seen expressed today from both sides of the aisle, are very concerned about America's families and want to be on the side of strengthening families.

There are a variety of ways to do this, and the Executive order which was enacted in 1987 by President Reagan made unelected persons in our governmental bureaucracies responsible for assessing the impact on families of new rules and regulations before they were implemented. To me, that is a sensible thing to require of our Government regulators.

The decision to revoke that requirement, which was made last year, in my judgment, was a step in the wrong direction. This amendment seeks to, in effect, reinstitute those policies so that the concerns and the impact on families of governmental regulations will be assessed prior to—prior to—the creation of and implementation of new Federal regulations.

I think that makes sense, Mr. President. For that reason, I offer the amendment on behalf of myself and a number of other Senators who cosponsored our original legislation. In light of the hour and the desire on the part of others to speak at this time, I ask unanimous consent that this amendment be set aside for further consideration later today.

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

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware. I remind the Senator that under the previous order, the Senate will recess at 12:30.

Mr. ROTH. Mr. President, I ask unanimous consent that we stay in session until I complete my statement, which will be roughly 10 to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, I am sorry, I did not hear the Senator's closing comment. That we stay in session until what time?

Mr. ROTH. Until I complete my statement, which will be roughly 10 to 15 minutes.

Mr. DURBIN. I have no objection.

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

Mr. ROTH. Mr. President, I also ask unanimous consent that I may speak as in morning business.

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

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2369 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 2:15

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ROBERTS].

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, we have some housekeeping things before we go to the next amendment.

AMENDMENT NO. 3363

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. MACK, proposes an amendment numbered 3363.

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

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

The amendment is as follows:

At the appropriate place in title IV, insert:

SEC. ___. LAND CONVEYANCE, UNITED STATES NAVAL OBSERVATORY/ALTERNATE TIME SERVICE LABORATORY, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—If the Secretary of the Navy reports to the Administrator of General Services that the property described in subsection (b) is excess property of the Department of the Navy under section 202(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)), and if the Administrator of General Services determines that such property is surplus property under that Act, then the Administrator may convey to the University of Miami, by negotiated sale or negotiated land exchange within one year after the date of the determination by the Administrator, all right, title, and interest of the United States in and to the property.

(b) COVERED PROPERTY.—The property referred to in subsection (a) is real property in Miami-Dade County, Florida, including improvements thereon, comprising the Federal facility known as the United States Naval Observatory/Alternate Time Service Laboratory, consisting of approximately 76 acres. The exact acreage and legal description of the property shall be determined by a survey that is satisfactory to the Administrator.

(c) CONDITION REGARDING USE.—Any conveyance under subsection (a) shall be subject to the condition that during the 10-year period beginning on the date of the conveyance, the University shall use the property, or provide for use of the property, only for—

(1) a research, education, and training facility complementary to longstanding national research missions, subject to such incidental exceptions as may be approved by the Administrator;

(2) research-related purposes other than the use specified in paragraph (1), under an agreement entered into by the Administrator and the University; or

(3) a combination of uses described in paragraph (1) and paragraph (2), respectively.

(d) REVERSION.—If the Administrator determines at any time that the property conveyed under subsection (a) is not being used in accordance with this section, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

Mr. CAMPBELL. Mr. President, this amendment encourages GSA to convey property in Miami, should the Secretary of the Navy choose to access it. It is my understanding it has been accepted on both sides.

Mr. KOHL. We accept that. That is fine.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 3363) was agreed to.

AMENDMENT NO. 3364

(Purpose: To establish requirements for the provision of child care in Federal facilities)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. JEFFORDS, for himself, Ms. LANDRIEU, Mr. DODD, and Mr. KOHL, proposes an amendment numbered 3364.

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

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

(The text of the amendment is printed in today's RECORD under Amendments Submitted.")

Mr. JEFFORDS. Mr. President, the amendment before us on the Treasury-Postal appropriations bill concerns the provision of child care services located in federally-owned and -leased buildings. This amendment will go a long way towards ensuring that child care services located in federally-owned and leased buildings are safe, positive environments for the children of federal employees.

I have been working closely with the Senate Committee on Government Affairs which has jurisdiction over this legislation. Chairman THOMPSON and his staff have been extremely helpful, as has the ranking member of that committee, Senator GLENN. The Senate Rules Committee was instrumental in crafting the language related to the Senate Employees' Child Care Center. I want to thank Chairman WARNER, and Senator FORD and their staff for their assistance.

This amendment was first introduced as a stand-alone bill on November 7, 1997. It was drafted because of several serious incidents which occurred in federal child care facilities. At that time, it came to my attention that child care centers located in federal facilities are not subject to even the most minimal health and safety standards.

As my colleagues know, federal property is exempt from state and local laws, regulations, and oversight. What this means for child care centers on federal property is that state and local health safety standards do not and cannot apply. This might not be a problem if federally-owned or leased child care centers met enforceable health and safety standards. I think most parents who place their children in federal child care would assume that this would be the case. However, I think federal employees will find it very surprising to learn, as I did, that, at many centers, no such health and safety standards apply.

I find this very troubling, and I think we should be embarassed that child care in federal facilities child care cannot guarantee that children are in safe environments. The federal government should set the example when it comes to providing safe child care. It should not turn an apathetic shoulder from meeting such standards simply because state and local regulations do not apply to them.

My amendment will require child care services in federal buildings to meet a standard no less stringent than the requirements for the same type of child care offered in the community in which the federal child care center is located. The child care provider would not be required to obtain a state or local license, although that is an option open to them. The Government Services Administration would be responsible for establishing the rules and regulations necessary to ensure that each child care facility in a federal building meets the same level of standards applicable to other child care services in the community.

In 1987, Congress passed the "Trible amendment" which permitted executive, legislative, and judicial branch agencies to utilize a portion of federally-owned or leased space for the provision of child care services for federal employees. The General Services Administration (GSA) was given the authority to provide guidance, assistance, and oversight to federal agencies for the development of child care centers. In the decade since the Trible amendment was passed, hundreds of federal facilities throughout the nation have established on-site child care centers which are a tremendous help to our employees.

The General Services Administration has done an excellent job of helping agencies develop child care centers and have adopted strong standards for those centers located in GSA-leased or -owned space. However, there are over 100 child care centers located in federal facilities that are not subject to the GSA standards or any other laws, rules, or regulations to ensure that the facilities are safe places for our children. Most parents, placing their children in a federal child care center, assume that some standards are in place—assume that the centers must minimally meet state and local child care licensing rules and regulations. They assume that the centers are subject to independent oversight and monitoring to continually ensure the safety of the premises.

Yet, that is not the case. In one case a federal employee had strong reason to suspect the sexual abuse of her child by an employee of child care center located in a federal facility. Local child protective services and law enforcement personnel were denied access to the premises and were prohibited from investigating the incident. Another employee's child was repeatedly injured because the child care providers under contract with a federal agency to provide on-site child care services failed to ensure that age-appropriate health and safety measures were taken—current law says they were not required to do so, even after the problems were identified and injuries had occurred.

In addition, I believe that the federal government can and should lead by example. Federal facilities should always try to meet the highest possible standards. In fact, the GSA has required national accreditation in GSA-owned and leased facilities, and has stated that its centers are either in compliance or are strenuously working to get there. This is the kind of tough standard we should strive for in all of our federal child care facilities.

For that reason, this amendment requires that within five years, all child care services located within federal facilities must become accredited by a professionally recognized child care accreditation entity. While state and local child care requirements generally ensure that those services meet the basic health and safety needs, child care credentialling entities go further. Accreditation also includes requirements that developmentally appropriate activities are an integral part of the program, that staff is trained, and that the program is a positive environment that contributes to the healthy development of children receiving child care services.

There are several child care accreditation entities providing these services around the country. The National Council for Private School Accreditation is a coalition of 13 entities providing private school accreditation, many of which issue credentials to child care service providers. The Council on Accreditation of Services for Families and Children, Inc. has developed standards and guidelines that are used by several child care accreditation entities to ensure a high quality of

care for children. The National Association for the Education of Young Children provides accreditation for child care centers throughout the country. The Lutheran Church-Missouri Synod has been accrediting child care services longer than any other entity.

Child care providers in federally-owned and leased facilities will be able to choose which child care accreditation they will obtain. In addition, the General Services Administration is permitted to develop a child care accreditation process to add to the choices already available to programs in federal facilities.

Federal child care should mean something more than simply a location in a federal facility. The federal government has an obligation to provide safe care for the children of its employees, and it has a responsibility for making sure that those standards are monitored and enforced. Some federal employees receive this guarantee. Many do not. We can and must do better.

Senators LANDRIEU and DODD are original co-sponsors of this amendment. I urge my colleagues to help ensure high quality child care in federally owned and leased facilities by supporting this amendment.

Mr. DODD. Mr. President, it is my pleasure today to join my colleague from Vermont, Senator JEFFORDS and my colleague from Louisiana, Senator MARY LANDRIEU, in cosponsoring an amendment to require federal child care facilities to lead by example when it comes to child care quality.

Up to this point Mr. President, we in the federal government have not shown strong leadership when it comes to child care quality.

Many parents of children in federal child care facilities have been surprised to discover that these facilities are exempt from the state and local quality standards that apply to non-federal centers. Many parents have been surprised to find that the federal government does not require its centers to be accredited.

With this amendment, for the first time, the more than 200 federal, non-military, child care centers would be required to meet all state licensing standards. For the first time, these centers would be required to demonstrate that they provide high quality child care by becoming accredited by a nationally recognized accrediting body.

Child care shouldn't be like going to Las Vegas—where you roll the dice and hope for the best. Parents should be confident that when they are not able to be with their children, their children will still be well cared for. We shouldn't be gambling with our children's health and safety.

This legislation will go a long way toward giving parents of children in federal facilities peace of mind.

I should point out, Mr. President, that many of the child centers run by the federal government provide an invaluable service and excellent care to the children of federal workers and other families in the community. Many federal centers have even received accreditation from the National Association for the Education of Young Children—an outstanding private, non-profit accrediting entity.

But this excellence is not uniform. In some federal agencies, only a minority of child care centers are accredited. Too many centers are falling through the cracks. And too many children are unnecessarily being placed at risk.

Mr. President, at a time when we are asking our states and communities to take notice of the important research about brain development in young children—at a time when we all acknowledge how critical high quality child care is to helping children achieve their potential—shouldn't we, as federal government lead the way when it comes to providing the best care possible for our children?

Mr. President, this legislation enjoys broad bipartisan support. It was incorporated into the CIDCARE bill that I co-sponsored with Senator JEFFORDS and was a part of the Child Care ACCESS Act that I offered with 27 of my Democratic colleagues earlier this year.

This is an important step in improving the quality of our Nation's child care. I urge my colleagues to support this amendment.

Mr. CAMPBELL. Mr. President, this amendment relates to Federal child care facilities. This amendment has been cleared by both sides of the aisle. I ask for its adoption.

Mr. KOHL. We accept the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is agreed to.

The amendment (No. 3364) was agreed to.

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

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Alabama is recognized.

AMENDMENT NO. 3362

Mr. SESSIONS. Mr. President, I would like to make a few remarks on the family impact statement amendment offered by Senator SPENCER ABRAHAM earlier today. It is an amendment that I supported last year. I think it is a very, very important signal and an important event for this Government.

I rise today in strong support of this important amendment and to voice my complete disagreement with antifamily action taken by President Clinton.

In 1997, President Ronald Reagan, recognizing the importance of the American family and the need to be aware of the negative impact that Federal laws and regulations can have on the family, signed Executive Order 12-606. The purpose was to ensure that the rights of the family are considered in the construction and carrying out of policies by executive departments and agencies of this Government.

Mr. President, even though we are faced with a staggering increase in out-of-wedlock births, rising rates of divorce, and increases in the number of child abuse cases, apparently President Clinton does not believe that considering the impact of regulations on families is good policy.

Much to my dismay, on April 21, 1997, President Clinton signed Executive Order 13045, thus stripping from the American family any existing protection from harm in the formulation and application of Federal policies.

President Reagan's Executive Order 12606, placed special emphasis on the relationship between the family and the Federal Government. President Reagan directed every Federal agency to asses all regulatory and statutory provisions "that may have significant potential negative impact on the family well-being. * * *" Before implementing any Federal policy, agency directors had to make certain that the programs they managed and the regulations they issued met certain family-friendly criteria. Specifically, they had to ask:

Does this action strengthen or erode the authority and rights of parents in educating, nurturing, and supervising their children?

Does it strengthen or erode the stability of the family, particularly the marital commitment?

Does it help the family perform its function, or does it substitute government activity for that function?

Does it increase or decrease family earnings, and do the proposed benefits justify the impact on the family budget?

Can the activity be carried out by a lower level of government or by the family itself?

What message, intended or otherwise, does this program send concerning the status of the family?

What message does it send to young people concerning the relationship between their behavior, their personal responsibility, and the norms of our society?

The elimination of President Reagan's Executive Order 12606 is just the latest in a series of decisions that indicates the Clinton administration's very different approach to family issues. From the outset of President Clinton's first term, it became clear that his administration intended to pursue policies sharply at odds with traditional American moral principles. White House actions have ranged from the incorporation of homosexuals into the military to the protection of partial-birth abortion procedures, to opposing

parental consent in cases involving abortion for minors.

Mr. President, many have suggested it is community villages, in other words government, that raise children. But really it's families that raise children. Families are the ones who are there night and day to love, to care for, and to nurture children.

Many bureaucratic regulations produce little benefit, but can have unintended consequences. The examples are too numerous to mention.

What our amendment will do is to require the "regulators" to stop and take a moment to think through their regulations to make sure that, the most fundamental institution in civilization—the family, is not damaged by their actions. This is a reasonable and wise policy.

Mr. President, I find it very odd that of all the Executive orders that exist, President Clinton would reach down and lift this one up for elimination. This body should speak out forcefully on this subject and I am confident we will. The families of America deserve no less.

This amendment is a sound and reasonable piece of legislation which will restore a valuable pro-family policy that had been established for 10 years.

I urge all my colleagues to stand united, Republicans and Democrats, to show that the preservation of the family is not a partisan issue. Our voices united will send a loud and certain message to the President and this Nation that we consider family protection to be one of America's most important issues and we will not accept decisions that mark a retreat from our steadfast commitment to our Nation's families.

Mr. President, I strongly believe that American families must be considered when the Federal Government develops and implements policies and regulations that affect families. Therefore, I am honored to be an original cosponsor for this amendment, which will reinstate the Executive order of President Reagan.

I would like to thank my colleagues, Senators ABRAHAM, FAIRCLOTH, HUTCHINSON, for their dedicated work and help on this issue.

As we know, there is some dispute and controversy and concern in this body concerning the President's proclivity to utilize executive regulations to carry out various policies that he wants to carry out. He eliminated this regulation of President Reagan by his own Executive Order, and in fact has stated and reflected his view that the American family is not at times jeopardized by the actions of this Government, and special watch and attention is not necessary to that.

I just want to say this. Governmental policy in this country ought to consider what is good, wholesome, and healthy. The American family represents the finest opportunity to affect the growth, health, well-being, the mental attitude, and the lawfulness of a young person. Healthy families tend to raise healthy children. It is not always so. It is not always so. Families that have trouble raise good kids a lot of time, and families that are personally good have troubled children.

But fundamentally and historically we know, and there has been much data in recent months and years—you remember the article, "Dan Quayle Was Right." So we know that there is a general consensus today that a healthy family is important.

I think it was a bad signal. I think it is sad that in this entire monumental bureaucracy of this Federal Government that involves $1.7 trillion in expenditures every year, you don't have to give special concern to your actions with regard to how they might impact the American family.

I think in that regard the President made a serious error, and he sent a signal to this great Government and those who work for him within the executive branch that they don't have to give special scrutiny to it. I believe it was a mistake. Senator ABRAHAM's amendment would restore that.

I thank Senator CAMPBELL for his interest and concern on these issues and for giving me a few moments to make these remarks.

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

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

AMENDMENT NO. 3365

(Purpose: To provide for marriage tax penalty relief)

Mr. DASCHLE. Mr. President, I ask unanimous consent that we lay aside the Abraham amendment, and I send an amendment to the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3365.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The distinguished Senator from South Dakota, Mr. DASCHLE, is recognized.

Mr. DASCHLE. Mr. President, I thank the Presiding Officer.

Mr. President, as I noted this morning, Democrats have supported and continue to support tax relief for working families. In 1993, we supported tax cuts for millions of working families making less than $30,000 per year through an expansion of the earned income tax credit. Last year, we supported major tax relief proposals, including a $500-per-child tax credit, a $1,500 HOPE education tax credit, a 20-percent lifetime learning credit, the reinstatement of student loan deductions, full deductibility of health insurance premiums for the self-employed, a cut in capital gains taxes for investors and small businesses, and an expansion of estate tax relief for family farms and businesses. All of these tax cuts for working families had one thing in common. They were consistent with a balanced budget; they were fully paid for.

Democrats continue to have an ambitious agenda of tax relief for working families. But we also continue to insist that tax cuts be consistent with fiscal responsibility. This is because we understand that fiscal responsibility equals economic growth, and economic growth equals more jobs and higher wages.

Part of our continuing agenda to provide working families with tax cuts is to provide them with substantial relief from the marriage penalty. In many families, married couples pay more in income taxes than if they had remained single. Democrats would like to remedy this undesirable aspect of our tax system.

The amendment that I have just offered would let families deduct 20 percent of the income of the lesser-earning spouse. This deduction would be phased out for families making between $50,000 and $60,000 a year. The 20-percent deduction would be an "above-the-line" deduction, ensuring that that everyone could claim it, regardless of whether they chose the "EZ" form or itemized their deductions on a more complicated tax form. Also, the deduction would be factored into the earned income tax credit calculation; that is, it would help people making less than $30,000 who may have no income tax liability against which to take the deduction.

But, Mr. President, perhaps most important, contrary to the amendment offered this morning, this amendment is fully offset. The offsets include a number of proposals from the President's budget that have attracted broad support. Most of them would terminate unwarranted tax loopholes for corporations and investors. Because the amendment is fully offset, it is in keeping with the tradition and the practice that we have maintained all through the tax debate this year and previous years.

To summarize, unlike the Brownback-Ashcroft amendment offered this morning, the Democratic amendment, first, focuses roughly 90 percent of its tax cut on families who are actually penalized., compared with about 40 percent to 45 percent for the Brownback amendment offered this morning.

Second, it is fully offset. Its gross cost is $7 billion over 5 years and $21

billion over 10; but its net effect on the budget is zero. By contrast, the Brownback-Ashcroft amendment would have drained the Treasury and the Social Security trust fund by about $125 billion over 5 years and $300 billion over 10 years.

Therefore, if Senators are interested in delivering meaningful marriage penalty tax relief rather than simply grandstanding about it, they will want to support our amendment. Here are two examples of just how much tax relief our amendment would provide:

First, a couple making $35,000, split $20,000 and $15,000 between two spouses. With our 20-percent, second-earner deduction, this couple would receive an additional deduction of $3,000, or 20 percent of the $15,000 income of the second earner. That translates into an annual family tax cut of about $450.

Second, a couple making $50,000, in this case split $25,000 each between the two spouses. Under our 20-percent, second-earner deduction, the couple would receive an extra $5,000 deduction, or about $1,400 in actual cash-in-the-pocket tax relief.

Mr. President, my amendment provides Senators with an opportunity to help hard-working married couples without busting the budget or endangering our efforts next year to restore the Social Security system to solvency for future generations.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President. I want to take a moment to explain my support for the Daschle amendment on marriage tax relief. As you know, earlier today I opposed the Ashcroft-Brownback amendment on the same subject. My concerns related to the wisdom of attaching such a substantial tax policy change to an appropriations bill. Also, the Brownback amendment was not offset—it would have thrown the budget off balance by approximately $125 billion. The marriage tax debate belongs within the context of a balanced budget and a comprehensive tax bill. And let me again state my hope that we will approve such a tax bill later this year.

However, it's clear that today's debate is primarily about political messages and maneuvering. And, in that case, the record should demonstrate that my voice and vote definitely stands with those calling for the elimination of the marriage penalty. Our tax code should be family friendly. Couples who want to get married should not be discouraged from doing so based on how much they will owe in taxes. And tax policy changes should be fully offset and respect the principles of a balanced budget. For these reasons, I intend to support the Daschle marriage penalty amendment.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, we spent almost 2 hours on the Ashcroft amendment. I assume that much of the debate that we have already gone through will be repeated.

I don't think there is anyone on this floor who doesn't want to do something about the marriage penalty. We are all very comfortable with the fact that it is punitive, and I think all of us want to get rid of it, if we can. The question really has been, What is the vehicle to be able to do that?

I ask the minority leader, since we have spent so much time on this already in the previous debate, if he would be interested in trying to work out some kind of a time agreement, because we have about 56 amendments that we haven't cleared yet. It looks like it is going to be a long night, and a long day tomorrow, if we don't get some withdrawn, or some agreement on some of them.

I ask the minority leader if he would be interested in a time agreement.

Mr. DASCHLE. Mr. President, I think the distinguished Senator from Colorado makes a very good point, and our desire is certainly not to complicate his efforts and the efforts of the distinguished ranking member to complete action on this bill. I know there are some Senators who wish to be heard on this particular version of the amendment, but I do believe that we can accommodate those Senators. I would be willing to enter into a time agreement of 30 minutes, if we could assume that there isn't going to be a great deal of debate on the other side. I am not sure we have to equally divide it. I propose we ask unanimous consent the vote on this amendment occur no later than 3 o'clock.

Mr. CAMPBELL. Mr. President, I concur with that, but we have not checked with the majority leader yet. So if I could perhaps ask for a quorum call until we confer with him? I appreciate the Senator's offer to limit that time to 30 minutes equally divided.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. 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. CAMPBELL. Mr. President, Senator DEWINE has been patiently waiting for a while to make a statement and possibly offer an amendment. I ask unanimous consent at the conclusion of his comments, I be allowed to suggest the absence of a quorum at that time.

The PRESIDING OFFICER. Is there objection? The Senator from Ohio is recognized.

Mr. HATCH. Mr. President, will the Senator from Ohio yield?

Mr. DEWINE. I certainly would.

Mr. HATCH. If the Senator will yield to allow me this opportunity to call up the reauthorization of the Office of National Drug Control Policy? I ask unanimous consent I be allowed to do so.

Let me withhold.

Mr. DEWINE. I will be more than happy to yield the floor for the Senator from Utah.

The PRESIDING OFFICER. The Senator from Ohio is recognized and retains the floor.

Mr. DEWINE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. HATCH. Will the Senator yield again?

Mr. DEWINE. I will be happy to yield to the Senator from Utah.

Mr. HATCH. Will the Senator withhold on the amendment? As I understand, we can do it at this time and it will only take a minute.

I ask unanimous consent the pending Daschle amendment be set aside with the understanding we will immediately come back to it after my amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 3367

(Purpose: To extend the authorization for the Office of National Drug Control Policy until September 30, 2002, and to expand the responsibilities and powers of the Director of National Drug Control Policy, and for other purposes)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. BIDEN, proposes an amendment numbered 3367.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HATCH. Mr. President, this is the reauthorization of the office of the drug czar, National Drug Control Policy. I do believe it has been accepted by both sides. It is critical that we have this amendment agreed to at this time.

The PRESIDING OFFICER. Without objection—the Chair will observe the Chair is having difficulty hearing the Senator. Perhaps, if the Senator could speak up, it would be very helpful.

Mr. HATCH. This is an amendment to reauthorize the Office of the National Drug Control Policy.

In this era of passivity and neglect toward what I believe should remain a vigorous war on drugs, we as Americans must refuse to give up the fight against a youth drug plague that is

threatening to erode the very core of our society. To do this, we must mount an unflappable effort against this drug scourge that continues to tighten its grip on our nation's children.

Faced with such an ominous task, it is essential that the Office of National Drug Control Policy be maintained as the principal clearing house for the formulation and implementation of our nation's comprehensive counter-drug strategy. As a nation we simply cannot continue to turn our backs while drug abuse continues to run rampant among our youth.

For this reason I implore each of my colleagues to support the Hatch/Biden amendment, a substitute to H.R. 2610. This amendment truly represents a bipartisan effort to craft legislation that gives the office a meaningful reauthorization period and strengthens ONDCP's authority over drug control program agencies. In an effort to erase this Administration's abdication of its responsibilities to the Congress, the bill requires enhanced reporting requirements on the effectiveness of the National Drug Control strategy thus imposing far greater accountability to the Congress. It also disposes with an annual strategy that, under the Clinton administration, simply has served as an opportunity to grandstand in an effort to show that the President was going to take the drug war seriously in the future to make up for his past disinterest. Instead, the bill recognizes the comprehensive long term strategy drafted last year, and further requires an annual report that requires each administration to report on the success or failures of its strategy in the previous year.

This substitute differs principally from the House bill in that it calls for a 4-year versus a 2-year reauthorization period; and, in that it does not statutorily mandate "hard targets" that must be achieved by 2001. Rather, consistent with ONDCP's previous authorization, it requires that ONDCP establish annual measurable objectives and long term goals. In addition, the legislation also officially authorizes ONDCP's Performance Measurement System which will provide the Congress and the American people with the specific data needed to ascertain whether the strategy is working and where changes are necessary.

The legislation also provides flexibility in the event of a change in Presidents or ONDCP Directors. In such case, the incoming President or Director has the option of either adopting and continuing with the current strategy, or abandoning it in favor of an entirely new strategy. In addition, at any time upon a finding by the President that the current strategy, or certain policies therein, are found not to be sufficiently effective, the President may submit a revised strategy.

We have worked with ONDCP, the Armed Services Committee, and Senator BIDEN to resolve a significant disagreement concerning ONDCP's involvement in, and authority over, the development of budgets of other agencies. We have crafted a process which allows ONDCP to have input at all stages of the budget drafting process and to decertify budgets which are inadequate to fulfill the responsibilities given to that agency. It also allows agencies who are forced to alter their budgets at the direction of ONDCP to submit an "impact statement" describing how such changes might affect the ability of that agency to fulfill its other responsibilities.

I oppose a proposal by the administration to disband the office of "Supply Reduction" headed by a deputy director, which was established to coordinate all law enforcement and interdiction programs, both domestic and international. As recognized by the legislation recently introduced by Senator DEWINE, which I cosponsored, supply reduction is an integral part of our anti-drug efforts, and we need a deputy director specifically responsible for these efforts. We have, however, incorporated significant reorganizations of the leadership of ONDCP, including the new position of Deputy Director and a Deputy Director for State and Local Affairs.

We have also strengthened the ONDCP office in many respects, including: (1) Clarifying the Director's authority by adding to his responsibilities that he shall represent the administration before the Congress on all issues relating to the National Drug Control Program, and that he shall serve as the administration's primary spokesperson on drug issues; (2) Requiring the U.S. Department of Agriculture to give ONDCP an annual assessment of the acreage of illegal domestic drug cultivation; and (3) In order to strengthen ONDCP's ability to obtain information from its program agencies, adding provisions that require, upon the request of the Director, heads of departments and agencies under the National Drug Control Program to provide ONDCP with statistics, studies, reports, and other information pertaining to Federal drug abuse programs.

I might also point out that the definition of "drug control" has been modified in the reauthorization to include underage use of alcohol and tobacco. This change codifies ONDCP policy begun under Republican administrations.

While I recognize that there remain some concerns over reauthorizing this office in light of the Clinton administration's abysmal record on drugs, it is my belief that we must employ every possible weapon that is available to fight the drug war, including the authorization of a national drug office with teeth, which will be held accountable to take real action in combating illegal drug abuse. This bill achieves that goal. For this reason, I urge each of my colleagues to support this amendment, and to work in a bipartisan manner to address legitimate concerns as we go to conference.

Let me highlight why this issue is so pressing. Drug use by teenagers is one of the most serious domestic problems facing our nation today: In my mind, it may be the most crucial issue for our nation's ability to craft productive and law-abiding citizens. The worsening problem of drug abuse among our children and teens wreaks havoc on the lives and potential of thousands of young people each year. If we do not act decisively, we will pay a heavy price.

According to the highly respected Monitoring the Future study published by the University of Michigan, drug use among young people began a steady decline in the early 1980's which continued until 1992. Survey after survey demonstrated that we were on the right track in raising children free from drug abuse.

These declines, which I believe were largely the result of the strong leadership of Presidents Reagan and Bush, are not just statistics. The 1980's and early 1990's produced a generation of young adults with low rates of substance abuse. We reap the benefits of that fact every day as those young men and women succeed in the workforce and build their families and communities. We see the benefits of our work in the 1980's and early 1990's in the lower drug abuse rates and declining crime rates we find among adults today.

But just as we are realizing some benefit today from the hard work of the last decade, we will pay the price for the failures of the 1990's. Young people are being raised in an environment lacking in definition of moral leadership. As I saw these trends developing, I spoke out and demanded that this administration reverse course: I particularly recall, in 1993, President Clinton's first drug czar—Lee Brown—saying that drug control was no longer "at the top of the agenda" for the administration. Indeed, the administration's first drug control strategy in 1993 noted that there was developing "a loss of public focus which has also allowed the voices of those who would promote legalization to ring more loudly." Mr. Brown's concerns regarding legalization, as we all know, were realized in some States. I feared then that the blame for this loss of public focus on the drug war would be laid at the feet of the Clinton administration. The Committee's warnings were frank, continuous, and bipartisan. In recent years, under the leadership of General Barry McCaffrey, we have seen some efforts to make up for the years of neglect. Yet, notwithstanding his efforts I believe drug control—and ONDCP—

lack the full backing of President Clinton and the results are indisputable.

The steady downward trends of the 1980's and early 1990's were tragically reversed. Remember that each percentage point we discuss represents thousands of teens who are much more likely to become bigger problems for society as they become adults.

As measured by use in the past month, drug abuse by high school seniors jumped 27 percent in 1993, 20 percent in 1994, and an additional 9 percent in 1995. Past-monthly abuse by 10th graders skyrocketed by 27 percent in 1993. The 1996 National Household Survey on Drug Abuse published by Health and Human Services, published last year, shows that between 1992 and 1996 the number of 12- to 17-year-olds having used marijuana in the past year more than doubled—from 1.4 million to 2.9 million.

The annual use of any illicit drug among high school students has dramatically increased since 1991—from 11 percent to 24 percent in 1996 for 8th graders, from 21 percent to 38 percent for 10th graders, and from 29 percent to 40 percent for 12th graders.

Lifetime use statistics show a similar trend—from 19 percent in 1991 up to 31 percent in 1996 for 8th graders, from 31 percent up to 45 percent for 10th graders, and from 44 percent to 51 percent for 12th graders.

As for marijuana use for 8th graders, it is clear that marijuana use shot from 10 percent in 1991 to 23 percent in 1997.

Although marijuana is still the most readily available drug across the United States, teenagers can obtain just about any drug they desire with little problem. Today, illegal drugs are more easily obtained than alcohol or tobacco.

To those who suggested that marijuana does not serve as a gateway to even more harmful drug use, there are very few instances that I am aware of where the first drug a child ever tried was heroin or methamphetamine. Most teens tell you that they first experimented with marijuana. Studies show that if kids smoke marijuana, they have an 85 times greater propensity to move on to experiment with harder drugs. General Barry McCaffrey should be commended for his personal leadership in fighting the trends towards tolerance for marijuana use.

While marijuana use increasing, the use of other drugs—harder drugs—is growing at a dramatic rate. The use of methamphetamine has skyrocketed in the Western half of the country. Easy manufacturing and the increasing market have helped make methamphetamine cheaper and more available to kids.

What is the reason behind this surge in teen drug consumption? I believe several things. First, in recent years there has been a decline in anti-drug messages from elected leaders—like President Clinton—and similar messages in homes, schools, and the media. Second, the debate over the legalization of marijuana and the glorification of drugs in popular culture has caused confusion in our young people. Third, disapproval of drugs and perception of risk has declined among young people. The percent of 8th, 10th, and 12th graders who "disapproved" or "strongly disapproved" of use of various drugs declined steadily from 1991 to 1995. In 1992, 92 percent of 8th graders, 90 percent of 10th graders, and 89 percent of 12th graders disapproved of people who smoked marijuana regularly. By 1996, however, those figures had dropped significantly.

Previous administrations recognized that education and treatment programs were only effective if coupled with tough criminal deterrence and effective interdiction. Statistics clearly show that as the interdiction dollars go down, drugs use goes up.

I was recently pleased to hold a hearing on teen drug use. We heard from a teenager named Rachel who recounted her personal experience with drug addiction. We also heard testimony from two physicians, Dr. Nancy Auer and Dr. Sushma Jani who have seen in our emergency rooms and hospitals the devastating effects that drug abuse has had on our nation's youth. Lastly, we heard from Chris, an individual who works as an undercover officer in high schools in Ohio—to protect his continued ability to provide this valuable service, his identity was shielded during the hearing.

In conclusion, I think it is clear that the rates of youth drug abuse are neither stable nor acceptable, but are instead rising sharply. I was therefore very surprised to hear President Clinton claim on the world stage in his recent speech before the United Nations that "drug use by our young people is stabilizing, and in some categories, declining." I believe that we are in the middle of a crisis and that the time for action long since passed.

Passage of this legislation will be a crucial part of that action.

As I understand it, this is acceptable to both managers of the bill. So I urge its adoption.

Mr. BIDEN. Mr. President, I am pleased to offer this amendment with Senator HATCH to reauthorize the Drug Director's Office. Senator HATCH and I have been assisted by several other Senators in this effort, and I would just note that the reauthorization bill reported by the Judiciary Committee last year was cosponsored by Senators THURMOND, DEWINE, COVERDELL, and FEINSTEIN.

I would also note that since then, we have worked closely with Senator MCCAIN to meet some concerns that he had raised relating to the Drug Director's budget certification powers. And, the language we have negotiated with Senator MCCAIN is incorporated into the text offered in this amendment.

This bipartisan legislation will, I hope, result in speedy action to keep the Drug Director's Office in place—no matter what perspective any of us have on any specific drug policy, this legislation is about whether we will have a Drug Director and Drug Office to be responsible for—and accountable to—a national drug policy.

In 1987, before my legislation creating the Drug Office finally became law, There was no official in charge of the administration's drug effort; and, because there was no Cabinet official in charge, every Cabinet official could duck responsibility to talk about tough drug policy issues—and, guess what, that meant no administration talked about drugs and no administration was accountable on drugs.

Just as with my original drug czar legislation, the Hatch-Biden amendment retains its central goal—holding every administration and every President accountable on the drug issue.

The Hatch-Biden amendment does so in several ways:

First, and this was one of Chairman HATCH's top priorities, Hatch-Biden requires the Clinton administration to identify measurable objectives for the National Drug Strategy, and provide on February 1, 1999, specific answers about whether these objectives have been met;

Second, Hatch-Biden retains the current law about the administration submitting a detailed annual drug budget—every line of which is reviewed and changed in the annual congressional appropriations process.

To this, Hatch-Biden adds a requirement—called for by General McCaffrey—for budget projections covering the next 4 years. In other words, this prevents any "pie-in-the-sky" promises, which are not backed up by specific budget projections.

Third, and this is the major change proposed by General McCaffrey and included in Hatch-Biden, instead of the overall drug strategy, it requires a detailed annual report which will focus the administration and the Congress on the "nuts and bolts" of implementing the strategy.

As Senator HATCH points out—instead of a strategy in which an administration tells us what it is going to do about drugs; this report will force any administration to tell us what they have accomplished against drugs.

Hatch-Biden includes specific language requiring:

That the annual report include any necessary modifications of the drug strategy;

A whole new strategy if the current strategy proves ineffective;

An annual assessment of the progress on the specific, measurable goals identified in the drug strategy;

Goals that are required by law to address—current drug use; availability of cocaine, heroin, methamphetamine, marijuana; drug prices, and purity among many others; and

That any new President or new Drug Director submit a new drug strategy.

Finally, the key addition of the annual report included in Hatch-Biden is the "performance measurement system"—which would add nearly 100 detailed measures, each with a definite timetable.

These measures are all about holding the 50 drug agencies and offices accountable to the drug policy goals of the administration—the one task that all Drug Directors have found exceedingly difficult to actually implement.

Just to identify a few of these specific measures:

Increase asset seized from drug traffickers by 15 percent; increase drug trafficking organizations dismantled by 20 percent in high intensity drug trafficking areas; and reduce worldwide coca cultivation by at least 40 percent.

Of course, we would all like each of these measures to be achieved immediately—but, even if we could do this efficiently, the costs would be staggering—an additional $60-$90 billion over just the next 3 years. So, achieving these goals will take time.

One final point on the general's performance measurement system—if we are to give him a fighting chance to increase the accountability of all the drug agencies, we have to put this system in law. For, if we do not, mark my words, the general will be defeated by all the career officials in all the drug agencies who want to stop this increased accountability.

Another element of General McCaffrey's proposal which has been included in Hatch-Biden is to require that the No. 2 official in the office—the Deputy Director—have to come before the Senator for confirmation just like the demand deputy, supply deputy and State and local deputy.

I favor this because the hearing, committee, and floor votes on the Deputy Director would give the Senate another important opportunity to hold any administration accountable on drugs.

In addition, the key mission of the Drug Office—holding the nearly 50 agencies and offices with drug policy responsibilities accountable—requires having officials with the credentials of Senate confirmation.

The Hatch-Biden amendment also includes specific language calling for "scientific, educational, or professional" credentials for whomever is nominated for the demand deputy job.

This is an issue that Senators GRASSLEY and MOYNIHAN have really been the leaders on—and I just acknowledge their key role in this aspect of Hatch-Biden.

I also note that, at the chairman's insistence, the length of time of this reauthorization has been drastically shortened.

While the general initially proposed to authorize the office for 12 years, Hatch-Biden reauthorizes for 4 years through September 30, 2002.

In closing, I would point out that this legislation has been through a long process here in the Senate and that this process has resulted in a strong, bipartisan bill.

I understand that the two managers of the bill, Senators CAMPBELL AND KOHL, are willing to accept this amendment. I appreciate their support, and the support of the full Senate for the reauthorization of the Drug Director.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I might add this amendment is acceptable to both sides. It is a very, very important program. It is basically the drug czar's program. We know we have spent an awful lot of money on this program in the last few years, but clearly it is having an effect on reducing teenage drug use in particular. I just wanted to add my comments to those of the Senator from Utah that this is a good amendment.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, the amendment is agreed to.

The amendment (No. 3367) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AMENDMENT NO. 3354

(Purpose: To prohibit the use of funds to pay for an abortion or to pay for the administrative expenses in connection with certain health plans that provide coverage for abortions)

Mr. DEWINE. Mr. President, I believe my amendment is already at the desk. I call up my amendment in regard to Federal employees.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from South Dakota is set aside, and the clerk will report the amendment of the Senator from Ohio.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. ABRAHAM, Mr. SESSIONS, Mr. BROWNBACK and Mr. SANTORUM, proposes an amendment numbered 3354.

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

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

The amendment is as follows:

At the end of title VI, add the following:

SEC. . No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. . The provision of section _____ shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

Mr. DEWINE. Mr. President, I rise this afternoon to offer an amendment on behalf of myself, Senator ABRAHAM, Senator SESSIONS, Senator BROWNBACK, and Senator SANTORUM.

This is an amendment that would maintain in force—and let me emphasize that—would maintain in force the current law, the status quo. This amendment would remain and keep in force the current Federal law restricting Federal employee health insurance coverage for abortions except in cases of rape, incest, or to save the life of a mother.

This is the same amendment that was accepted by voice vote during the debate for fiscal year 1998, the Treasury-Postal appropriations. This is the same amendment that was accepted by this body during the debate for fiscal year 1996. And, in fact, this is the same language that has been consistently supported by a bipartisan group of Senators and Representatives from 1983 to 1998, with the exception of only 2 years. So from 1983 to 1998, that has been the law of the land with the exception of only 2 years.

Mr. President, I mention this to you and to my colleagues to make it clear that this amendment stakes out no new ground. It merely confirms what the status quo is today, what this body and what the other body have consistently voted in favor of.

The principle that we are dealing with today is a very simple one, one that goes beyond the conventional pro-life, pro-choice boundaries. I think everyone in this Chamber knows that I am pro-life and, therefore, wish to promote the value of protecting innocent human life.

I point out that the vast majority of Americans on both sides of the abortion issue—on both sides of the abortion issue—strongly agree that they should not pay for someone else's abortion, and that is what we are talking about today. Fairly stated, this amendment is not about abortion, it is not about the morality of abortion, or the right of women to choose abortions. This is a narrowly focused amendment that answers a key question: Should taxpayers pay for these abortions?

Mr. President, Congress has consistently agreed that we should not ask the taxpayers to promote a policy, in essence, of paying for abortion on demand for a Federal employee.

Again, this amendment would maintain the status quo. It limits Federal employee health plans to cover abortions only in the case of rape, incest, or threats to the life of the mother.

The vast majority of Americans oppose subsidizing abortions. That is clear. Employers, as a general principle, determine the health benefits their employees receive. Taxpayers are the employers of our Federal workforce, and a large majority of taxpayers simply do not want their tax dollars to pay for these abortions. Taxpayers provide a substantial majority share of the funds to purchase health insurance for the Federal civilian workforce. Over three-quarters of that premium on an average is paid for by taxpayers.

This amendment addresses the same core issue. It simply says that the Federal Government is not in the business of funding abortions. Abortion is a contentious issue, and we simply should not ask taxpayers to pay for them.

Mr. President, this issue has been debated time and time and time again on this floor. I will say the identical language has been debated time and time and time again.

Everyone in this Chamber has voted on this issue. Current law limits abortion availability in Federal employee health care plans to cases, again, of rape, incest, and to save the life of the mother. That is set in law. This has been the bipartisan position of the Senate and the bipartisan position of the House, and it has been approved by the President last year and the year before. We should not voluntarily take the money of many Americans who find abortion wrong to pay for those abortions. We should not go against the will of the people of this country. We should uphold the current law, and that is what this amendment would simply do.

Mr. President, I yield the floor.

Mr. SESSIONS. Mr. President, I thank my good friend from Ohio, Senator DEWINE, for offering this important amendment.

This amendment will maintain in force the current law restricting Federal funding for abortions to cases of rape, incest, or life of the mother.

This amendment would leave in place the restriction on Federal Employee Health Benefit Plans which prevents those plans from paying for abortions except in the case of rape or incest, and when the life of the mother is in danger.

The principle here is simple: Should the taxpayers, regardless of whether they are pro-life or not, be forced to pay for abortions?

Make no mistake about it, abortions provided under the Federal Employee Health Benefits Program would be subsidized by the taxpayers. Although employees are charged for the health plan they elect, a significant portion of the cost of those plans is offset by the Government using taxpayer dollars.

Therefore, by participating in a health plan, employees who oppose abortion are effectively subsidizing abortions when they pay their health insurance premiums. If the major health plans all fall in line and start paying for abortions, employees who are morally opposed to abortion are put in a very difficult position.

There are millions of Americans, myself included, who feel very strongly that abortion is the taking of an innocent human life. It is unconscionable to ask taxpayers to subsidize elective abortions.

Whatever your position on abortion is, this is one point we should all be able to agree on.

Congress has consistently agreed that we should not ask taxpayers to promote a policy, in essence, of paying for abortion on demand by a Federal employee.

This is the same amendment that was accepted by voice vote during the debate for fiscal year 1998 Treasury-Postal Appropriations; accepted by this body during the debate for fiscal year 1996; and in fact, this is the same language that has been supported by a bipartisan group of Senators and Representatives from 1983 to 1998.

Madam President, I will just say this. People in this country can disagree about the sensitive issue of abortion. The laws are as they are. Some people like them, some people don't like them. But with regard to the question of whether or not taxpayers ought to be required to fund abortions, this country and the law and the vote of almost every State and this Congress has been not to fund that, and not to take taxpayers' money from individuals who feel very, very deeply and personally about this issue and expend that money to eliminate life. That is not a choice that we believe this Congress ought to make. We ought to prohibit it as part of this legislation. Maybe we won't even need a vote on it. But if we do, so be it. I think it will pass again this year, as it has.

Again, I appreciate the work of the Senator from Ohio for reestablishing this year this important principle.

Mrs. MURRAY. Mr. President, I rise in strong opposition to the DeWine amendment which would prohibit female federal employees from accessing affordable, safe and legal abortion related services as part of their health insurance benefits.

I am always tempted to say, "here we go again." Another assault on women's health and another barrier for women to safe, affordable reproductive health services. For some of my colleagues, the 1973 landmark Roe versus Wade decision was not clear enough or they continue to attempt to restrict a women's right guarantee in this decision.

Instead of standing up and arguing that a woman should not have choices or that women should not be allowed to access safe, affordable reproductive health services, some of my colleagues hide behind the issue of federal funding.

Health benefits have been, and always will be for the benefit of the federal employee. It is a form of compensation. Every worker knows that health insurance is part of their compensation package, not a gift, not a loan, but something that they have earned. Health benefits are part of one's salary. This is no different for a federal employee or an employee of Boeing.

We would never see an amendment on the floor of the Senate dictating to federal employees how they spend their salary. As long as the employee spends this compensation on a legal commodity, we cannot restrict his or her decisions. Simply because they are employed by the American taxpayer does not mean that we can dictate how they spend their salary.

However, some of my colleagues are proposing to do just that. We are telling female federal employees how they can or cannot spend their health insurance benefits. In addition to denying federal employees the basic constitutional rights afforded every other woman, we are proposing to dictate how they spend their compensation.

Not only are health benefits considered employee compensation earned by the employee, federal employees are also responsible for up to 40 percent of the cost of the premiums as well as any deductibles or copays. So in fact we are telling female federal employees how to spend their take home pay as well.

If a federal employee uses his or her own salary to purchase a firearm is this federal funding of handguns? I would argue no. Even though there are federal taxpayers who oppose handguns, we do not restrict the right of federal employees to use their federal salary to purchase one. But, telling female federal employees how they can spend their insurance benefits is just as offensive. Only in this case it is probably more detrimental as it denies female federal employees access to safe, affordable reproductive health service.

One could argue that female federal employees should pay out of pocket for certain reproductive health services and not depend on her health benefits to cover or provide this protection. I would like to point out that federal employees by and large are not well paid CEOs. They live pay check to pay check and many are single mothers. Covering a $600 or $1,000 health care bill is just not possible. Economic barriers are just as solid as legal or social barriers. Denying health insurance coverage for a full range of reproductive health services, is denying access to these services for many female federal employees.

I urge my colleagues to oppose efforts to make second class citizens of female federal employees. They deserve our support and they deserve to be treated with dignity and respect. Instead of attacking a woman's right to

make her own personal health decisions let's work to prevent unintentional pregnancies. I urge my colleagues to support federal family planning programs and contraceptive equity. The Supreme Court has already said that abortion with some restrictions is a legal right afforded all Americans. Let's not force federal employees to pay the price of political football, but rather let's do more to improve access to safe, affordable family planning benefits.

Ms. MIKULSKI. Mr. President, I rise in strong opposition to the amendment offered by Senator DEWINE.

The bill reported by the Senate Appropriations Committee would enable federal employees, whose health insurance is provided under the Federal Employees Health Benefits Plan, to receive coverage for abortion services.

The DeWine amendment would prohibit coverage for abortion, except in cases of life endangerment, rape or incest. It would continue a ban which has prevented federal employees from receiving a health care service which is widely available for private sector employees.

I oppose this amendment for two reasons. First of all, it is an assault on the earned benefits of federal employees. Secondly, it is part of a continuing assault on women's reproductive rights and would endanger women's health.

We have seen vote after vote designed to roll back the clock on women's reproductive rights. Since 1995, there have been over 81 votes in the House and Senate on abortion-related issues. It's clear that this unprecedented assault on a woman's right to decide for herself whether or not to have a child is continuing, as this amendment demonstrates.

Well, I support the right to choose. And I support federal employees. And that is why I strenuously oppose this amendment.

Let me speak first about our federal employees. Some 280,000 federal employees live in the State of Maryland. I am proud to represent them. They are the people who make sure that the Social Security checks go out on time. They make sure that our nation's veterans receive their disability checks. At NIH, they are doing vital research on finding cures and better treatments for diseases like cancer, Parkinson's and Alzheimers. There is no American whose life is not touched in some way by the hard work of a federal employee. They deserve our thanks and our support.

Instead, federal employees have suffered one assault after another in recent years. They have faced tremendous employment insecurity, as government has downsized, and eliminated over 200,000 federal jobs. Their COLA's and their retirement benefits have been threatened. They have faced the indignity and economic hardship of three government shutdowns. Federal employees have been vilified as what is wrong with government, when they should be thanked and valued for the tremendous service they provide to our country and to all Americans.

I view this amendment as yet another assault on these faithful public servants. It goes directly after the earned benefits of federal employees. Health insurance is part of the compensation package to which all federal employees are entitled. The costs of insurance coverage are shared by the federal government and the employee.

I know that proponents of continuing the ban on abortion coverage for federal employees say that they are only trying to prevent taxpayer funding of abortion. But that is not what this debate is about.

If we were to extend the logic of the argument of those who favor the ban, we would prohibit federal employees from obtaining abortions using their own paychecks. After all, those funds also come from the taxpayers.

But no one is seriously suggesting that federal employees ought not to have the right to do whatever they want with their own paychecks. And we should not be placing unfair restrictions on the type of health insurance federal employees can purchase under the Federal Employee Health Benefit Plan.

About 1.2 million women of reproductive age depend on the FEHBP for their medical care. We know that access to reproductive health services is essential to women's health. We know that restrictions that make it more difficult for women to obtain early abortions increase the likelihood that women will put their health at risk by being forced to continue a high-risk pregnancy.

If we continue the ban on abortion services, and provide exemptions only in cases of life endangerment, rape or incest, the 1.2 million women of reproductive health age who depend on the FEHBP will not have access to abortion even when their health is seriously threatened. We will be replacing the informed judgement of medical care givers with that of politicians.

Decisions on abortion should be made by the woman in close consultation with her physician. These decisions should be made on the basis of medical judgement, not on the basis of political judgements. Only a woman and her physician can weigh her unique circumstances and make the decision that is right for that particular woman's life and health.

It is wrong for the Congress to try to issue a blanket prohibition on insuring a legal medical procedure with no allowance for the particular set of circumstances that an individual woman may face. I deeply believe that women's health will suffer if we do so.

I believe it is time to quit attacking federal employees and their benefits. I believe we need to quit treating federal employees as second class citizens. I believe federal employees should be able to receive the same quality and range of health care services as their private sector counterparts.

Because I believe in the right to choose and because I support federal employees, I urge my colleagues to join me in defeating the DeWine amendment.

Mrs. BOXER. Mr. President, I oppose the DeWine amendment, which will curb the rights of women who work for the federal government to obtain abortion services through their health insurance. I strongly urge my colleagues to vote against this amendment.

Over one million women of reproductive age rely on the Federal Employees Health Benefits Program for their medical coverage. This amendment will stop them from using their own insurance to exercise their right to choose an abortion. The exceptions in this ban are inadequate to protect the rights of women.

Women who are employed by the Federal Government work hard. They pay for their health premiums out of their own pockets. They deserve the same, full range of reproductive health benefits as women who work in the private sector.

The question is: Should female federal employees or their dependents be treated the same as other women in the work force, or should they be treated differently, singled out, with their rights taken away from them?

In 1993 and 1994, Congress voted to permit federal employees to choose a health care plan that covered abortion. Unfortunately, this Republican Congress over-turned that right.

This bill provides funding for the full range of health benefits through the Federal Employees Health Benefits Program. We should ensure that these benefits remain in the bill by opposing this amendment.

Anti-choice forces are chipping away at the right of women in this country to obtain safe, legal abortions. They are making a woman's ability to exercise that choice dependent on the amount of her paycheck and the employer who signs it. It's simply unjust.

If there were an amendment to stop a man who happens to work for the Federal Government from getting a perfectly legal medical procedure, one that might protect his health, there would be an uproar on this floor. People would say, how dare you do that to the men of this country? Why not treat the men who work for the Federal Government the same way we treat men who work in the private sector?

Decisions about health care—including reproductive health care—should be made by patients and their doctors—not by HMO bureaucrats or politicians. Decisions about abortion are tough, personal, and private. We need to trust women to make that choice.

Let's ensure that all federal employees have the rights, the protections, and the healthcare coverage they deserve. I urge my colleagues to vote "no" on this amendment.

Mr. KOHL. Mr. President, I rise in opposition to this amendment. I am truly sorry we have to address it every year.

The bill we passed out of the Senate Appropriations Committee treats federal employees just as private employees with health insurance coverage are treated: they are permitted to join a health care plan that covers a full range of reproductive health services, including abortion. The bill returns us to the policy that was in place before November of 1995. Currently, two-thirds of private fee-for-service health plans and 70% of HMOs provide abortion coverage.

Like so many of my colleagues, I support a woman's right to choose, and I support policies that will keep abortions legal, safe, and rare. I also support anyone's right not to participate in a health plan that covers abortion, and federal employees can choose such plans under the bill as we passed it out of Committee.

Adding this amendment, and continuing the unfair policy of the past few years, will impose real consequences, and real pain for government workers.

Mr. President, I ask unanimous consent to have printed in the RECORD two letters that tell what these consequences were for two families of federal workers.

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

COMPOUNDING A TRAGEDY: CONGRESS GIVES MEDICAL ADVICE

SEPTEMBER 6, 1996.

DEAR SENATOR: I've been a federal employee for 13 years. My husband and I were elated this summer when I became pregnant. At age 36, I was in the "advanced maternal age" category, so my insurance company, Kaiser Permanete offered us genetic screening as routine pre-natal care. They didn't mention that Congress had erased the option to terminate a pregnancy, even on the advice of my physician.

I was scheduled for a sonogram at 14 weeks to make sure we'd correctly estimated how far along I was. My husband, my mother and my sister accompanied me to the ultrasound waiting room because seeing this baby was a big event.

I realized something was odd when both the sonogram technician and the radiologist spent so much time looking at my baby's head. The radiologist had detected abnormalities and recommended that only my husband be allowed in to see the sonogram. The radiologist termed it severe hydrocephalus—we saw an empty skull. A week later, the perinatologist at Fairfax Hospital's Antenatal Testing Center gave an even colder picture. She called it holoprosencephaly and said the fetal development was incompatible with life. All of the doctors I saw agreed there was no hope for the fetus, and recommended terminating as soon as possible.

We were devastated. To compound the tragedy came the news that as of January this year, companies insuring federal workers are prohibited from covering abortions. I have since learned that federal employees are the exception—coverage for medically necessary abortions is provided for others by my insurance company. In the end, we paid a very high fee to have the abortion because the fetal anomaly made the procedure more complicated.

My husband and I question whether Congress is implying we were immoral for aborting this fetus and hoping to get pregnancy with a healthy child. Our decision was no wanton or frivolous; it was heartbreaking. My abortion was the day before my 37th birthday, and each year I face a higher probability of having to terminate another pregnancy because of a genetic problem. Yet, we really want to raise a family and will keep trying.

Sincerely,

SUSAN ALEXANDER AND
CHRISTOPHER DURR,
Alexandria, VA.

SEPTEMBER 10, 1997.

DEAR REPRESENTATIVE: My name is Kim Mathis. I live in Talladega, Alabama with my husband who works at the Federal prison in town. We are both covered under my husband's health insurance plan for federal employees and their families.

In February of last year, we learned that I was pregnant. During a routine appointment my doctor performed a standard A.F.P. test. This is a test that they offer to check for neural tube defects and other problems. About a month later, my doctor told me that the test came back positive and he wanted me to go to a specialist for more tests.

I immediately scheduled an appointment with the specialist. During my exam, they performed an ultrasound and found that my A.F.P. test results were elevated because I was carrying twins.

My next appointment was in May. This time the doctor studied the ultrasound for almost an hour. After the doctor was finished, he wanted to talk with us privately. It was at that time that I knew that something was wrong. He told us that was an unusually rare pregnancy. He told me that my twins, which were boys, suffered from Twin-to-Twin Transfusion Syndrome. Both babies shared the same blood vessels. Because of this, the baby on top was giving his blood and water to the baby on the bottom. The smaller twin was about one month smaller in size than the larger twin. The doctor said the larger twin was growing too fast. He also told us that the smaller twin did not have kidneys and his heartbeat was very slow. At that time, he gave us a 20% chance of one of the twins surviving the pregnancy.

After consulting with the doctor, my husband and I decided that the best thing to do would be to end the pregnancy. It was the hardest decision of my life.

After we made our decision our doctor asked us what kind of insurance we had. My husband told him and the doctor informed us that he had never had a problem with their coverage. When we arrived home that evening, we looked in my husband's benefit plan book for 1996 which plainly stated that "legal abortions" were covered.

A few weeks after the termination we received the first letter from our insurance company. The letter stated that our claims were denied. After further inquiries we learned that they denied our claims because Public Law 104–52 was enacted on November 19, 1995 which limited federal employees health benefits plans coverage of abortion.

By this time, the hospital was harassing us. They turned our account over to a collections agency. We received countless threatening letters and telephone calls at work. In October, my husband and I were forced to file bankruptcy. Our lives and financial future have been ruined.

I am writing this letter so you will know what happened to us and so that you can change this law. Families like ours should not have to go bankrupt in order to receive appropriate medical care.

Sincerely,

KIM MATHIS.

Mr. KOHL. One had to abort a fetus with no brain. Not only did they have the heartbreak of a failed pregnancy, but they also faced the high financial burden of a major operation not covered by insurance. The second letter tells of a family that had to abort nonviable twins. The cost of this complicated and necessary abortion bankrupted them.

I understand and respect the deeply held convictions of both sides in the abortion debate. But it is not fair to allow our heated political debate to do real harm to the people who work for the government. I urge my colleagues to vote against this amendment.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, before the Senator from Ohio came to the floor, we were in the process of trying to get a time agreement on the Daschle amendment. I ask the Senator if he would mind laying his amendment aside so we might finish the Daschle amendment as soon as we hear from the majority leader.

Mr. DEWINE. No objection.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3365

Mr. LOTT. Madam President, I call for the regular order with respect to the Daschle amendment and ask that there be 20 minutes, equally divided, prior to the motion to table, and I then be recognized to make the motion to table and with no second-degree amendments in order prior to the vote.

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

Mr. LOTT. For the next 20 minutes, the floor would be open for discussion on the pending amendment, or Senators could speak on other issues.

I yield the floor.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. CAMPBELL. Madam President, while we are waiting, we are making progress in reaching agreements on other amendments.

AMENDMENT NO. 3368

(Purpose: To provide for the adjustment of status of certain Haitian nationals)

Mr. CAMPBELL. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. GRAHAM, for himself, Mr. MACK, Mr. KENNEDY, Mr. MOYNIHAN, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. KERRY, and Mr. DURBIN, proposes an amendment numbered 3368.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GRAHAM. Madam President, I rise today to offer an amendment to the Treasury-Postal appropriations bill that will bring justice to thousands of Haitian nationals who fought for democracy and freedom against the greatest odds.

Last November, Congress passed the Nicaraguan Adjustment and Central American Relief Act to protect those who fled Communism and oppression in Central America during the 1980s.

But while that legislation was a monumental step forward for fairness, it left one deserving group completely unprotected.

Just as brave Central Americans resisted tyranny in their native countries, Haitians struggled to free themselves from oppression.

In fact, many Haitians seeking asylum in our country are here because they challenged a regime that was wantonly violating basic human freedoms.

Mr. President, these brave Haitians have suffered greatly for the causes of freedom and democracy.

They should not be forced to endure serious disruptions in their life once again.

Even though conditions in Haiti have improved greatly since 1994, Amnesty International reports that human rights abuses still occur.

As people who contribute mightily to the strength of our communities, the Haitians living in the United States should not be forced to risk returning to the scene of their prior persecution . . . to face the possibility that it might happen again.

This amendment is a bipartisan effort. Senators MACK and I—along with the cosponsors of the bill I introduced last year, Senators KENNEDY, ABRAHAM, MOSELEY-BRAUN, D'AMATO, MOYNIHAN, FEINSTEIN, KERRY of Massachusetts, DURBIN, and LAUTENBERG—have joined together to ensure that the Haitian people who have sought fairness and justice for so long receive it in 1998.

We have the bipartisan support of leaders ranging from President Clinton to Republicans like Jack Kemp and my Florida colleagues ILEANA ROS-LEHTINEN and LINCOLN DIAZ BALART.

Mr. President, we have left no stone unturned in crafting this legislation. We've asked for input from all sources.

Senator ABRAHAM held a hearing on this bill in December of 1997. The bill was marked up and passed out of the Senate Judiciary Committee on April 23, 1998.

I have personally met with Senator LOTT and explained the importance of this legislation to my state of Florida.

Now we ask our Senate colleagues to take action. The 40,000 Haitian nationals in the United States face deportation in December if Congress does not act.

Our nation was built as a bastion of freedom and a haven for those fleeing oppression around the world. We embrace that heritage in this legislation.

Specifically, our bill helps three groups of individuals—a total of 40,000—adjust their status to legal residency.

Those who were paroled into the United States from Guantanamo Bay, after careful screening by immigration personnel.

These individuals were flow to the United States for review because their asylum cases were deemed to be valid and credible.

Our bill also helps those who were not paroled from Guantanamo, but who came to our nation and filed an application for asylum before December of 1995.

Finally, it reaches out to a small group of unaccompanied or orphaned Haitian children.

The members of each of these three groups are legally here in our country.

They have followed all the laws of our land. This legislation will give them the chance to continue working here. It will help them as they build small businesses. It will keep their U.S. citizen children in school.

Most importantly, it will keep their vibrant spirit and determined work ethic alive in our cities and communities.

During our field hearing, I saw the problem that Haitians face through the eyes of a bright, young student. She couldn't come to the hearing because she was working at one of the two jobs she holds to pay her community college tuition. Alexandra Charles is eighteen years old.

She is an orphan who came to the United States when she was ten years old—after her mother was brutally murdered by Haitian military officials.

She has over a dozen relatives in the United States who are legal residents, but who are not closely related enough to be sponsors.

She has virtually no relatives left alive in Haiti.

Like many individuals in similar circumstances, Ms. Charles was granted a suspension of deportation.

But this relief was withdrawn after the Board of Immigration Appeals ruled that the 1996 immigration law retroactively affected cases like hers.

Alexandra's future in the United States looks bright.

She is a hard worker and a model student.

But without this legislation, our nation will lose the benefit of her special skills and her dedication to our community.

Alexandra is just one of the thousands of law-abiding, hard working individuals who will not be allowed to pursue their valid asylum claims due to the retroactive nature of our 1996 immigration law.

I ask for your help in this fight for justice and fairness.

Let us prove once again that our nation values those who put their lives on the line in the struggle for freedom and democracy.

Mr. MACK. Madam President, I rise today in support of the Graham/Mack immigration amendment to the Treasury/Postal Appropriations bill. I strongly believe that this amendment is the right thing to do for the Haitian community and that it is consistent with our treatment of similarly-situated immigrant groups.

I would like to provide the Senate with some background information on what has led Senator GRAHAM and me to introduce this amendment, a brief explanation of the amendment, and the policy rationale behind the amendment.

First of all, some legislative history on events leading up to the introduction of this amendment. Last year, Senator GRAHAM and I introduced legislation which was intended to ease the transition into implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, otherwise known as IRAIRA. Our bill simply clarified that immigrants who were in the administrative pipeline for suspension of deportation when IRAIRA was enacted would have their cases for suspension considered under the rules in place when they applied for suspension, not the new rules contemplated by IRAIRA. I was concerned with the unfairness of changing the rules on people midstream.

While this bill was under consideration in the Senate, an agreement was reached in the House of Representatives which gave even greater relief to the Nicaraguan community—the ability to adjust to legal permanent resident status.

Once it was apparent that Nicaraguans would be granted the opportunity to adjust to legal permanent

resident status, the Haitian community made an attempt to be included in the relief. Although they, too, had a compelling case, it was not possible to include them in the final bill at that point in the negotiations. However, Senator GRAHAM and I made a commitment to seek appropriate relief for the Haitians this Congress, and received assurances from the Administration that they would defer potential deportation decisions of the affected Haitians until after Congress had an opportunity to consider legislative relief.

This amendment, identical in text to Senate bill 1504, which was reported favorably out of the Judiciary Committee, would provide permanent resident status to certain Haitians who fled Haiti after the Aristide regime was toppled in a brutal military coup in 1991 and were either paroled into the country or applied for asylum by December 31, 1995.

This amendment is more narrow than the legislation passed last year which gave permanent resident status to Nicaraguans, since the scope and number of people covered is much smaller. Under last year's bill, nearly every Nicaraguan in the United States before December 1, 1995 was made eligible to adjust their status, approximately 150,000 people. Our amendment helps only a limited class of Haitians, estimated at 30,000–40,000, who have sought the help of the United States in fleeing persecution. Let me emphasize that point again—this amendment is for those who have actively sought U.S. help, not those who came illegally and sought to evade detection.

There are two different categories of Haitians involved. The first category are those paroled into the country after being identified as having a credible fear of persecution. Nearly all in this category, approximately 11,000 Haitians, were pre-screened at Guantanamo Bay and found to meet a credible fear of persecution test. These 11,000 Haitians represent approximately 25% of those screened at Guantanamo, the other 75% were returned to Haiti. The second category are those Haitians who have applied for asylum by December 31, 1995. In the case of those in the second category, they are people who have been caught in an asylum backlog not under their control and may have a difficult time now, due to the passage of time, demonstrating a credible fear of persecution. In the meantime, they have put down roots in this country and are making positive contributions to their communities.

I am talking about a twenty-five year old woman, Nestilia Robergeau, who fled Haiti, where she had been beaten and raped and her brother was murdered. Even though she was screened into this country through Guantanamo in 1992, she is still waiting for an asylum interview. In the meantime, she has graduated from high school and hopes to attend college to become a nurse. She works most days from 7 a.m. to 10 p.m. to support herself and her teenage brother.

And then there is a little fourth grade girl in Miami, Florida, Louiciana Miclisse. Both of her parents were shot and killed in Haiti, and the only relative she has now is her Aunt Nadia, who came with her from Haiti. She wants to grow up to be a doctor. She has applied for asylum, but her case has still not been considered. Do we really want to send this child back to Haiti where she has no family? Is that what this country is all about? I believe we are more compassionate than that.

It's also important to mention that conditions in Haiti are not safe for the return of these people. At an immigration subcommittee field hearing last December, the committee was informed that the Haitian government has not yet established the civil institutions necessary to protect these refugees from further retribution by those who perpetrated human rights crimes. In fact, it appears that these criminals continue to operate with impunity.

As I mentioned at the outset, this amendment is consistent with our treatment of similarly-situated immigrant groups. As Grover Joseph Rees, former General Counsel of INS under President Bush, testified at the subcommittee field hearing last December, it has been the rule rather than the exception that when a human rights emergency has led to the admission of large numbers of parolees from a particular country, such refugees and others similarly situated have been subsequently granted permanent residency through Congressional action. Congress has granted permanent residence on this basis in the past to Hungarians, Poles, Soviets, Vietnamese, Chinese, Cambodians, Laotians, Cubans, and, most recently, Nicaraguans. This action for the Haitians is entirely consistent with our past treatment of similarly-situated groups from other countries.

This amendment is the right thing to do, and this is the right time to do it. The Haitians who are affected by this situation have been left in limbo far too long. I urge my colleagues to support the Graham/Mack amendment.

Mr. KENNEDY. Madam President, it is a privilege to join Senator GRAHAM, Senator MACK, Senator ABRAHAM and our other distinguished colleagues in supporting legislation to provide permanent residence to Haitian refugees. Last year Congress enacted the Nicaraguan Adjustment and Central American Relief Act, which enabled Nicaraguan and Cuban refugees to remain permanently in the United States as immigrants. That legislation also enables Salvadorans, Guatemalans, Eastern Europeans and nationals from the former Soviet Union to seek similar relief on a case-by-case basis.

Haitian refugees deserve no less.

Haitians have seen their relatives, friends and neighbors jailed, or murdered, or abducted in the middle of the night and never seen again. Like other refugees, they have fled from decades of violence and brutal repression by the Ton Ton Macoutes, and later the military regime which overthrew the first democratically elected president of Haiti.

The Bush and Clinton Administrations found that the vast majority of these refugees were fleeing from political persecution in Haiti. Thousands of these Haitians were paroled into the United States after establishing a credible fear of persecution. Many others filed bona fide applications for asylum upon arrival in the United States.

This legislation also includes a significant number of unaccompanied children and orphans who did not have the capacity to apply for asylum for themselves. Senator ABRAHAM and I proposed an amendment which was approved by the Senate Judiciary Committee to include these deserving children in this legislation.

This legislation concerns basic fairness. The United States has a long and noble tradition of providing safe haven to refugees. Over the years, we have enacted legislation to provide Hungarians, Cubans, Yugoslavs, Vietnamese, Laotians, Cambodians, Poles, Chinese, and many other refugees with permanent protection from being returned to unstable or repressive regimes.

Last year, we adopted legislation to protect Nicaraguans, Cubans and others, but, the Haitians were unfairly excluded from that bill. The time has come for Congress to remedy this flagrant omission and add Haitians to the list of deserving refugees.

By approving this legislation, we can finally bring to an end the shameful decades of unjust treatment to Haitians. Throughout the 1980s, less than 2 percent of Haitians fleeing the atrocities committed by the Duvalier regimes were granted asylum. Yet, other refugee groups had approval rates as high as 75 percent. Haitian asylum seekers were detained by the Immigration and Naturalization Service, while asylum seekers from other countries were routinely released while their asylum applications were processed. Until recently, Haitians have been the only group intercepted on the high seas and forcibly returned to their home country, without even the opportunity to seek asylum.

Like other political refugees, Haitians have come to our country with a strong love of freedom and a strong commitment to democracy. They have settled in many parts of the United States. They have established deep roots in their communities, and their children born here are U.S. citizens. Wherever they have settled, they have

made lasting contributions to the economic vitality and diversity of our communities and the nation.

This legislation has strong bipartisan support. It is also supported by a range of nation-wide organizations, including the U.S. Catholic Conference, the Church World Service, the American Baptist Churches, the Mennonite Central Committee, the Council of Jewish Federations, the Lutheran Immigration Refugee Service, the United Methodist General Board of Church and Society, the Presbyterian Church (USA) and many, many more.

We should do all we can to end this current flagrant discrimination under the immigration laws. Haitians refugees deserve too—the same protection we gave to Nicaraguans and Cubans last year. We need to pay more than lip service to the fundamental principle of equal protection of the laws.

Finally, the amendment has been modified to resolve a budget problem, deeming approximately 1000 Haitians ineligible for Supplemental Security Income and Medicaid. A similar budget concern was not raised last year when the Nicaraguan Adjustment and Central American Relief Act was considered. I am hopeful that this new injustice can be remedied as the Haitian legislation moves forward. I urge the Senate to accept this amendment.

Mr. CAMPBELL. This amendment is acceptable to both sides. I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 3368) was agreed to.

AMENDMENT NO. 3369

(Purpose: To express the sense of Congress that a postage stamp should be issued honoring Oskar Schindler)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. LAUTENBERG, proposes an amendment numbered 3369.

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

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

The amendment is as follows:

At the appropriate place, add the following:

Since during the Nazi occupation of Poland, Oskar Schindler personally risked his life and that of his wife to provide food and medical care and saved the lives of over 1,000 Jews from death, many of whom later made their homes in the United States.

Since Oskar Schindler also rescued about 100 Jewish men and women from the Golezow concentration camp, who lay trapped and partly frozen in 2 sealed train cars stranded near Brunnlitz;

Since millions of Americans have been made aware of the story of Schindler's bravery;

Since on April 28, 1962, Oskar Schindler was named a "Righteous Gentile" by Yad Vashem; and

Since Oskar Schindler is a true hero and humanitarian deserving of honor by the United States Government:

It is the sense of the Congress that the Postal Service should issue a stamp honoring the life of Oskar Schindler.

Mr. CAMPBELL. Madam President, this amendment has been cleared by both sides. I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 3369) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. 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. REID. Madam President, I ask unanimous consent that the Daschle amendment be temporarily set aside.

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

AMENDMENT NO. 3370

(Purpose: To improve access to FDA-approved prescription contraceptives or devices)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Ms. SNOWE, for herself and Mr. REID, proposes an amendment numbered 3370.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. (a) None of the funds appropriated by this Act may be expended by the Office of Personnel Management to enter into or renew any contract under section 8902 of title 5, United States Code, for a health benefits plan—

(1) which provides coverage for prescription drugs, unless such plan also provides equivalent coverage for all prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration; or

(2) which provides benefits for outpatient services provided by a health care professional, unless such plan also provides equivalent benefits for outpatient contraceptive services.

(b) Nothing in this section shall apply to a contract with any of the following religious plans:

(1) SelectCare.

(2) PersonalCare's HMO.

(3) Care Choices.

(4) OSF Health Plans, Inc.

(5) Yellowstone Community Health Plan.

(6) and any other existing or future religious based plan whose religious tenets are in conflict with the requirements in this Act.

(c) For purposes of this section—

(1) the term "contraceptive drug or device" means a drug or device intended for preventing pregnancy; and

(2) the term "outpatient contraceptive services" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent pregnancy.

Ms. SNOWE. Madam President, I rise today, along with my colleague Senator REID, to offer an amendment to the Treasury-Postal appropriations bill that will produce two critical results: It will provide women who work for the federal government the equality in health care and the affordable access to prescription contraception coverage they need and deserve; and it will help reduce the number of unintended pregnancies and abortions in this country.

The Snowe-Reid amendment says that if a health plan in the Federal Employees Health Benefits Program, or FEHBP, provides coverage of prescription drugs and devices, they must also cover FDA-approved prescription contraceptives. It also provides that plans which already cover outpatient services also cover medical and counseling services to promote the effective use of those contraceptives.

That's it, Madam President. That's the extent and scope of the Snowe-Reid amendment. It only prevents health plans in the FEHBP from carving out exceptions for FDA-approved prescription contraceptives that prevent pregnancy.

It does not cover abortion in any way, shape or form. It does not cover abortion related services such as counseling a woman to seek an abortion. And it does not require coverage of RU–486, because RU–486 is not a method of contraception. Let me repeat, this amendment does not require coverage of RU–486.

The Snowe-Reid amendment also respects the rights of religious plans that, as a matter of conscience, choose not to cover contraceptives. Again, I want to make it clear that this amendment clearly exempts such plans.

Finally, the Snowe-Reid plan isn't going to break the bank or burden American taxpayers. In fact, CBO has estimated that the cost to the federal government would be less than $500,000, and under CBO's practice of scoring bills to the nearest million dollars, CBO stated: "this provision would have no effect on the budget totals in FY 1999."

So the Snowe-Reid amendment is a practical, common sense, cost effective approach to effecting the kind of public

health policy that should set an example for the rest of the nation's insurers to follow.

The need for this visionary measure is clear. Today, nearly 9 million Federal employees, retirees, and their dependents participate in the FEHBP. Fully 1.2 million are women of reproductive age who rely on FEHBP for all their medical needs. Unfortunately, the vast majority of these women are currently denied access to the broad range of safe and effective methods of contraception.

In fact, according to the Office of Personnel Management, which administers the FEHBP, 81 percent of plans do not cover all five of the most basic and widely used methods of contraception and 10 percent of these plans do not cover any type of contraception at all.

The ramifications of this are dramatic. When 8 out of 10 women enrolled in the FEHBP aren't covered for the leading methods of contraception, their choices are unfairly limited. Who are we to pick and choose what method works best—or is most medically suited—for each individual woman?

The fact is, different women require different methods of contraception due to a variety of factors. If there is only one method of contraception her plan offers, where does that leave her? And even more to the point, why do we leave this decision to her health care plan, instead of her health care provider?

Across America, this lack of equitable coverage for prescription contraceptives contributes to the fact that women today spend 68 percent more than men in health care costs. That's 68 percent. And this gap in coverage translates into $7,000 to $10,000 over a woman's reproductive lifetime.

So I ask my colleagues: with 25 percent of all Federal employees earning less than $25,000—and nearly 18,000 Federal employees having incomes below or slightly above the Federal poverty level—what do you think is the likely effect of these tremendous added costs for these Federal employees?

Well, I'll tell you the effect it has: many of them simply stop using contraceptives, or will never use them in the first place, because they simply can't afford to. And the impact of those decisions on these individuals and this nation is a lasting and profound one.

Women spend more than 90 percent of their reproductive life avoiding pregnancy, and a woman who doesn't use contraception is 15 times more likely to become pregnant than women who do. Fifteen times. And of the 3.6 million unintended pregnancies in the United States, half of them will end in abortion.

I can't think of anyone I know, no matter their ideology, party, or gender, who doesn't want to see the instances of abortion in this nation reduced. Well, imagine if I told you we could do something about it, and do it at almost no cost to the federal government.

That is what the Snowe-Reid amendment does. When the Alan Guttmacher Institute estimates that the use of birth control lowers the likelihood of abortion by a remarkable 85 percent, how can we ignore a provision like the Snowe-Reid amendment that will make the use of birth control more affordable to our Federal employees, and do so with negligible cost to the Federal government?

And yet, as thoughtful an approach as the Snowe-Reid amendment may seem, I know that there will still be some in this body who will argue against it. Well, I believe these arguments do not withstand scrutiny, and I would like to take just a few minutes to explain why.

Some may voice concern that the Snowe-Reid amendment requires coverage of abortion of drugs that induce abortion, such as RU-486. To which I will reiterate, the Snowe-Reid amendment only requires coverage of FDA-approved methods of contraception—that means contraception to prevent pregnancy.

It is important to make it clear that we are only talking about methods of contraception under this amendment. And I might add, methods of contraception which will reduce the number of abortions in this country—so the fact is—if you want to see fewer abortions performed in the United States, you should support this amendment.

When it comes to the incredibly personal issue of abortion we should be celebrating common ground, not condemning it. This amendment achieves that goal. It does not pretend to settle the issue of abortion in America—far from it. It does, however, provide a rallying point for those who want to see abortions reduced—all of us, I would think—and that's the reason people like Senator REID who is prolife, support it on one side of the abortion debate and people like me on the other.

Some opponents may say that pregnancy isn't really a medical condition, and therefore we shouldn't be requiring its coverage in the FEHBP. Obviously, anyone who says this hasn't been through pregnancy or childbirth. If pregnancy isn't a medical condition, then I'd like to know what is!

And in this day and age when prevention is the buzzword—as it should be—how is it we can support prescription coverage to treat a variety of biological conditions but not to prevent one of the most dramatic and life-altering conditions of all?

Still others may argue, "Pregnancy is a lifestyle choice, and shouldn't be covered like diseases that are not". Such an argument simply ignores reality as well as the facts.

As Luella Klein, the director of women's health issues at ACOG, put it: "There's nothing 'optional' about contraception. It is a medical necessity for woman during 30 years of their lifespan. To ignore the health benefits of contraception is to say that the alternative of 12 to 15 pregnancies during a woman's lifetime is medically acceptible."

Of course, we shouldn't be too surprised at the attitude of our opponents. Indeed, it wasn't until 1978—only twenty years ago—that Congress passed a law requiring that maternity benefits be covered like any other medical care. Before we passed the Pregnancy Discrimination Act, 43 percent of insurance policies didn't include coverage of maternity care. Sound familiar?

So here we are, twenty years later, battling some of the same insurance companies that in 1978 didn't want to provide the same coverage we now take for granted. How can they still not cover the means to prevent what they already acknowledge through existing coverage as a medical condition?

The fact is, all methods of contraception are cost effective when compared to the cost of unintended pregnancy. And with unplanned pregnancies linked to higher rates of premature and low-birth weight babies, costs can rise even above and beyond those associated with healthy births.

As the American Journal of Public Health estimates, the cost under managed care for a year's dose of birth control pills is less than one-tenth of what it would cost for prenatal care and delivery.

So the question, then, is not "How can we afford to expand coverage to prescription contraceptives?" but "How can we afford not to?"

No, the cost argument doesn't hold water, Mr. President, and neither do any of the other arguments. The bottom line is, the Snowe-Reid amendment makes sense from a standpoint of fairness, from the standpoint of compassion, from the standpoint of cost effectiveness and from the standpoint of good public health policy.

Maybe that's why the concept is supported by such diverse groups as the American Medical Association, the American Academy of Family Physicians, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Society for Reproductive Medicine, the American Medical Women's Association, and the Society for Adolescent Medicine.

Whatever the reason, as an employer and model for the rest of the nation, the federal government should provide equal access to this most basic health benefit for women. This amendment would allow federal employees to have that option, one already provided an option for contraceptives through the Medicaid program. Why shouldn't the same federal commitment be extended to women employed by the federal government?

In closing, Madam President, let me say that if we, as a nation, are truly committed to reducing abortion rates and increasing the quality of life for all Americans, then we need to begin focusing our attention on how to prevent unintended pregnancies. The Snowe-Reid amendment is a significant step in the right direction, and I urge my colleagues to join me in supporting it.

Ms. MIKULSKI. Madam President, I want to thank Senators SNOWE and REID, for offering this important amendment today. I am proud to be a cosponsor of the Snowe amendment. I am also proud to be an original cosponsor of the Snowe-Reid bill on which this amendment is based.

This amendment is about two things—it's about equity and it's about women's health.

The Snowe amendment would help to narrow the gender gap for women in insurance plans. What it does it really is quite simple. It requires that any health plan for federal employees that covers prescription drugs must also cover prescription contraceptives.

Federal Employee Health Benefit plans routinely cover prescription drugs. But they routinely discriminate against women by not including prescription contraceptives. In fact, 81% of the plans under FEHBP fail to cover all five of the leading types of contraceptives. Ten percent offer no coverage at all.

Mr. President, I am a strong supporter of our federal employees. I am proud that so many of them call Maryland their home. They work hard in the service of our country. And I work hard for them. Whether it's fighting for fair COLAs, against disruptive and harmful shutdowns of the federal government, or fighting to prevent unwise schemes to privatize important services our federal workforce provide, they can count on me.

Today, I am fighting for equity in health insurance coverage for federal employee women. The failure of the majority of federal health plans to cover all forms of prescription contraceptions results in unfair physical and financial burdens for women. It forces women of reproductive age to spend 68% more for out-of-pocket health care costs than men.

This amendment would help to correct that inequity. That is one reason why I so strongly support it.

I also support the Snowe amendment because it will help to safeguard women's health. As a member of the Committee on Labor and Human Resources, I have worked hard for women's health. Whether it was establishing the Office of Women's Health Research at NIH, fighting for inclusion of women in clinical trials, or ensuring that women receive safe and accurate mammograms through the Mammography Quality Standards Act, I have fought to make sure that women's health needs are met.

Contraception is a part of basic health care for women. This amendment will ensure that federally-employed women will have the tools they need to plan their families, to avoid unintended pregnancies and to reduce the need for abortion.

Access to family planning is one of the most important issues facing women today. Family planning improves maternal and child health. We know that unwanted pregnancies are associated with lower birth weight babies and jeopardize maternal health. They also too often put a young woman's future academic and personal achievement in jeopardy. When the resources are available to help women make good, responsible choices about parenthood and their futures, we have no excuse for not making those tools available.

I am proud that my own state of Maryland has been a leader in this area. Earlier this year, Maryland became the first state in the nation to require insurers that cover prescription drugs to also cover FDA-approved prescription contraceptives. Maryland has once again shown itself to be on the leading edge of progressive health care policy.

Today, the Senate has an opportunity to take the first steps in following Maryland's example. We can adopt the Snowe amendment. We can ensure that women in the federal workforce have equitable access to prescription contraceptions.

I hope we will adopt this amendment today. And I hope we will bring to the floor soon the Snowe-Reid bill to ensure that all insurance plans that cover prescription drugs include contraceptive drugs and devices in that coverage.

Mrs. MURRAY. Madam President, I want to thank the sponsor of this important amendment for all his work and effort on behalf of women's health. As a Senator who has long championed women's health issues and fought to protect women's health, I commend him for his efforts. I am pleased to join with him today in support of women's health equity.

There has been a great deal of debate lately regarding contraceptive equity. Let me first start by explaining what this amendment does not do. It does not mandate benefits. Let me repeat that, this is not a mandate. If a plan does not have a prescription drug benefit then they do not have to add contraceptives. If a plan has a copy of deductible for prescription benefits, then contraceptives would also have the same copy or deductible. If a plan requires payments or deductibles for surgical services, then family planning benefits would also have the same copayments and deductibles. This is not a mandate. It simply says that plans cannot treat contraceptives any differently than medication to treat high blood pressure or to treat diabetes.

This amendment does not increase federal spending. CBO has scored this amendment as having a minimal effect on spending. The cost is such that CBO cannot even estimate as it falls below their threshold for calculating or determining budgetary impact. I would argue that in fact it will have a positive impact on spending. Currently, 50 percent of all pregnancies in this country are unintentional. Increasing access to safe, affordable family planning can only reduce this number. The average cost annually of oral contraceptives is estimated at $400 to $500. The cost of an uncomplicated delivery is close to $4,000, this excludes any prenatal or postnatal care. It does not take a budgetary expert to conclude that there will actually be savings from this amendment.

This amendment is also not about abortion. Let me make this very clear. This is not an abortion debate. No part of this amendment would require federal funding of abortions. It simply goes to those contraceptives that are currently approved by the FDA to prevent unintentional pregnancies. RU486 is not currently available in the United States. No plan would be required to cover RU486. If you ask any woman if there is a difference between abortion and contraceptives I can assure you that the answer would be yes.

Now let me tell you all what this amendment does. This amendment goes to the heart of women's health. Reproductive health and effective family planning are women's health issues. It is hard to go a week without hearing one of my colleagues talk about the importance of women's health. There are probably well over 500 pieces of legislation pending that impact women's health. Every member strives to have a solid record on women's health issues. Every member claims to be a champion of women's health. Yet denying access to safe, affordable contraceptives for federal employees poses a serious threat to women's health. On average, without effective, safe family planning, most women could expect to endure 12 to 13 pregnancies in her life time. While most women have safe and healthy pregnancies, for some it still can be life threatening. And for most women 12 or 13 pregnancies does pose a serious health threat.

In order to protect women's health and reduce infant mortality it is critical to plan for pregnancy. To place economic barriers for women to receive safe family planning services is to place a significant health burden upon us.

Many women may not even be aware, but women can expect to pay up to 68 percent more in out of pocket health care costs than men. Ask any woman if she is willing to pay 68 percent more for housing, or food or transportation and I can assure you the answer would be a resounding no. But, for health care

this is actually what women face. I stand today to say we must reverse this trend. We already know that women can expect to earn 71 cents for every dollar earned by a man. Now we want to say that they should pay 68 percent more for health care or for any consumer product.

This is a basic question of equity and fairness. This is even more evident in the federal work force. By and large the federal work force is younger and paid less than the private sector. Effective family planning is even more essential in a younger work force. Many federal employees who live pay check to pay check. Yet, female federal employees have no guarantee that their insurance will not discriminate against them. If there is a health care benefit program that should offer a wide range of affordable reproductive health benefits, I would argue it must be the Federal Employees Health Benefit Plan.

There are some of my colleagues who will argue it should be up to the plan or even some who will argue that Members of Congress should decide what methods of family planning are covered. It is these very Members of Congress who also argue that only the physician and patient should be making health care decisions. Not health plans or politicians. I urge my colleagues to think very carefully about who they want making life and death health care decisions. I would hope that my colleagues would concur that only physicians and the patient should be making these decisions. This is why the American College of Obstetricians and Gynecologists endorses this amendment. They know how dangerous it is to make life or death decisions based solely on economics or other arbitrary criteria.

Economic barriers and discriminatory insurance practices do threaten women's health. The National Commission to Prevent Infant Mortality determined that "infant mortality could be reduced by 10 percent if all women not desiring pregnancy used contraceptives." With one action we could be reducing our tragic infant mortality rate in this country. The Institutes of Medicine's Committee on Unintended Pregnancy recommended that "financial barriers to contraception be reduced by increasing the proportion of all health insurance policies that cover contraceptive services and supplies." As the largest purchaser of private health insurance in this country, the Federal Government should set the example for the private market. We should listen to the evidence of the medical community and research scientists and tear down economic barriers within the Federal Employees Health Benefit Plan.

I urge my colleagues to let women and their doctors decide, not politicians and certainly not economics. Having access to the most appropriate family planning method without economic sanctions is a women's health issue. Each woman must have the ability to make this decision based on the recommendations of her doctor. To most women, this is a major women's health vote. This is a question of equity and fairness but more importantly it is an issue of access to safe, affordable reproductive health care services.

How would any Member of this body feel if we found out that our insurance policies would only provide access to one form of high blood pressure medication, regardless of the side effects? How would we react if a plan operating in the FEHBP said that they would charge a higher copayment for prescription drugs to treat heart ailments? How we would respond to these discriminatory practices that threaten quality, affordable health care for FEHBP participants? I can tell you how this member would respond. I would be on the floor offering amendments to end discriminatory insurance practices that result in nothing more than economic sanctions that diminished access to safe health care services.

We owe our federal employees more and we should be a leader on women's health. I urge my colleagues to vote for women's health instead of just talking about it.

Mr. KENNEDY. Madam President, I urge the Senate to approve the amendment by Senator SNOWE and Senator REID to provide fairness in prescription coverage for family planning.

The provisions of this amendment will benefit millions of American women by helping to make the cost of preventing unintended pregnancy more affordable. They will also help to reduce the number of unintended pregnancies by providing women with greater access to a broad range of safe and effective family planning services.

Too often, insurance companies refuse to cover these costs. Only a third of all private health plans currently cover oral contraceptives—the most widely used prescription method of family planning. According to a study by the Alan Guttmacher Institute, nearly half of all large-group plans do not cover such prescriptions—despite the fact that 97 percent of traditional fee-for-service plans routinely cover prescriptions for other medicines and medical devices. In a recent column in the Washington Post, David Broder called this lack of coverage "one of the great stupidities in the health care system."

The result in that women are too often forced to rely on family planning without the full range of available methods. Women pay 68 percent more than men in out-of-pocket health care costs—in large part because of the high cost of preventing unintended pregnancies. As Ellen Goodman noted in a column in The Boston Globe, "Some women are making hard economic choices between paying their bills and buying pills."

Too often, women are forced to settle for the family planning method that is most affordable, rather than the one that is most effective. Inevitably, many of them are forced to settle for no method at all. The result is large numbers of unintended pregnancies each year, and large numbers of abortions. Clearly, greater access to reliable methods of birth control will substantially reduce the number of abortions.

In the United States, it is estimated that half of all pregnancies each year are unintended. Three million women use no method of birth control, and they account for half of all unintended pregnancies. Greater access to insurance coverage will significantly reduce this number. As an editorial in the American Journal of Public Health points out: "Contraception is the keystone in the prevention of unintended pregnancy."

The vast majority of women who use some form of birth control do not have insurance coverage to defray the cost. Often, they are forced to choose inexpensive methods with high failure rates. The proposal by Senator SNOWE and Senator REID is an important step in the right direction. It requires private insurance companies to cover FDA-approved, prescription birth control drugs and devices in a manner comparable to all other prescription drugs and devices.

Just as more effective birth control means fewer unintended pregnancies and fewer abortions, it also means more savings in health costs. An April, 1995 study in the American Journal of Public Health estimated that women who use prescription contraceptives will avoid far more in other health costs than the cost of the prescriptions.

According to the Guttmacher Institute, the increased cost to employers who provide this coverage to their employees would be $17.00 a person per year. That's an increase of just one-half-of-one percent over current costs per employee.

This bill is sound public policy. It is supported by all major family planning organizations and by the vast majority of the American people. In surveys, 75 percent of Americans express support for increasing access to family planning services. And, 73 percent of survey respondents continue to be supportive, even if contraceptive coverage modestly increases their insurance premiums.

Support for increasing this coverage clearly crosses party lines. It is sound public policy that has been too long in coming. I urge the Senate to approve it.

Mr. JEFFORDS. Madam President, over the past few years we have become increasingly aware of the need to improve women's health. I am an original

cosponsor of S. 766, the Equity in Prescription Insurance and Contraceptive Coverage Act and am proud to support Senators SNOWE and REID today in their amendment to ensure contraception coverage for all women covered by the Federal Employee Health Benefit Program.

I held a hearing on this issue in the committee on Labor and Human Resources on July 21, 1998, and am pleased to see interest in and support for this issue growing. It has been too long in coming, but I am glad to have the opportunity to be part of providing equity in health care for women. I look forward to the day when all American women will enjoy the same equity in coverage this amendment provides to women employed by the federal government.

Out-of-pocket health care expenses for women are 68 percent higher than those for men, and most of the difference is due to noncovered reproductive health care. It is disturbing how rapidly some insurance plans began covering Viagra when it has taken so long for many of them to begin covering contraceptives. This bill helps achieve gender equity in health benefits, and its passage would be a victory for women across the Nation.

"EPIC" provides that if a health insurance plan covers benefits for other FDA-approved prescription drugs or devices, it also must cover benefits for FDA-approved prescription contraceptive drugs or devices. Further, "EPIC" provides that if the plan covers benefits for other outpatient services provided by a health care professional, it also must cover outpatient contraceptive services.

The bill does not require special treatment of prescription contraceptives or outpatient contraceptive services compared to other prescription drugs or outpatient care.

Each year more than half of all pregnancies in the United States—approximately 3.6 million pregnancies—are unintended, and almost half of all unintended pregnancies end in abortion. Reducing unintended pregnancies by making effective contraception more widely available would reduce the need for abortion. For that reason, surveys suggest that most people favor increasing coverage of contraception by health insurance plans.

The vast majority of private insurers cover prescription drugs, but many exclude coverage for prescription contraceptives. In contrast to the lack of coverage for reversible contraception, most plans do cover abortion and sterilization.

The gender equity issue has been highlighted recently by the willingness of many health insurance plans to cover Viagra. A Kaiser Family Foundation national survey on insurance coverage of contraception conducted in May of this year demonstrated that 75 percent of Americans 18 years and older supported coverage of contraception, but only 49 percent supported coverage of Viagra.

The Health Insurance Association of America (HIAA) has estimated that the extra cost to employers who do not now cover reversible medical methods of contraception is about $16 per employee per year—or less than one percent of current health care premiums.

Mr. LAUTENBERG. Madam President, I would like to express my support for the amendment offered by Senators SNOWE and REID.

I applaud the efforts of these two Senators in bringing to our attention the inequities that exist for men and women in federal health care plans.

Most federal employee health care plans (FEHBP) cover a wide range of prescription drugs without covering prescription contraceptive drugs. In fact, almost all federal insurance plans fail to cover all five of the most widely used forms of contraception. Ten percent have no coverage of contraception at all.

A health care plan's refusal to cover contraception is effective discrimination against women. Access to contraception should be a basic health benefit for female federal employees. And women should be able to choose the best method of contraception for them, depending on their medical history and personal health care needs.

If adopted, this amendment will certainly help lower the rate of unintended pregnancies and reduce the need for abortion. That result is something positive on which we can all agree.

The Federal Government should be conscientious and fair about how it treats its employees. It should be a model for private insurance plans, guiding them to provide the best health care possible for those who enroll in government-sponsored plans. Not allowing access to a full range of contraceptive services to the women who work in our own Senate offices, to the civilian employees in the Pentagon, to FBI and DEA agents, and to the female officers on the Capitol Police Force, to name a few examples, is unfair and essentially creates a two-tiered health care system for public and private sector employees.

I urge my colleagues to support this amendment.

Mrs. BOXER. Madam President, I strongly support my colleague's amendment to require Federal Employee Health Benefits plans to treat prescription contraceptives the same as all other covered drugs. This amendment is critical to improving both equity and health care for federal employees.

The Federal Employee Health Benefits plans should be a model for health insurance coverage for all Americans. Unfortunately, they fall far short when it comes to reproductive health. Ten percent of Federal Employee Health Benefits plans have no coverage for contraception. 81 percent of plans do not cover the range of contraceptive care for women, including the most commonly used reversible contraceptives, including (oral contraceptives, diaphragm, IUD, Depo-Provera, and Norplant.

This is an issue of gender equity. Women spend 68 percent more in out-of-pocket costs for health care than men. Much of this difference is due to reproductive health costs. For many women, contraceptives cost an additional $400 or more each year. By passing this amendment, we can take an important step toward eliminating this economic disparity.

I note with some concern that this amendment allows certain plans to exempt themselves from complying with this requirement. This exemption will limit the scope of these gains for American women. It was my hope that we could ensure contraceptive parity for all, not some.

I urge my colleagues to continue to pursue that aim, but I acknowledge that effort must be left for another day.

I urge my colleagues to vote "yes" for this amendment, "yes" for equity, and "yes" for the reproductive health of our Federal employees.

Mr. KOHL. Madam President, I rise in strong support of this amendment. It would require Federal Employees Health Benefit (FEHB) plans that cover prescription drugs to also cover FDA approved prescription contraceptives. This same amendment was included in the House version of our bill by a vote of 239–183.

The issue of family planning should be one that brings together both sides of the abortion debate. Close to half of all pregnancies in the United States are unintended, and tragically, those unintended pregnancies often lead to abortion. By providing federal workers with the most appropriate and safe means of contraception, we can reduce the number of abortions performed and increase the number of children who are born wanted, planned for, and loved.

I thank Senators REID and SNOWE for their leadership on this issue, and I hope the Senate follows the House's lead and gives this amendment our overwhelming support.

Mr. REID. Madam President, this amendment will help to create gender equity in health care, will provide for healthier mothers and children, will lower the rate of abortion and it will cost the government nothing—in fact it may save money.

We can do all of this requiring the Federal Employee Health Benefits (FEHB) plans to cover prescription contraception just as they cover other prescriptions.

Currently, women of reproductive age spending 68 percent more in out of pocket health costs than men.

The proposed amendment would require FEHB plans to treat prescription contraceptives the same as all other cover drugs. In so doing, it would help to achieve parity between the benefits offered to male participants in FEHB plans and those offered to female participants, there by narrowing the gender gap in insurance coverage.

The vast majority of FEHB plans offer prescription drug coverage, but fail to cover the full range of prescription contraceptions.

I have said it many times now, but I believe if men were the ones who needed prescription contraceptives, I have no doubt they would have been covered by insurance years ago.

the FEHB Program should be the model for private plans. the United States Government, as an employer, should provide basic health benefits for women and families insured through FEHB.

Eight-one percent of FEHB plans do not cover all five leading reversible methods of contraception. (Oral contraceptives, diaphram, IUD's, Norplant and Depo-Provera)

Ten percent of FEHB plans have no coverage of contraceptives—they do not cover any of the five leading methods.

Women should be receiving health care coverage equal to the coverage that every man receives from the federal employee health care benefits plan—which is probably a majority of the male Senators in this chamber.

Contraceptive services also help to promote healthy pregnancies and healthy birth outcomes. A study of 45,000 women suggests that women who used family planning services in the 2 years before conception were more likely to receive early and adequate prenatal care.

The National Commission to Prevent Infant Mortality estimated that 10 percent of infant deaths could be prevented if all pregnancies were planned; in 1989 alone, 4000 infant lives could have been saved.

Now, we have all gone through the long abortion debates on this floor. they are heated passionate debates.

Senator SNOWE and I come from opposite sides of that debate. I am pro-life. Senator SNOWE is pro-choice. But we have one thing in common regarding this issue: We both believe that abortions are to be avoided and that the number that occur in this country every year needs to be reduced.

How do we reduce the number of abortions? We reduce the number of unintended pregnancies by providing women with the means to acquire birth control.

Contraceptive help couples plan wanted pregnancies and reduce the need for abortion. There are 3.6 million unintended pregnancies in this Nation each year—about 60 percent of all pregnancies. And almost half of these unintended pregnancies end in abortion.

I have a chart here that shows as the unintended pregnancy rate drops, so does the number of abortions.

From 1981 to 1987 the unintended pregnancy rate dropped by about 1 percent and the abortion rate also slightly dropped. the unintended pregnancy rate dropped 8.8 percent from 1987 to 1994, and the abortion rate per 1000 women during those years dropped from 24 to 20. Given this trend, I think it would be wise to do whatever we can to speed up the drop in unintended pregnancies.

The cost effectiveness of family planning is well documented. Studies indicate that in the private sector, for every dollar invested in family planning, between $4 and $14 are saved in health care and pregnancy related costs.

CBO has estimated that this amendment will cost less than $500,000. Under CBO's practice of scoring bills to the nearest million dollars this provision would have no effect on the budget total in fiscal year 1999.

AMENDMENT NO. 3371 TO AMENDMENT NO. 3370

(Purpose: To provide a rule of construction relating to coverage)

Mr. REID. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3371 to amendment No. 3370.

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

Mr. CAMPBELL. Madam President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will report the amendment.

The assistant legislative clerk continued to read as follows:

At the end of the amendment, add the following new subsection:

(c) Nothing in this section shall be construed to require coverage of abortion or abortion related services.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

AMENDMENT NO. 3365

Mr. ROTH. Madam President, as I stated earlier today, I am a strong proponent of fixing the marriage penalty. it is a top priority of the Finance Committee in our efforts to reform the Tax Code. But it must be done properly. And such is not the case with this amendment—nor with the amendment proposed this morning. As I said this morning, the bill on which my colleagues are trying to attach marriage penalty legislation is an appropriations bill. It is not a tax bill.

As this Treasury-Postal appropriations bill is not a revenue measure—and as all revenue measures must originate in the House of Representatives—this one amendment could subject the entire bill to a blue slip. In other words, Madam President, adding a revenue measure that originates in the Senate to a nonrevenue bill, will sink the entire bill. Under the rules, any member in the House can raise an objection and kill this appropriations bill. And that is in no one's interest.

So while I agree in principle with the objective of reforming the marriage penalty—I would be remiss in my duties if I did not make it clear that passing this amendment at this time is inappropriate. Whether the marriage penalty fix is paid for, or not, it must be handled in Congress as the Constitution requires. Therefore, I urge my colleagues to vote against the amendment.

Mr. MOYNIHAN. Mr. President, with regret, I must oppose Senator DASCHLE's amendment to provide for marriage tax penalty relief. Although I support the idea of a revenue-neutral solution to the inequitable situation created by the Internal Revenue Code for millions of married couples, an appropriations bill is not the proper forum for debating and voting on resolution of this matter. To attach this amendment to this bill would violate the constitutional requirement that revenue measures originate in the House, and it would kill this important appropriations legislation.

I agree with the distinguished chairman of the Finance Committee, Senator ROTH, that the issue of the marriage penalty should first be considered by the Finance Committee and proceed to the floor in the manner normally associated with tax legislation. I look forward to working with him, and all the members of the committee in coming to a bipartisan agreement on a measure that provides relief to taxpayers saddled with the marriage penalty and is properly offset under the budget rules.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CAMPBELL. Madam President, I further call for the regular order with respect to the Daschle amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. CAMPBELL. I further tell Members, the majority side yields back all time.

The PRESIDING OFFICER. Ten minutes remains on the minority side for this amendment, controlled by the minority leader or his designee. Who yields time?

Mr. REID. Madam President, I ask the Daschle amendment be set aside.

The PRESIDING OFFICER. Is there objection to setting aside the Daschle amendment?

Mr. REID. And, if necessary, the DeWine amendment, which is next in order.

The PRESIDING OFFICER. Is there objection to setting aside the Daschle amendment and the DeWine amendment? Without objection, it is so ordered.

AMENDMENT NO. 3370, AS MODIFIED

Mr. REID. Madam President, on the Snowe-Reid amendment which is now pending, on page 2 of the amendment, line 3, the word "all" is listed. I would like to modify my amendment and delete the word "all."

The PRESIDING OFFICER. Is there objection to the Senator's request? Without objection the amendment will be modified.

The amendment (No. 3370), as modified, is as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. (a) None of the funds appropriated by this Act may be expended by the Office of Personnel Management to enter into or renew any contract under section 8902 of title 5, United States Code, for a health benefits plan—

(1) which provides coverage for prescription drugs, unless such plan also provides equivalent coverage for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration; or

(2) which provides benefits for outpatient services provided by a health care professional, unless such plan also provides equivalent benefits for outpatient contraceptive services.

(b) Nothing in this section shall apply to a contract with any of the following religious plans:

(1) SelectCare.

(2) PersonalCare's HMO.

(3) Care Choices.

(4) OSF Health Plans, Inc.

(5) Yellowstone Community Health Plan.

(6) and any other existing or future religious based plan whose religious tenets are in conflict with the requirements in this Act.

(c) For purposes of this section—

(1) the term "contraceptive drug or device" means a drug or device intended for preventing pregnancy; and

(2) the term "outpatient contraceptive services" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent pregnancy.

Mr. REID. I ask for the regular order.

AMENDMENT NO. 3365

The PRESIDING OFFICER. The regular order brings back the amendment by Senator DASCHLE. The time is being charged against the amendment on the minority side. All time has been yielded back on the majority side.

The Senator from North Dakota.

Mr. CONRAD. Madam President, I have been asked to yield back the rest of our time on our side.

The PRESIDING OFFICER. All time has been yielded back on both sides.

The Senator from Colorado.

Mr. CAMPBELL. On behalf of the majority leader, I move to table the Daschle amendment. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota, Mr. DASCHLE.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "aye."

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—57

Abraham	Faircloth	McConnell
Allard	Frist	Moynihan
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Robb
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Byrd	Hagel	Santorum
Campbell	Hatch	Sessions
Chafee	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kyl	Stevens
D'Amato	Lott	Thomas
DeWine	Lugar	Thompson
Domenici	Mack	Thurmond
Enzi	McCain	Warner

NAYS—42

Akaka	Feingold	Lautenberg
Baucus	Feinstein	Leahy
Biden	Ford	Levin
Bingaman	Glenn	Lieberman
Boxer	Graham	Mikulski
Breaux	Harkin	Moseley-Braun
Bryan	Hollings	Murray
Bumpers	Inouye	Reed
Cleland	Johnson	Reid
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Torricelli
Dorgan	Kohl	Wellstone
Durbin	Landrieu	Wyden

NOT VOTING—1

Helms

The motion to lay on the table the amendment (No. 3365) was agreed to.

Mr. GRAMM. I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

The motion to lay on the table was agreed to.

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

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

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 3370, AS MODIFIED, AND 3371, EN BLOC

Mr. CAMPBELL. I ask unanimous consent that the Senate now consider amendment No. 3370 as modified and offered by Senator REID of Nevada for Senator SNOWE and ask for its adoption.

The PRESIDING OFFICER. The two amendments are pending; they are the pending amendments.

Mr. CAMPBELL. 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. CAMPBELL. 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. CAMPBELL. I further ask unanimous consent that amendments Nos. 3370 and 3371 be considered and accepted en bloc. This is the Snowe-Reid amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (No. 3371 and No. 3370, as modified, as amended) were agreed to en bloc.

Mr. REID. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. REID. I ask unanimous consent that Senator MIKULSKI be listed as a prime cosponsor of the amendment just agreed to.

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

AMENDMENT NO. 3354

Mr. CAMPBELL. Mr. President, I call for regular order with respect to amendment No. 3354, the DeWine amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. CAMPBELL. I know of no further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3354) was agreed to.

Ms. MIKULSKI. I thought there was going to be——

Mr. CAMPBELL. It is my understanding this amendment has been accepted by both sides of the aisle.

Ms. MIKULSKI. I misunderstood the parliamentary situation. The Senator from Colorado is correct.

I ask unanimous consent that the RECORD show that had there been a recorded vote, I would have voted no.

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

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. 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. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. SNOWE. Mr. President, I ask unanimous consent Senator MOSELEY-BRAUN and Senator GORDON SMITH be added as cosponsors of the Snowe-Reid amendment.

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

Ms. SNOWE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. 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. CAMPBELL. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

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

AMENDMENT NO. 3372

(Purpose: To require a study of the conditions under which certain grain products may be imported into the United States, and to require a report to Congress)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. DORGAN, proposes an amendment numbered 3372.

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

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

The amendment is as follows:

SEC. . IMPORTATION OF CERTAIN GRAINS.

(a) FINDINGS.—The Congress finds that—

(1) importation of grains into the United States at less than the cost to produce those grains is causing injury to the United States producers of those grains;

(2) importation of grains into the United States at less than the fair value of those grains is causing injury to the United States producers of those grains;

(3) the Canadian government and the Canadian Wheat Board have refused to disclose pricing and cost information necessary to determine whether grains are being exported to the United States at prices in violation of United States trade laws or agreements.

(B) REQUIREMENTS.—

(1) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall conduct a study of the efficiency and effectiveness of requiring that all spring wheat, durum or barely imported into the United States be imported into the United States through a single port of entry.

(2) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall determine whether such spring wheat, durum and barley could be imported into the United States through a single port of entry until either the Canadian Wheat Board or the Canadian Government discloses all information necessary to determine the cost and price for all such grains being exported to the United States from Canada and whether such cost or price violates any law of the United States, or violates, is inconsistent with, or denies benefits to the United States under, any trade agreement.

(3) The Customs Service shall report to the Committees on Appropriations and Finance not later than ninety days after the effective date of this act on the results of the study required by subsections (1) and (2), above.

Mr. CAMPBELL. Mr. President, this amendment asks the Customs Service to conduct a study regarding Canadian wheat. It has been agreed to by both sides. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3372) was agreed to.

Mr. CAMPBELL. Mr. President, we are not making very good progress on this bill. We have only cleared 14 amendments and we have yet to deal with 43. I just say to all of the Senators that this is our second day. We have been in here since 9:30 this morning. I urge them to help us expedite the process of dealing with these outstanding 43 amendments. It may be a very long evening and into the day tomorrow if we don't start clearing some of them. So I ask the Senators are watching the proceedings to come to the floor and help us move these forward.

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

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

PRIVILEGE OF THE FLOOR

Mr. THOMPSON. Mr. President, I ask unanimous consent that Ellen Brown of my staff be allowed floor privileges for the duration of the discussion of the amendment that I am about to bring up.

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

AMENDMENT NO. 3353

Mr. THOMPSON. Mr. President, we brought up yesterday amendment No. 3353 to the bill. Senator HARKIN had a situation he had to attend to yesterday, so we set it aside for the consideration of other business. Now Senator HARKIN is here. I think he will be joining us momentarily. We wanted to take advantage of the opportunity at this time to bring it up. I have been discussing this item with Senator HARKIN to see if we could reach an agreement. I don't believe that we are going to be able to.

Just basically, in summary, Mr. President, this has to do with procurement legislation. This is a very complex area. I can't think of an area that is more boring and more complex than the procurement laws. For that reason, the staff of our committee—the Governmental Affairs Committee, which has jurisdiction generally over the procurement laws—spent many, many hours on this subject. The last two Congresses have produced reform legislation that balances the interest in the procurement field between the government and those who are selling goods and services to the government.

This provision, section 642 in this Treasury-Postal bill, essentially is a procurement piece of legislation. It has to do with child labor. It essentially prohibits the Government from buying from those who use child labor any goods or services produced by child labor. That is a laudable goal. I support that. My amendment incorporates that goal. I point out that it is already against the law. But it is certainly fine with me if we put in this Treasury-Postal bill another law that says we cannot procure services or goods from those who do that sort of thing.

My problem, other than the fact that I believe the best way to legislate in this matter is to have hearings on a complex subject like this, is that it sets up a procedure that basically is overreaching and unfair, and probably unconstitutional. Because with regard to this area, as in no others, a contractor is required to sign a statement with the Government that will allow a Government official at any time at his discretion to come in and look at the books and records, or talk to the individual at any time at his discretion to see whether or not a child labor law has been violated. He should not be required to give up the fourth amendment rights in order to contract with the Government.

As I say, trafficking in those kinds of goods and services is against the criminal law. There is provision that prohibits such immoral activity by that company when dealing with the Federal Government as it is. But it certainly does not call for an abrogation of rights that we otherwise hold near and dear.

It says that the Secretary of Labor shall publish a list of items that might have been produced by child labor. And then the contractor has to certify that he is not using any of those items. Evidently, it is difficult to determine sometimes whether or not child labor has been used. The Government's only responsibility is to determine whether or not they might have been used. And, yet, the contractor is required to certify that they have not been used.

I am afraid this is a Catch-22 with regard to people in good faith who are out trying to do the right thing and certainly would not consider using child labor; but would allow unlimited access and unfettered access, under the language of this statute as it is now written, and would allow any Government official to come in and have unlimited access to books and records.

One other feature of this provision that I think is erroneous is the exception. This does not apply to countries that have signed NAFTA, for example. There are a couple of other exceptions. But I will just concentrate on that.

If a foreign country has signed the NAFTA agreement, then presumably companies of that country do not have this law applied to them.

We are focusing in on our own companies. We signed NAFTA. But we are focusing in on our own companies requiring this kind of intrusion with regard to our own contractors, and we are not applying the same standard to contractors of another country who might be supplying child labor.

I don't think that is right. I don't think that is fair. I do not want to make a mountain out of a molehill.

I think this is important. I feel a responsibility, as chairman of the Governmental Affairs Committee, to bring this to the attention of the Senate, and simply say that in matters that are this complex that require a balancing of interests, we should go through the committee process.

Senator GLENN had a piece of legislation that we considered last year. We have had the Clinger-Cohen Act, and lots and lots of working hours put into this in trying to reach the right balance.

We should not come in with a provision in an appropriations bill that basically upsets that balance and places new responsibilities, new requirements, new intrusions on contractors that in the wisdom of their deliberations the committees, after considering this thing for years, have not decided to do.

I respectfully urge the support of my colleagues with regard to my amendment.

I yield the floor, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. CAMPBELL. Mr. President, I reserve the right to object. I will not object, but if the Senator will hold off just a moment. Apparently, we cannot find our copy of the amendment.

Mr. WELLSTONE. Mr. President, let me supply a copy.

Mr. CAMPBELL. I thank the Senator. If he would like to proceed, I have the amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 3373 TO AMENDMENT NO. 3362

(Purpose: To prevent Congress from enacting legislation which fails to address the legislation's impact on family well-being and on children.)

Mr. WELLSTONE. Mr. President, I send this second-degree amendment to the Abraham amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 3373 to amendment No. 3362.

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

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

The amendment is as follows:

At the end of the amendment insert the following:

SEC. . FAMILY WELL-BEING AND CHILDREN'S IMPACT STATEMENT.

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on family well-being and on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

Mr. HARKIN. Mr. President, parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Parliamentary inquiry. Before the Senator from Minnesota starts, what is the order of precedence at the desk right now, of amendments? What amendment are we on right now?

The PRESIDING OFFICER. We are on the Wellstone amendment to the Abraham amendment.

Mr. HARKIN. Further parliamentary inquiry, I thought we were on the Thompson amendment.

The PRESIDING OFFICER. That amendment has been temporarily set aside.

Mr. HARKIN. I understand. Thank you, Mr. President.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. WELLSTONE. Mr. President, do I have the floor? I believe I do.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I was not aware the amendment was set aside. I called it up. No one moved that it be set aside that I am aware of. Maybe I am mistaken. I thought we were on it. Senator HARKIN is prepared to address it.

Mr. WELLSTONE. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator from Tennessee could call for the regular order, which would bring his amendment back.

Mr. THOMPSON. I call for the regular order, Mr. President.

Mr. WELLSTONE. We have two different views. Might I ask what regular order is? Is regular order the Abraham amendment that I have now second-degreed? Or not? I was under the impression that it was.

AMENDMENT NO. 3353

The PRESIDING OFFICER. The regular order is the underlying Thompson amendment. When we finish that, we will return to the amendment of the Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair and I thank my colleagues.

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

Mr. HARKIN. Mr. President, I apologize to my friend and colleague from Minnesota. Senator THOMPSON and I were prepared to engage in some colloquies and debates and things on this amendment. I was surprised. I thought it had been called up. I apologize to my friend from Minnesota. We were scheduled to start this debate on the issue of child labor.

Mr. President, the Thompson amendment, which is the pending amendment, seeks to strike from the bill a provision that was incorporated at the committee level—subcommittee level and committee level—by unanimous consent. I don't know of any votes that were held on it. It seemed to be adopted overwhelmingly. No one raised any questions about it in full committee or anything like that.

The provision deals with setting some parameters on procurement policy for the Federal Government, to the maximum extent possible to preclude the Federal Government from purchasing items made by forced or indentured child labor.

I hardly know where to begin to respond to some of the issues raised by my friend from Tennessee, but let me attempt to start here. First of all, right now it is true that there are certain laws that we have that cover child

labor in this country. But that gets to the point where if something happens, then you can take someone to court and you can fine them and debar them and all that. There is a long process and procedure for that.

What this provision that was put in the committee bill seeks to do is to set up a structure to try to avoid or to preclude this from happening in the first place. So that those who sell to the Federal Government would be on notice that, first of all, there is a list of items that would be promulgated—published by the Department of Labor in consultation with the Department of State and Department of the Treasury—a list of items which would be very small in number because there are not that many items, a list of items that have historically and traditionally been made with the use of forced or indentured child labor; that if you are a seller to the Federal Government and if you are procuring or selling those kinds of items—like hand-knitted carpets, for example, or certain leather items, some apparel, rattan furniture, things like that—where the Department of Labor over the last 4 years in studying this issue has issued about four volumes on the use of forced and indentured child labor and the products that are made and that type of thing. These are very extensive studies that are made by the Department of Labor. What this provision in the bill does is it sets up a list. They put out a list. Then, if you are selling to the Federal Government, you check a little box that you attest—"attestation" they call it—you attest that the item that you are selling to the Federal Government was not made using forced or indentured child labor. That is basically it.

The list is necessary for two reasons. First, it would narrow the scope to only suspect industries, thus preventing a sort of widespread kind of provision or a burdensome requirement on industries where the use of forced or indentured child labor does not occur. For example, I heard some mention made of Boeing aircraft. Boeing aircraft does not make things made by forced or indentured child labor. There has never been a scintilla of evidence to show that, so none of their products would be on the list. So we narrow the scope right away to just a few suspect industries.

Second, the list is necessary because procurement officers need guidelines to enforce the intent of the legislation. Again, this list would be compiled based on the four child labor studies already released by the Department of Labor. Furthermore, the only companies that would be affected by this are ones that sell an item that appears on the list. If you don't sell an item that appears on the list, you will not be affected by this. You would not have to attest; you would not have to check the box and attest that the item was not made by forced or indentured child labor if you are not even on the list. Boeing and all those wouldn't even be on the list, so they would not have to check the box. That is the first thing. We keep it narrow, and that is why we have the list.

Mention was made by the Senator from Tennessee about the Fair Labor Standards Act, that we already have this law. I say to the Senator from Tennessee that this law doesn't cover U.S. embassies abroad purchasing goods. For example, we could have an embassy, say in Pakistan, India, or whatever country, buying glassware or buying hand-knitted carpets or buying rattan furniture—I mentioned that—but they are not covered by this at all. I would like to have them covered by it. That is the intent of the provision that is in the committee bill. They are not covered by it. They would be covered by this. U.S. law, the Fair Labor Standards Act applies to the United States, but not to other countries. That is why this provision is necessary.

These are not new requirements, as I have said before and in private conversation with the Senator from Tennessee. There are similar requirements for companies that sell to the Armed Forces. I will get into that in a second. Even though it has to do with different types of contracts, they are similar. I think there is a difference without a distinction, but they are similar, and I will get into that in a second.

They said it would be duplicative. It is not really duplicative. Forced and indentured child labor is already illegal in interstate commerce, that is true, but what I am seeking to do, for debarment purposes, and what this amendment will do is have them attest up front that they are not using child labor. There are no provisions, as I understand, in law for that at this time.

Next, there was a question raised about the constitutionality of the provision. It requires a contractor to agree to allow official access to the records of the employees and premises. As I said, we already have such a provision, and as I said, we discussed that in private.

FAR, title 10 of Armed Forces, 10 U.S.C. section 2313 says:

> Agency authority. Section 2313, examination of records of contractor.
>
> (1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of:
>
> (A) a contractor performing a cost reimbursement, incentive, time and materials, labor hour or price redeterminable contract or any combination of such contracts made by that agency under this chapter and,
>
> (B) a subcontractor performing any cost reimbursement, incentive, time and materials, labor hour or price redeterminable subcontract or any combination of such contracts under a contract referred to in subparagraph (A).

The head of an agency, acting through himself or through an authorized representative can already have access to premises and to records under Armed Forces procurement law, and that is under FAR.

I understand this has to do with different types of contracts. That is OK, but that is, I think, a difference without distinction. It may be a time reimbursable or cost reimbursement or labor hour or price redeterminable contract. It is all fine and good, but I don't think that is really a distinct difference with a contract that provides goods or services to the Federal Government. So I say I don't think we have any kind of a constitutional problem there.

Senator THOMPSON did raise, I believe, a good point, and I am going to correct that with a technical amendment, to track the wording that is already in the FAR and in title 10. I am going to make it specifically that it is the head of an agency, acting through an authorized representative, so that not just anyone would have access, but that it would have to come from the head of an agency.

There is another question that the Senator from Tennessee raised, and that is, why do we exempt NAFTA or WTO countries. I say to my friend from Tennessee, I wish we didn't have to, but I am told we have to because it is a treaty that we signed on NAFTA and WTO. My amendment will exempt those countries that are parties to these two agreements. I am not happy about it, but it is the current U.S. law. It is treaty, and I guess we have to adhere to it, as I understand. We can't change this law or negotiate new procurement agreements.

I will just point out that the Committee on Government Procurements, the parties to this under WTO and NAFTA, basically are countries we really don't have a problem with—Austria, Belgium, Denmark, Germany and places like that we really don't have much of a problem. The only problem that we do have, I say, in NAFTA is perhaps with Mexico. But then, again, that is part of the NAFTA agreement and, quite frankly, we are stuck with that for right now on that issue.

The Federal Acquisition Regulations govern acquisition by executive branch agencies. Much of this regulation implements various statutes and Executive orders. My amendment is not unique under the FAR in seeking to implement U.S. standards and policies.

For example, Federal agencies cannot acquire supplies or services originating from sources within or that are located in or transported from or through North Korea, Cuba, Libya, Iran, Sudan and Iraq. We already have that.

In addition, my amendment is not unique in seeking to address a policy concern, such as protecting domestic industries through Federal procurement legislation. For example, the Buy

America Act provides an advantage to U.S. domestic producers through the competitive bidding process.

As a matter of fact, I include Senator THOMPSON's amendment as part of my provision already. However, I crafted my provision to be more targeted. My provision does treat forced or indentured child labor differently than other procurement regulations because of the illegal and hidden nature of the act it seeks to prevent.

For example, all goods shipped to the United States must carry a country of origin label. No such provision in current Federal procurement regulations exist for forced or indentured child labor. Likewise, the Buy America Act model is different because it operates through the bidding process. No such procedure exists for forced or indentured child labor. You don't know where the forced or indentured child labor is.

Therefore, it was necessary to create a special targeted mechanism to address this issue in a meaningful way that is the least burdensome to contractors. In short, to accomplish this, the provision that is in the bill, one, calls on the Secretary of Labor, in consultation with the Secretaries of Treasury and State, to draft a list of items which they feel historically has been made with forced or indentured child labor. That keeps the perspective narrow.

Next, this provision requires the contractor to sign an attestation that their products were not made with forced or indentured child labor and, yes, to provide access to records, premises and persons for a lawful investigation arising from allegations that forced or indentured child labor was used to produce the product.

Again, I read that other one that is already in Armed Forces, that the head of an agency, acting through an authorized representative, can inspect a plant and audit the records of, et cetera.

Lastly, this provision provides a debarment option for 3 years for making a false certification. In other words, if you certify that you did not use child labor, and inspections prove otherwise, then you could be debarred for up to 3 years for making a false certification.

Senator THOMPSON's proposal, his amendment, is not targeted enough for two reasons: One, procurement officers need specific information in order to apply a statute. Senator THOMPSON's amendment will take away the list which gives contract officers specific areas to look for forced or indentured child labor problems. By removing this self-certification, and the threat of debarment for a false certification, you ensure that the provision will never be effectively enforced because the Federal Government may never be able to track the forced or indentured child labor practices of all of its contractors, much less ever investigating them.

Quite simply, I do not believe that signing a simple attestation, if you are providing items to the U.S. Government which appear on a list of problem items, will prove a very difficult burden. It will be burdensome if you are illegally employing children. Then it will be burdensome. But if you are not, then it will not be. So again, this provision seeks to deter child labor, stopping it before it happens, or before the U.S. Government buys goods made with forced or indentured child labor.

Obviously, the Thompson amendment seeks to debar those who have been convicted or fined for using child labor. Nothing wrong with that. But that is included in the provision that is in the bill already. But what he carves out is a provision that seeks to prevent it from happening in the first place by saying that if you use it, the U.S. Government just simply will not do business with you.

I say, the difference might be that Senator THOMPSON's approach is: "We'll do business with you. Now, if we can take you in and prove through a lengthy court process and stuff, then we'll debar you." But mine comes up front and says, "Look, if you are using child labor, and you are on this list, you are making these items, you have to attest that you are not using child labor." That right away puts them on notice—puts them on notice that they are going to be in for some problems if they are on that list and that they would be subject to a head of an agency to come in and inspect them and inspect their records to see whether or not they actually were using child labor.

Mr. CAMPBELL. Would the Senator from Iowa yield for a question?

Mr. HARKIN. Yes, I would be glad to, without losing my right to the floor.

Mr. CAMPBELL. The child labor issue is important to all of us. I point out something I mentioned awhile ago. I say to the Senator, we have 43 amendments yet to clear. I wonder if the Senator would agree to a time limit on the debate. I talked to Senator THOMPSON. He is agreeable to a 20-minute time debate equally divided on both sides. Would the Senator from Iowa also agree with that?

Mr. HARKIN. How much time?

Mr. CAMPBELL. Twenty minutes equally divided; 10 minutes on each side.

Mr. HARKIN. I will consider that. Just a second. Let me finish my statement. It does not sound totally unreasonable.

Mr. CAMPBELL. Thank you.

Mr. HARKIN. Again, you might ask, well, why should they have to look for this? Why should procurement officers have to be concerned about this? Under 48 CFR 9.406-2, "Causes for Debarment," there is a whole list of things that they should look for that they made. The "Made in America" inscription that I have mentioned, violations of the Drug-Free Workplace Act—there is a whole list of things about which they have to be concerned.

The fact is, they do not have to be concerned about child labor right now. It is not even a concern of theirs. So we find ourselves in a peculiar position that procurement laws for the Federal Government say that you have to meet certain standards—a drug-free workplace; you have to have a "Made in America" inscription if it is made in America; you have to have country of origin—but you do not have to be worried about child labor. I find that rather odd.

What this all really arises out of is that in the 1930 Tariff Act, a provision was added that barred the entry into this country of any item made with forced or indentured labor. That has been part of our law since 1930.

Well, forced or indentured labor—what does that mean? It has been interpreted to mean prison labor. There are other forms of forced or indentured labor. A year ago I wrote a letter to the Department of the Treasury asking for a clarification of this: Did forced or indentured labor cover forced or indentured child labor? The letter they wrote back was sort of: "Well, yes, we think it does because we say 'forced or indentured labor.'" We didn't specify it has to be adult labor, but it has never really been clarified. So we have sought to clarify that.

Again, procurement officers have to take into account they have to be aware of whether or not something is made by prison labor. Can the Federal Government buy items made by prison labor? The answer is no, absolutely not. Can the Federal Government today buy items made by forced or indentured child labor? The answer is yes. We do it all the time overseas. We buy carpets, we buy furniture, we buy glassware, we buy leather. We buy a lot of items made by forced or indentured child labor. And that is what this provision seeks to get to.

The Fair Labor Standards Act does not reach that far, does not reach overseas, does not reach to these items. Our procurement policies do not reach to our embassies abroad, for example. They are part of the Federal Government. They are part of the executive branch. They do buy items. But right now they are blind as to whether something is made by forced or indentured child labor. That is why this provision is in the bill.

Lastly, Mr. President, I just point out that the administration is in support of this section, 642, of the Treasury-General Government appropriations bill. I have a letter here from Secretary Alexis Herman saying that this provision, a prohibition against the Federal Government's purchase of Federal products made by forced or indentured child labor "would establish a

system to ensure that contractors take steps to avoid providing products to the Government that have been mined, produced, or manufactured using forced or indentured child labor.

The Administration agrees that we should tap the purchasing power of the U.S. government in our efforts to eliminate egregious forms of child labor. In addition, the President's FY 1999 Budget includes an $89 million increase to address both international and domestic child labor abuses. We believe [this] amendment, coupled with our FY 1999 initiatives, will help reduce the prevalence of these forms of child labor.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Again, I think that the provision stands foursquare on constitutional grounds. I do not believe there is any constitutional problem with it. I do not believe it runs far afield of provisions that we already have in present procurement law. It simply identifies one aspect, that is, like the "Made in America" or the "drug-free workplace" or "prison labor." It identifies another one, and that is "forced or indentured child labor" as one of those items that we want to put up front and to have those who seek to sell items to the Federal Government attest that they are not using forced or indentured child labor in the provision of those goods.

Again, this will be based upon the list. There will be a list, yes, publication of a list of prohibited items.

The Secretary of Labor, in consultation with the Secretary of Treasury and the Secretary of State, shall publish in the Federal Register every other year a list of items that such officials have identified that might have been mined, produced, or manufactured by forced or indentured child labor.

So we work from that list. And that list has to be published.

The head of an executive agency shall include in each solicitation of offers for a contract for the procurement of an item included on a list published under subsection (b) [the list I just mentioned] the following clauses:

Again, the clauses stating that the contractor has not indeed used forced or indentured child labor in the production of any of the items that are on that list.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, I rise in opposition to the amendment by the Senator from Tennessee. The Senator, I believe, shares the concerns of those of us who drafted section 642—we want to make sure the Federal government does not buy goods made with child labor. However, his amendment, by eliminating the list of suspect goods that Section 642 requires the Department of Labor to make, will make it very difficult for Federal contractors to know whether they are buying a product manufactured by children.

Section 642 requires the Department of Labor print a list of products that may have been produced with forced child labor. Any federal contractor that sells these products to the government will be put on notice that the items he or she sells might have been produced by child labor. Those businesses then will have to check their suppliers and get assurances that they are not illegally selling a goods produced by children to the government.

The importance of this list of products that are potentially made with child labor cannot be underestimated. This list will allow federal agencies to focus on specific industries that use child labor most often. It will allow us to be vigilant in our efforts to stop the procurement of such goods. When the government buys soccer balls for the West Point soccer team, we need to be sure they were not sewn together by children. When the government buys tea for the cafeterias and commissaries of federal facilities, we ought to know those leaves were not picked by children.

I want to commend Senator HARKIN for his tireless work on behalf of the exploited children of the world. By putting in place a process by which Federal contractors can know about and be held accountable for products they sell to the government, Senator HARKIN has done a significant patriotic act. He has ensured that the United States is not in any way sanctioning, promoting, or even tolerating shameful exploitation of children.

I urge my colleagues to vote against the Thompson amendment—and to vote against diluting protections against government purchase of goods made with child labor.

Mr. THOMPSON. Mr. President, I say to my colleague from Colorado that I think I will need perhaps 5 minutes.

Mr. CAMPBELL. If the Senator from Iowa is willing to agree to a time agreement, I will make a unanimous consent request.

Mr. HARKIN. I have a couple of other items, then I will be ready to yield.

Mr. CAMPBELL. Would 10 more minutes be enough?

Mr. HARKIN. As I said, after I get the floor again.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMPSON. 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. THOMPSON. Mr. President, a couple of comments with regard to the remarks of my distinguished colleague from Iowa.

First of all, let's keep in mind my amendment makes the use of child labor grounds for disbarment and suspension. We need to keep that in mind. We set it out in bold type. It is already against the law, and now we are saying in addition to that you can't do business with the Federal Government if you engage in that kind of activity. So we get that out of the way to start with.

That is not the issue. The issue here is whether or not we want to set up a mechanism whereby some Federal official has unlimited access to your books and records and persons. Now, this whole area was entirely rewritten in 1994. Senator GLENN's bill, the Federal Acquisition Streamlining Act, provided for very circumspect, specific audit authorities for agencies, and GAO provided some subpoena authority in a very limited way. All this was debated and considered on a bipartisan basis and the competing interests were balanced out over a period of several days, and we came up with a law that we have now.

What we have here in the bill that we are seeking to amend departs from that substantially. There can be no comparison with the bill currently in force with existing law. Existing law under section 2313, chapter 137, procurement generally, is so long and detailed that I am not going to burden the record by going into it, but suffice it to say that there are very limited circumstances. Only certain kinds of contracts, certain circumstances are dealt with where subpoena authority is issued under certain kinds of contracts—limited authority, over contracts over $100,000.

Compare that with what we have before us in the bill today that says a clause that obligates the contractor to cooperate fully to provide access for it says any official—I understand that will be changed—but you must agree to provide access for some Government official of the United States to the contractors' records, documents, persons, or premises, if requested by the official, for the purpose of determining whether forced child labor is being issued. It is a total fishing expedition. You are not only going to have to give unlimited access to your books and records, but unlimited access to your person.

There is nothing I know of like this in law, much less procurement law. We are really doing something substantially different here. We can cover the child labor situation without opening up Pandora's box and running contractors away from us.

One of the reforms that Senator GLENN and others carried out had to do with the fact that we want to bring more contractors in. It is better for the taxpayer to have more competition, more people coming in to compete for these things.

My distinguished friend from Iowa suggests that we need to have a certification on the front end. Prior committee action got rid of all certification under the Governmental Affairs

Committee and armed services jurisdiction for the simple reason, first, if you are going to violate the law, if you are going to use child labor, you are not going to certify something on the front end. It will not make you quit doing it.

Secondly, we got tired of raising so many hoops and intruding so much that we were discouraging people from coming in and contracting with the Government. Therefore, costs of things are higher than they ought to be. This whole area has been addressed. It cannot even be discussed in a limited period of time because it is so extensive.

But with regard to the question of opening up books and records and persons by some anonymous Federal official to see whether or not you might have done something wrong, and when they get in there they are not limited to look just for the thing that you say they are looking for. Their eyes can gaze on whatever it is they are to be gazed upon.

When you deal with something like that, you are dealing with very, very, important constitutional rights and nobody is going to put up with that. Nobody is going to contract or agree to do business with the Government if they have that kind of burden. It has been well thought out, it has been considered, it has been deliberated upon for a long, long time, and we should not address something this important and this complex in this fashion.

I respectfully urge this amendment be adopted.

Mr. HARKIN. Mr. President, this provision is not unconstitutional and does not interfere with the Constitution, and it does not interfere with the exercise of any fourth amendment right a Government contractor might have.

The provision makes it possible for the Federal Government to ensure that it does not purchase items produced with forced or indentured child labor. Without ready Government access to records, workers and worker places, meaningful enforcement would be impossible.

Now this principle applies in a whole range of worker protection laws. Now there is no need for a statutory probable cause requirement or a statutory procedure for challenging a search by a Government agency. A contractor who believes that a Federal agency had no probable cause to inspect his business would be free to refuse entry to the agency. It is a constitutional right. The agency would then be required to seek a warrant from a court, and if necessary, to ask the court to enforce the warrant. In this way, the court would ensure that the fourth amendment was followed.

Lastly, this is how the process works under comparable statutes, like the Occupational Safety and Health Act. Applying the fourth amendment, the Supreme Court has held that OSHA must show probable cause or the legal equivalent if an employer refuses OSHA entry. There is no statutory probable cause requirement and no statutory procedure for challenging a search. Government agencies can be expected to develop reasonable and neutral criteria for seeking access. They would do so in order to comply with the fourth amendment which the courts will apply.

OSHA, for example, has adopted such criteria, although the Occupational Safety Health Act does not prescribe this, and they have been upheld by the courts. Only Government agencies with a legitimate need for access would be entitled to access. The access provision in section 642 makes clear that the contractors' obligation is to provide access only to the head of an agency, a Federal officer, and only for the purpose of determining whether forced indentured child labor was used.

So there is no reason to believe this provision would be invoked by an official acting without authority. But, if it happened, the contractor could not be sanctioned for refusing to cooperate, for example.

The fourth amendment may not apply in these certain cases in any case until a contractor's consent to providing access is required to provide access. The accession provision is intended to be incorporated in a Government contract. The contract provision would be required only for companies who wish to supply the Federal Government with an item from a list of items that may have been introduced by forced or indentured child labor.

I keep coming back to that. The Senator raises the specter that you will have the Government people all of a sudden going into Boeing and places like that. That won't happen, first of all, because they won't have anything on the list. So they won't have that. There will not be items that have been identified produced by forced or indentured child labor. Companies which choose to supply such items and which accept the terms of the contract have agreed to provide access.

As I said, there is no constitutional problem with this provision whatsoever.

Now, again, Mr. President, what we do have a problem with, and what this amendment really gets to, and for which there is no provision in law, is, when an arm of the Federal Government, such as the executive branch, acting through embassies overseas, procures items and those items are identified as having been produced by forced or indentured child labor, there is nothing that we can do about that—unless we adopt this provision, of course. And this is a good and reasonable place for this provision to be, in this appropriations bill, since we are providing appropriations for the running of the Government. So this is an appropriate place for the amendment.

I think there is some urgency to this also. The urgency is that we are gaining more and more information around the world about the use of forced or indentured child labor. The United States has, quite appropriately—and I am happy to see it—taken a forward position on trying to do away with forced and indentured child labor. I mentioned the letter from the Secretary of Labor indicating that the President had already asked for, I think, $89 million in the budget to address child labor abuses both here and abroad. We participate heavily in IPEC, the International Program for the Elimination of Child Labor, which has been increased this year from $30 million, up from $3 million.

So the U.S. Government has—and also through our work on the International Labor Organization, UNICEF, and others, we have been taking a very strong position against forced indentured child labor, as we should. But if one arm of our Government overseas is openly procuring items made by forced and indentured child labor, what kind of a signal does that send? So that is what this provision in the bill seeks to end, and would end, if this provision remains in.

Now, the things that the Senator from Tennessee is talking about we already incorporate in our amendment. There is a debarment procedure provision in the bill. That is already there. That debarment procedure is already there. What the Senator's amendment does is, it takes away those preliminary steps of publishing a list and then say to a procurement officer, look out for these items, and if you are buying one of these items, have that company attest on the form that they are not using forced and indentured child labor. If they do, then they are agreeing that you can, as we have under FAR—that the head of an agency is authorized to inspect the records of that company.

As I said earlier, the Senator from Tennessee, I think, raised one point that I think was very legitimate, and that was in the original amendment. It says, on page 99, the words "any official of the United States." Quite frankly, that is too broad. As we look at the FAR and at title X for the Department of Defense, it uses the words "the head of an agency." So I have a perfecting amendment that I am going to offer that would strike out "any official of the United States" and insert in lieu thereof "the head of the executive agency or the inspector general of the executive agency."

AMENDMENT NO. 3374 TO AMENDMENT NO. 3353

(Purpose: To provide a substitute that limits the scope of the requirement relating to inspection of a contractor's records)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3374 to amendment No. 3353.

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

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

The amendment is as follows:

Strike out all after SEC. 642." and insert in lieu thereof the following:

PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR.

(a) PROHIBITION.—The head of an executive agency may not acquire an item that appears on a list published under subsection (b) unless the source of the item certifies to the head of the executive agency that forced or indentured child labor was not used to mine, produce, or manufacture the item.

(b) PUBLICATION OF LIST OF PROHIBITED ITEMS.—(1) The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of State, shall publish in the Federal Register every other year a list of items that such officials have identified that have been mined, produced, or manufactured by forced or indentured child labor.

(2) The first list shall be published under paragraph (1) not later than 120 days after the date of the enactment of this Act.

(c) REQUIRED CONTRACT CLAUSES.—(1) The head of an executive agency shall include in each solicitation of offers for a contract for the procurement of an item included on a list published under subsection (b) the following clauses:

(A) A clause that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor.

(B) A clause that obligates the contractor to cooperate fully to provide access for the head of the executive agency or the inspector general of the executive agency to the contractor's records, documents, persons, or premises if requested by the official for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract.

(2) This subsection applies with respect to acquisitions for a total amount in excess of the micro-purchase threshold (as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)), including acquisitions of commercial items for such an amount notwithstanding section 34 of the Office of Federal Procurement Act (41 U.S.C. 430).

(d) INVESTIGATIONS.—Whenever a contracting officer of an executive agency has reason to believe that a contractor has submitted a false certification under subsection (a) or (c)(1)(A) or has failed to provide cooperation in accordance with the obligation imposed pursuant to subsection (c)(1)(B), the head of the executive agency shall refer the matter, for investigation, to the Inspector General of the executive agency and, as the head of the executive agency determines appropriate, to the Attorney General and the Secretary of the Treasury.

(e) REMEDIES.—(1) The head of an executive agency may impose remedies as provided in this subsection in the case of a contractor under a contract of the executive agency if the head of the executive agency finds that the contractor—

(A) has furnished under the contract items that have been mined, produced, or manufactured by forced or indentured child labor or uses forced or indentured child labor in mining, production, or manufacturing operations of the contractor;

(B) has submitted a false certification under subparagraph (A) of subsection (c)(1); or

(C) has failed to provide cooperation in accordance with the obligation imposed pursuant to subparagraph (B) of such subsection.

(2) The head of the executive agency, in the sole discretion of the head of the executive agency, may terminate a contract on the basis of any finding described in paragraph (1).

(3) The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has engaged in an act described in paragraph (1)(A). The period of the debarment or suspension may not exceed three years.

(4) The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (maintained by the Administrator as described in the Federal Acquisition Regulation) each person that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency or the Comptroller General on the basis that the person uses forced or indentured child labor to mine, produce, or manufacture any item.

(5) This subsection shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a finding described in paragraph (1).

(f) REPORT.—Each year, the Administrator of General Services, with the assistance of the heads of other executive agencies, shall review the actions taken under this section and submit to Congress a report on those actions.

(g) IMPLEMENTATION IN THE FEDERAL ACQUISITION REGULATION.—(1) The Federal Acquisition Regulation shall be revised within 180 days after the date of enactment of this Act—

(A) to provide for the implementation of this section; and

(B) to include the use of forced or indentured child labor in mining, production, or manufacturing as a cause on the lists of causes for debarment and suspension from contracting with executive agencies that are set forth in the regulation.

(2) The revisions of the Federal Acquisition Regulation shall be published in the Federal Register promptly after the final revisions are issued.

(h) EXCEPTION.—(1) This section does not apply to a contract that is for the procurement of any product, or any article, material, or supply contained in a product, that is mined, produced, or manufactured in any foreign country or instrumentality, if—

(A) the foreign country or instrumentality is—

(i) a party to the Agreement on Government Procurement annexed to the WTO Agreement; or

(ii) a party to the North American Free Trade Agreement; and

(B) the contract is of a value that is equal to or greater than the United States threshold specified in the Agreement on Government Procurement annexed to the WTO Agreement or the North American Free Trade Agreement, whichever is applicable.

(2) For purposes of this subsection, the term "WTO Agreement" means the Agreement Establishing the World Trade Organization, entered into on April 15, 1994.

(i) APPLICABILITY.—(1) Except as provided in subsection (c)(2), the requirements of this section apply on and after the date determined under subsection (2) to any solicitation that is issued, any unsolicited proposal that is received, and any contract that is entered into by an executive agency pursuant to such a solicitation or proposal on or after this date.

(2) The date referred to is paragraph (1) is the date that is 30 days after the date of the publication of the revisions of the Federal Acquisition Regulation under subsection (g)(2).

Mr. HARKIN. Mr. President, what this perfecting amendment does, very simply, is it takes the suggestion of the Senator from Tennessee and strikes out "any official of the United States" and inserts in lieu thereof "the head of the executive agency or the inspector general of the executive agency."

Secondly, it strikes the word "might" from page 99, because in the original language it said that they shall publish in the Federal Register every other year a list of items that "might have been mined. . .." We strike that out. That is a great suggestion, to say that they have to publish a list of items that such officials have identified that "have been mined, produced, or manufactured by forced or indentured child labor."

So this perfecting amendment tightens up my original amendment in two ways. It provides that only the head of an agency or the inspector general of that agency may be the one to do the inspection or authorize the inspection. Secondly, it says that the published list can only be of items that have been identified as having been mined, manufactured, or produced by forced or indentured child labor.

The rest of the provision remains the same as it is in the bill, but this tightens up those two provisions.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, with regard to the Treasury-Postal Service appropriations bill, I know there are amendments that are pending. They are trying to work out something on that. I urge my colleagues on both sides of the aisle to agree to reasonable time limits, and let's have a vote. But I am directing my remarks now more to other Senators who are not on the floor who may have amendments.

We need to make it clear that we are going to finish this bill tonight. We should be able to be through by 6 o'clock. But we still have a number of amendments that have not been resolved and haven't been worked out, or accepted, or offered.

We are going to have to just keep going. That could mean another late night. The managers of the bill would like cooperation to get this completed. But we are either going to be having votes at 11 or 12 o'clock, or we are going to agree to some process whereby we can finish the amendments that are still out there and get final votes on them in the morning in a stacked sequence. We can agree to that. But one of the things that is required is that Senators who do want to offer amendments have to come over here and offer them.

I am going to talk with Senator DASCHLE. I believe that he will support me in supporting the managers. If at a certain hour tonight Senators have not offered their amendments and have not come over here to debate those amendments, we will go out of session, and all amendments that have been agreed to would be stacked in sequence if they have to have votes in the morning.

Once again, while this week has been a difficult week because of the sadness we have all experienced, everybody has tried to be understanding of that, but now we are beginning to get back into the old routine. We have far too many amendments left on the bill that really shouldn't be that difficult to finish.

I plead again with my colleagues to come over here and offer their amendments. Let's get an agreement on how we are going to handle them and get votes on those amendments. If we don't get amendments, I can force votes tonight at all hours of the night. I don't want to do that. But it is going to take some cooperation again.

Mr. President, do we have an agreement on how to dispose of the present amendment? Do Senator THOMPSON and Senator HARKIN have something worked out in terms of a time agreement on this, or do I just need to move to table everything right where we are?

Mr. THOMPSON. Will the leader yield?

Mr. LOTT. I am glad to yield.

Mr. THOMPSON. If the leader will give us just a moment, I think we can ask for the yeas and nays momentarily.

Mr. LOTT. That would be very helpful.

Mr. President, unless somebody seeks the floor, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMPSON. 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. THOMPSON. In response to the leader's request, I ask my colleague from Iowa, is he agreeable to having an up-or-down vote on the Harkin amendment, immediately followed by an up-or-down vote on the Thompson amendment?

Mr. HARKIN. That is fine.

Mr. THOMPSON. I agree with that. Are we prepared to vote?

Mr. HARKIN. I am prepared to move forward with that agreement right now.

Mr. THOMPSON. I ask unanimous consent, pursuant to that understanding.

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

The Chair informs Senators the yeas and nays have been ordered on the Harkin amendment.

Mr. THOMPSON. I ask for the yeas and nays on the Thompson amendment, and ask that vote occur immediately following that on the Harkin amendment.

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

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. At this time, the question is on agreeing to the amendment offered by the Senator from Iowa.

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 North Carolina (Mr. HELMS) is absent because of illness.

I further announce that if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "no."

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

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—46

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hollings	Murray
Bryan	Inouye	Reed
Bumpers	Jeffords	Reid
Byrd	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Torricelli
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	
Feingold	Leahy	

NAYS—53

Abraham	Coats	Faircloth
Allard	Cochran	Frist
Ashcroft	Collins	Gorton
Bennett	Coverdell	Gramm
Bond	Craig	Grams
Brownback	D'Amato	Grassley
Burns	DeWine	Gregg
Campbell	Domenici	Hagel
Chafee	Enzi	Hatch
Hutchinson	McConnell	Smith (OR)
Hutchison	Murkowski	Snowe
Inhofe	Nickles	Specter
Kempthorne	Roberts	Stevens
Kyl	Roth	Thomas
Lott	Santorum	Thompson
Lugar	Sessions	Thurmond
Mack	Shelby	Warner
McCain	Smith (NH)	

NOT VOTING—1

Helms

The amendment (No. 3374) was rejected.

Mr. LOTT. I move to reconsider the vote.

Mr. BAUCUS. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, Senator DASCHLE and I are working with our colleagues on both sides of the aisle to identify the remaining serious amendments. I have here a list that looks like it is about 20, but I think that we can probably identify half a dozen or so amendments.

Senator DASCHLE, do you have some information on that?

Mr. DASCHLE. In response to the majority leader, we have, I think, four amendments that currently would require a rollcall vote. There are two of those four that may actually still get worked out, so I think we are getting relatively close to coming to closure on this bill. I hope all Senators who wish to offer amendments will stay on the floor because this could happen fairly quickly. I think it would be very helpful if you are right on the floor to offer the amendment. It would expedite our ability to complete our work on this bill.

Mr. LOTT. I thank Senator DASCHLE.

We have, it looks like, probably no more than two amendments left on our side that might require a vote. With regard to one of the four you identified, I believe Senator BAUCUS has an amendment. We are working very hard to see if we can't get some agreement on that right now.

For the information of Senators, with regard to schedule, we think the best thing to do is just keep going and not have a break for the mealtime because we think that actually might wind up wasting time. If we would stay on the floor and focus here, we could finish this by 8 o'clock and would be through with this bill and then could decide—Senator DASCHLE and I need to discuss further—then, exactly whether we are going to go to health care or go to the DOD appropriations bill. We could get on that tonight, and then that would be the final business for the week.

We need your cooperation. When you do offer an amendment, agree to a short time so we don't have to go straight to a motion to table. We want everyone to have a chance to explain their case. With your cooperation, we can finish this at 8 o'clock.

I also note there are some Senators who would like to be able to go to the funeral in the morning. If we could finish this at a reasonable hour tonight, we wouldn't have to have stacked votes in the morning. We tried very hard to not have a lot of late nights, but we are going to have to in order to finish this, but with your cooperation we could finish it in a couple of hours.

I urge Members to do that. I thank Senator DASCHLE. Let's keep this working and see if we can't get this down to no more than two or three votes.

Mr. THOMPSON. I ask the yeas and nays on the Thompson amendment be vitiated.

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

The question is on agreeing to the Thompson amendment numbered 3353.

The amendment (No. 3353) was agreed to.

AMENDMENT NO. 3368

Mr. GRAMM. Mr. President, I enter a motion for reconsideration of the amendment numbered 3368.

The PRESIDING OFFICER. The Senator has that right.

Mr. GRAHAM. Is that motion debatable?

The PRESIDING OFFICER. The motion has been entered but it has not been made.

Mr. GRAHAM. I move to table the motion to reconsider.

The PRESIDING OFFICER. The motion is not before the body, so the motion to table would not be in order at this time.

Mr. WELLSTONE. What is the pending business?

AMENDMENT NO. 3373 TO AMENDMENT NO. 3362

The PRESIDING OFFICER. The pending business before the Senate is the Wellstone amendment numbered 3373.

Mr. WELLSTONE. If I could ask my colleague, I know Senator GRAHAM wants 10 seconds to dispose of an amendment, but I ask unanimous consent as soon as he does this that I then have the floor and go for a vote on my amendment.

The PRESIDING OFFICER. Is the Senator making a unanimous-consent request?

Mr. WELLSTONE. I am.

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from the State of Michigan, objects.

Mr. WELLSTONE. Mr. President, the pending business is this amendment, correct, the second-degree amendment?

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The pending business is amendment No. 3373, the Wellstone amendment.

Mr. WELLSTONE. Let me explain this amendment and speak on it for a short period of time. I don't know that there will be a vote within the next 2 or 3 minutes, I say to colleagues.

Mr. President, my amendment, which is a second-degree amendment to the Abraham amendment, expands on what Senator ABRAHAM is trying to do. It applies to the Congress and not just to the administration. Furthermore, what my amendment says is that when the Congress prepares its report on family well-being —which I think is a real important concept; I think it is something that we should be about—the Congress also reports on the impact of our legislation on children.

The amendment doesn't strike the Abraham amendment. It expands on the amendment. I believe that my colleagues, if I am given a little bit of time, will want to support this.

Mr. President, I think the reason when we pass legislation out of committee, that in our report language we need to talk about the impact of children, is because of the reality of the lives of children in America. Part of our definition of family well-being, surely, has to do with parents, and we ought to make sure that parents are able to do their very best by their children, because when parents do their very best by their children, they do their very best by our country. It is also true if we are going to talk about parents, we have to talk about the impact of our legislation on children.

Mr. President, one out of every four children in our country under the age of 3 is growing up poor. One in three children will be poor at some point in their childhood. One in five children today under the age of 6 is poor today in America. One in three is a year or more behind in school. One in four children is born to a mother who did not graduate from high school. One out of every four children lives with only one parent. One out of every five children lives in a family receiving food stamps. One out of every five children is born to a mother who received no prenatal care in the first 3 months of her pregnancy. One out of every seven children have no health insurance. One out of every eight children are born to teenage children. One out of every 12 children has a disability. One out of every 13 children is born at low birthweight. One out of every 25 children lives with neither parent. One out of every 132 children in America dies by the age of 1. And 1 in 680 children is killed by gunfire before the age of 20.

Let me do it a different way as to why I believe when we pass legislation we ought to talk about the impact of this legislation on children, and we ought to make it clear.

The PRESIDING OFFICER. We will have order in the Chamber.

Mr. WELLSTONE. I thank the Chair. I will say to my colleagues, if I don't get order, I will talk for a long time about this, because I don't think there is anything inappropriate about having a focus on the state of children in America.

So I hope that we can have order in the Chamber and I will be able to go on. I will take as long as necessary.

Mr. President, every day in America, one mother dies in child birth. Every day in America, three people under the age of 25 die from HIV infection. Every day in America, six children or young people commit suicide. Every day in America, 13 children and youths are murdered. Every day in America, 16 children and youths are killed by firearms. Every day in America, 36 children and youths die from accidents. Every day in America, 81 babies die. Every day in America, 144 babies are born at very low birth weight. Every day in America, 311 children are arrested for alcohol offenses. Ever day in America, 316 children are arrested for violent crime. Every day in America, 403 children are arrested for drug offenses. Every day in America, 443 babies are born to mothers who receive late or no prenatal care. Every day in America, 781 babies are born at low birth weight. Every day in America, 1,403 babies are born to mothers younger than 20. Every day in America, 2,377 babies are born to mothers who are not high school graduates. Every day in America, 2,556 children—babies—are born into poverty. Every day in America, 3,356 young people drop out of high school.

Colleagues, when I cite these figures from the Children's Defense Fund Report of this summer—this last report was July 17, 1998. When I cite the statistics that every day in America 3,356 high school students drop out, there is a higher correlation between high school dropouts and winding up in prison than between cigarette smoking and lung cancer. Surely, we ought to be looking at the state of children in America.

Mr. President, one quarter of all the homeless people in America are children under the age of 18, and 100,000 of these kids live on the streets right now. Mr. President, 5.5 million children go hungry in the United States of America today.

Mr. President, I commend my colleague for his emphasis on families. I commend my colleague for wanting to say that we want to do everything we can to enable parents to do well by their children. I want to commend my colleague for making the point that we want to make sure that parents are really able to exercise their responsibilities as parents with their children.

But I also want to say something else to my colleagues, which is that this second-degree amendment adds a lot of strength to what is on the floor. I don't think there should be any vote against this, because what the second-degree amendment says is, let's also apply this to the Congress. We simply say that whatever we vote out of committee, we also, in report language,

have a very careful child impact statement. I see my colleague from Connecticut on the floor—probably the leading Senator for years when it comes to focusing on children. I say to my colleague, I think this is really an excellent idea. I think it is important for us to be looking at the impact.

Mr. President, I have one question that I can't let go of in my own mind, which I pose for every single colleague here: How can it be that right now in the United States of America, at our peak economic performance, we have one out of every four children under the age of 3 growing up poor in our country, and one out of every two children of color growing up poor in our country today? This is the most affluent country in the world, the most powerful country in the world, with record low unemployment, record economic performance, low inflation, a celebrated GDP, and we have a set of social arrangements that allow children to be the poorest group of Americans in our country. That is a national disgrace.

Now, Mr. President, I just want to go on and make one other point. In some of the debate that we have had over the years, colleagues have said, look, all right, Senator WELLSTONE, you disagree about proposed cuts in affordable housing, or Head Start; you disagree with proposed cuts in the Food Stamp Program, which is the major safety net food and nutrition program for children in America; you disagree with some of our other priorities, but we want to tell you that in no way, shape, or form are we not committed to children in America. I accept that in good faith. But what I want to say tonight is that, if so, we ought to at least be willing to look at our actions. We ought to be willing to look at our legislation, and we ought to be willing to analyze the impact on children in America.

Mr. President, I have traveled not just in Minnesota, but in our country, and the one thing that troubles me the most is, I just think we have to do a lot better for kids, a lot better for kids in our country.

We talk about low SAT scores; that is there. We talk about high rates of high school dropouts; that is there. We talk about children being arrested for substance abuse; that is happening. We talk about too many children taking their own lives; that is happening. We talk about too many children that are murdered; that is happening. We talk about too much violence in our schools; that is happening. We talk about too many hungry children in America; that is happening. We talk about too many children that are 3 and 4 years old and are home alone because the single parent is working and because there is no child care; that is happening. Second graders and first graders come home alone with no parent there, sometimes in very dangerous neighborhoods; that is happening. We talk about the poverty in our country and the number of children that are homeless children.

I say to the Chair, because of his commitment to veterans, that one of the most disgraceful things going on in our country is that about one-third of all the homeless are veterans—many Vietnam veterans. That is a scandal; that is simply unconscionable.

But the fact of the matter is that all of us say that we are for the children. All of us say that they are 100 percent of our future. All of us say that we care about children. All of us want to have our pictures taken next to children. All of us say that we are parents and grandparents and that this is our commitment. Well, I am saying that Senator ABRAHAM has brought a good piece of legislation on the floor. He wants to talk about the importance of parental responsibility. He wants to talk about the importance of families. And what I believe is that this second-degree amendment expands on his work, and I certainly hope that this amendment will be accepted by my colleagues.

Mr. President, I know there is a lot that we are trying to do tonight, and I have a lot more to say. In deference to colleagues—the majority leader has been gracious enough to come over here and say that this amendment will be accepted.

I just say to colleagues that, if so, I am delighted, I say to the Senator from Colorado. Might I ask my colleague one thing?

Mr. CAMPBELL. There is no opposition to the amendment.

Mr. WELLSTONE. Knowing of the commitment of the Senator from Colorado and just sort of knowing the way things work here, I wonder whether I could ask my colleague something. I am sort of tempted to have a vote because I would like to show a lot of support for this. I ask my colleague whether or not he would be willing to fight hard to keep this in conference committee?

I know my friend from Colorado being an honorable Senator—I am delighted that it will be taken—I am wondering whether my colleague would give me some sense of whether or not he supports this, whether I can count on his support in the conference committee so this doesn't get taken out.

Mr. CAMPBELL. I can't speak for everyone in the conference, but from my own perspective I am very supportive.

Mr. WELLSTONE. That means a great deal to me.

I don't know whether my colleague from Wisconsin is on the floor right now, Senator KOHL, but I believe that I can count on his support.

Is the Senator from Michigan, Senator ABRAHAM, on the floor?

Mr. President, I thank my colleagues. I am delighted that the amendment is accepted. We can vote on it.

Mr. CAMPBELL. Mr. President, there is no opposition on the majority side to the Abraham amendment.

With that, Mr. President, I voice my support for the amendment.

The PRESIDING OFFICER. Is there further debate on the Wellstone amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 3373) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3362, AS AMENDED

The PRESIDING OFFICER. The pending question is now on the Abraham amendment, as amended, by the amendment of the Senator from Minnesota.

Is there further debate an the Abraham amendment?

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum. We are in the process of getting some technical corrections on the amendment of the Senator from Michigan.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. 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. CAMPBELL. Mr. President, we got ahead of ourselves on the amendment of the Senator from Tennessee. I ask unanimous consent that the motion to reconsider the amendment be laid upon the table.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. The Abraham amendment is the pending question.

Mr. BINGAMAN. I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Objection is heard.

The pending question is the Abraham amendment.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico still has the floor.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 3362, AS MODIFIED

Mr. ABRAHAM. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. Is there objection to the modification of the Abraham amendment?

Hearing no objection, it so ordered.

The amendment (No. 3362, as modified) is as follows:

At the appropriate place, insert the following:

SEC. ___. ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES.

(a) PURPOSES.—The purposes of this section are to—

(1) require agencies to assess the impact of proposed agency actions on family well-being; and

(2) improve the management of executive branch agencies.

(b) DEFINITIONS.—In this section—

(1) the term "agency" has the meaning given the term "Executive agency" by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and

(2) the term "family" means—

(A) a group of individuals related by blood, marriage, adoption, or other legal custody who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.

(c) FAMILY POLICYMAKING ASSESSMENT.—Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether—

(1) the action strengthens or erodes the stability or safety jof the family and, particularly, the marital commitment;

(2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;

(3) the action helps the family perform its functions, or substitutes governmental activity for the function;

(4) the action increases or decreases disposable income or poverty of families and children;

(5) the proposed benefits of the action justify the financial impact on the family;

(6) the action may be carried out by State or local government or by the family; and

(7) the action establishes an implicit or explicit policy—concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

(d) GOVERNMENTWIDE FAMILY POLICY COORDINATION AND REVIEW.—

(1) CERTIFICATION AND RATIONALE.—With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall—

(A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and

(B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.

(2) OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and

(B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).

(3) OFFICE OF POLICY DEVELOPMENT.—The Office of Policy Development shall—

(A) assess proposed policies and regulations in accordance with this section;

(B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and

(C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.

(e) ASSESSMENTS UPON REQUEST BY MEMBERS OF CONGRESS.—Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).

(f) JUDICIAL REVIEW.—This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. . FAMILY WELL-BEING AND CHILDREN'S IMPACT STATEMENT.

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on family well-being and on childen, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

Mr. ABRAHAM. Mr. President, at this time I believe we have concluded all debate on the amendment.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the Abraham amendment?

If not, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 3362), as modified, as amended, was agreed to.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2312, which is open to amendment.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the amendment be set aside so I can offer an amendment.

The PRESIDING OFFICER. There is no amendment pending. The Senator has a right to offer an amendment.

AMENDMENT NO. 3376

(Purpose: To provide emergency authority to the Secretary of Energy to purchase oil for the Strategic Petroleum Reserve)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. MURKOWSKI, Mr. BREAUX, and Mr. TORRICELLI, proposes an amendment numbered 3376.

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

Mr. CAMPBELL. Mr. President, reserving the right to object, I note that we do not have copies of the amendment. We have not had a chance to see it yet.

Mr. BINGAMAN. Mr. President, I will have my staff get a copy to the manager immediately. I thought we had done that before.

The PRESIDING OFFICER. Let me clarify. Is there objection to dispensing with the reading of the Bingaman amendment?

Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

"ADDITIONAL PURCHASES OF OIL FOR THE STRATEGIC PETROLEUM RESERVE

"In response to historically low prices for oil produced domestically and to build national capacity for response to future energy supply emergencies, the Secretary of Energy shall purchase and transport an additional $420,000,000 of oil for the Strategic Petroleum Reserve upon a determination by the President that current market conditions are imperiling domestic oil production from marginal and small producers: *Provided*, That an official budget request for the purchase of oil for the Strategic Petroleum Reserve and including a designation of the entire request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount in the preceding proviso is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.".

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I would like to talk about a critical energy issue facing the country today that calls for urgent action.

That is the price collapse that we have seen for crude oil. We are near historically low prices for crude oil in the world, in real terms, due in part to the economic turmoil in Asia. This is leading to several serious problems.

First, we are threatened with the loss of a major domestic industry. When the wellhead price of crude oil is in the vicinity of $10 a barrel, as it has been recently in the Permian basin and elsewhere in the country), we drive producers of oil from marginal wells out of the business. There are about a half million marginal wells in this country.

The employment from operating those wells puts food on the table for a lot of families all over the country, and we need to be concerned about their economic future.

Second, low prices mean we lose royalty and tax revenues that fund public education. Since October 1997, the drop in crude oil prices has triggered a revenue shortfall in the States totaling $819 million. That's close to a billion dollar loss for public education in less than one year. In New Mexico, counties and towns are canceling planned school construction and renovation projects.

Third, our national energy security is threatened. During the Arab oil embargo of the 1970s, we imported 30 percent of our oil. Today, it's 56 percent. Even before the current price decline, the Energy Information Administration was predicting that imports would go to 68 percent by 2015. With lower prices, though, EIA's projection rises to 75 percent oil import dependence.

Finally, international stability is put at risk by current oil prices. Earlier this month, the IMF approved $11.2 billion in aid for Russia. $2.9 billion of that amount was to make up for shortfalls in Russia's export earnings. Over half of Russia's oil is exported, but the benchmark price for that oil has declined by 25 percent in this year alone. Continued low world oil prices could undo whatever gains in stability are accomplished in Russia by IMF funding. The same is true of other major oil-producing countries such as Indonesia and Malaysia.

The Senate has recently focused on the problems confronting farmers growing out of collapsing world commodity prices. When it considered the agriculture appropriations bill, the Senate agreed to help address this urgent farm crisis by providing the Secretary of Agriculture with $500 million, under an emergency appropriation, to help agricultural producers, including family farmers, to stay in business. We need to do the same thing for the domestic oil industry.

The amendment that I have sent to the desk does just that. It is an emergency appropriation to allow the Administration to buy back all the oil the government has sold out of the Strategic Petroleum Reserve for budgetary purposes since the Gulf War. That amount comes to 28 million barrels.

We sold this oil out of the Strategic Petroleum Reserve to pay for other unrelated spending on appropriations bills. In effect, we were using one of the country's prime energy security tools as a giant ATM machine. The Chairman of the Senate Energy Committee and I led an effort last year and this to put a stop to such sales.

I am gratified that the Committee on Appropriations is not proposing any further sales this year. But the energy security concerns that I have mentioned, particularly our continuing and growing reliance on foreign oil imports, make repurchase of the oil for the SPR a good idea. Also, at current world oil prices, the oil we put back will cost less than what we sold it for. At an estimated cost of $15 per barrel delivered to the SPR, this amendment would require a $420 million emergency appropriation.

The use of an emergency appropriation in this case is well justified. It is somewhat less than what the Senate has done for farmers who are facing similar financial losses from the same sort of world economic forces and collapsing prices. And there can be no doubt that the economic implosion that threatens the oil-producing regions of the Southwest, if we allow current trends to continue, qualifies as an emergency.

This amendment gives the kind of help that does the most good here in the United States and internationally. It gets excess oil off the market. This would have a significant beneficial impact on wellhead prices, but not enough to trigger a price spike for refined oil products.

I think this is a good amendment. I think it is consistent with our concern for our long-term energy security. I think it is a very good investment. This is the time when we should, as a country, be thinking about replenishing the Strategic Petroleum Reserve. I hope very much the managers of the bill will be able to accept this amendment and that we will be able to add it to this piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Senator BINGAMAN, will you add me as a cosponsor, please?

Mr. BINGAMAN. I am very pleased to add Senator DOMENICI as a cosponsor. I yield the floor.

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

The Senator from New Mexico, Senator DOMENICI.

Mr. DOMENICI. Mr. President, it probably will come as a big surprise that, for example, the current price for a gallon of crude oil is cheaper than the price for a gallon of bottled water. Many people will say, "That is great." Those who look at the American economy and forget about our oil production and our oilfield workers, they would say, "Great." But if you are looking at how far we have gone in our oil dependence, you will see the small producers of oil in the United States are in the most serious problem they have been in in modern times. The prices are so low that I had two of them come to see me the other day. One last year had $15 million invested in new wells; this year, zero. One drilled 31 new wells last year; this year, 1. We have hundreds of thousands of small wells, called stripper wells, producing 15 barrels a day or less. Many of those, if they shut them in, the oil is gone. The entire reserve is lost.

We are not sure how to fix that. It is a very complicated problem. But the amendment that is being offered, which I join in, is saying, with prices this low and the fact that we used a lot of our expensive oil during the Iraqi war, we ought to replenish with $420 million worth of purchases. At least it will stabilize somewhat the faltering prices here and may stabilize the stripper wells that are going down the tube and will not be available to America for the production of oil. The way it is paid for is to say: If the President of the United States deems it to be an emergency, then it will be an emergency under the budget. That is not exceptional. We do that for emergencies all the time. We think the oil patch is in a state of emergency.

Mr. President, the head of the National Stripper Well Association, estimated that small producers already have closed 100,000 wells this year, and cut production by 300,000 barrels a day and has been forced to eliminate 10,000 jobs because of falling prices.

Small oil companies are sinking with crude oil prices.

Behind the price drop is the reduced demand in Asia because of its financial crisis, the prospect of Iraq selling more oil and the inability of the OPEC to agree on production cuts.

The state, receives about 30 percent of its funds from oil and gas. Each dollar drop in the price of a barrel of oil translates roughly into a drop of $20 million in state revenues.

In Oklahoma, the continuation of low oil prices could lead to the permanent abandonment of about three-fourths of Oklahoma's almost 90,000 oil wells.

This amendment will direct the Secretary of Energy to purchase and transport and additional $420,000,000 of oil for the Strategic Petroleum Reserve upon a determination by the President that the current market conditions are imperiling domestic oil productions from marginal and small producers.

This is a small step to show support for our domestic oil industry.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—PATIENTS' BILL OF RIGHTS

Mr. LOTT. Mr. President, if I could, I ask Senator BINGAMAN to allow Senator DASCHLE and I to bring up an issue we have been wanting to do, and also say we are working with a number of Senators to see how we might deal with this, see if it can be handled without having to go to a recorded vote. We need a few more minutes. In the meantime, Senator DASCHLE and I would like to do an exchange here with regard to a unanimous consent.

Mr. President, we need to try to clear up what we are going to do for the balance of the week. Senator DASCHLE and

I have been working, back and forth, since the middle of June, trying to come to a unanimous consent agreement on how to handle the health care Patients' Bill of Rights issue. We have had a number of suggestions back and forth. We have not been able to come to agreement. There are ways that legislation could be brought to the floor anyway. But I am sure there would be objections if it were done in a way where there could not be amendments or, from this side, if there were unlimited amendments. But we need to try to see that there is one final opportunity for us to get a way to bring up the health care issue.

I ask unanimous consent the majority leader, after notification of the Democratic leader, shall turn to S. 2330 regarding health care. I further ask, immediately upon its reporting, Senator NICKLES be recognized to offer a substitute amendment making technical changes to the bill, and immediately following the reporting by the clerk, Senator KENNEDY be recognized to offer his Patients' Bill of Rights amendment, with votes occurring on each amendment with all points of order having been waived.

I further ask that three other amendments be in order on each side, for a total of six, to be offered by each leader or their designees, regarding health care. Following the conclusion of debate and following the votes with respect to the listed amendments, the bill be advanced to third reading and the Senate proceed to H.R. 4250, the House companion bill, all after the enacting clause be stricken, the text of S. 2330, as amended, if amended, be inserted, and the Senate proceed to vote at no later than 3 p.m. on Friday, July 31.

To sum up, what I am asking is we would have debate on the two underlying bills, six amendments, three on each side, and of course the votes that would be ordered as a result of that, and finish, then, by 3 on Friday, the 31st. I think we could have a good debate, have some votes, and complete that debate.

I further ask that following the vote, the Senate bill be returned to the calendar.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. DASCHLE. Reserving the right to object.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I would certainly want to reiterate what the majority leader said at the beginning of his comments, which is that we have been negotiating now for some time in an effort to determine how we might bring to the floor the health care bills offered by the Republican caucus as well as the Democratic caucus. I see Senator GRAHAM standing. There are other bills that may be contemplated in this debate as well.

Our view is that it would be very difficult to have a debate of the importance of what we consider this to be, with the limit of amendments that the majority leader has proposed. We had 56 amendments on the Agriculture appropriations bill. We disposed of them. We had 82 amendments on the Commerce-State-Justice bill. We disposed of them. I would not say, in either case, people felt that was too long a debate to have on an important bill like those two appropriations bills. We had 150 amendments on the Defense authorization bill.

I ask unanimous consent that the majority leader's request be modified to provide for relevant amendments—to limit it to relevant amendments. I think we can have a good debate. We are prepared to limit them to relevant amendments. I have asked my colleagues not to offer the Patients' Bill of Rights amendment to other bills because, in large measure, we have been working in good faith to try to see if we can accommodate a schedule that will allow us to bring it to the floor.

Certainly, I think having an agreement that would allow a debate, limited to relevant amendments, would certainly take into account the concerns that many of our colleagues have raised about being too limited on a bill, and a debate that is as consequential as is this one. So I make that request.

The PRESIDING OFFICER. The majority leader?

Mr. LOTT. Would that be with the agreement that we finish it and have final passage on the two underlying bills by a time certain on Friday?

Mr. DASCHLE. We would not know when we would finish. Obviously, we couldn't agree to a time limit on the bill because we really don't know how long the relevant amendments would take at this point.

Mr. LOTT. That would be our concern, then. There would be no way of knowing how many amendments or how long it would go on.

As the Senator knows, this year we have attempted some bills and we never could quite bring them to a conclusion. I really want to be able to get the Senate to actually vote on a bill that goes to conference. I believe Senator DASCHLE wants that, too. I am afraid, if we just go into it with relevant amendments with no limits—we only had 18 amendments, as I recall, on the tobacco bill. We stayed on that for 4 weeks. We only have 5 weeks and 2 days left, so I don't think we could do that.

Let me say to Senator GRAHAM, I know he and others are working on another bill. What we could do, we do have, under my proposal, three amendments on each side. We could make their substitute one of those three amendments. I presume that would be what we would probably do on our side, if there is one that is developed as an alternative. Alternatives would have an opportunity under that proposal.

Since we couldn't get any kind of guarantee that we will get it to a conclusion, I have to object to the addition that Senator DASCHLE proposed.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. In that case, I will have to object to the offer made by the majority leader.

The PRESIDING OFFICER. Objection is heard.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, it will be the intent of the leadership after we finish the Treasury-Postal appropriations bill that we will go to the Department of Defense appropriations bill. We would like to lay it down tonight and be prepared to stay on it.

I say to all Senators, that will be the final bill that we will take up this week. When we finish that bill, we will be prepared to recess for the August recess. That can be tomorrow night, that can be Friday morning, that can be Friday afternoon or Friday night. It will be our intent to stay on it, with cooperation from both sides of the aisle, to complete that very important Department of Defense appropriations bill.

Mr. DASCHLE. Mr. President, to clarify a comment just made by the majority leader, I know that he has indicated to me we will move to the Executive Calendar before the end of the week.

Mr. LOTT. Yes, we have a number of nominations that I believe we can clear, that we need to clear. We will be working on that beginning tomorrow night. I thought maybe we could do some tomorrow night and then some more on Friday, after we complete the Department of Defense appropriations bill. I yield the floor, Mr. President.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, Senator DASCHLE and I have been working to identify the remaining amendments and the time that will be necessary to debate those amendments. I thank Senator DASCHLE, again, for the time he spent on that.

I ask unanimous consent that the following amendments, as previously identified on the consent agreement, be limited to the following times, to be equally divided:

Senator BINGAMAN with regard to the Strategic Petroleum Reserve, 20 minutes;

Senator BAUCUS regarding post office closings, 10 minutes;

Senator MCCONNELL regarding the Federal Elections Commission, 10 minutes;

Senator GLENN regarding FEC, 10 minutes;

Senator HARKIN regarding drug control, 30 minutes;

And Senator WELLSTONE regarding naming of a post office, 10 minutes.

We will continue to work with the Senators on this list to see if we can work them out and get them accepted, but we need to get this order lined up and identify what those amendments are to be.

Mr. GLENN. Reserving the right to object, I wonder if we can have 15 minutes on my side. We have a couple of people who want to make short remarks.

Mr. LOTT. I would modify that request, then, so we will have 15 minutes on each side?

Mr. GLENN. Yes.

Mr. LOTT. Now we are talking 30 minutes.

Mr. GLENN. That is right, instead of 20.

Mr. LOTT. Then Senator MCCONNELL will need 30 minutes. So you are talking about 30 minutes on each side—30 minutes equally divided or 30 minutes total?

Mr. GLENN. Thirty total.

Mr. LOTT. It would be 30 minutes equally divided on the McConnell amendment and 30 minutes on the Glenn amendment.

I remind our colleagues, it is a quarter till 7. I can't think of any profound statement that can be made that will take 30 minutes that will affect one iota the vote or its outcome. If the Senators will be willing to yield some of that time, that will be very helpful.

Mr. BAUCUS. Mr. President, I appreciate my amendment being on the list. I would like 20 minutes equally divided.

Mr. LOTT. Baucus amendment, 20 minutes equally divided.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. WELLSTONE. Yes, there is.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Objection on two parts. First of all, with regard to the Gene McCarthy Post Office, if we are going to debate this, I would like to have that 20 minutes equally divided. And second of all, I did not agree—I thought we might reach an agreement—I did not agree to withdraw my other amendment. There is another amendment that should be added to the list that will deal with mental health or substance abuse as it affects Federal employees. I would like to have 20 minutes equally divided on that.

Mr. President, let me just add, I have been here in the afternoon ready to go with amendments, so I am not trying to delay anything.

Mr. DASCHLE. How much time did the Senator want on the second amendment?

Mr. WELLSTONE. Twenty minutes equally, if it is not accepted—maybe it will be acceptable—20 minutes equally divided.

Mr. LOTT. Mr. President, I believe this is sprouting wings here. I think I am going to at this point withdraw this agreement and notify Members I will move to table all amendments when offered. Unless we can get reasonable time agreements—we are now talking 1 hour, 2 hours, 3½ hours. What the heck, I will just move to table, and we will have a vote on each one of them.

Mr. BAUCUS. Will the Senator yield?

Mr. LOTT. I will be glad to yield.

Mr. BAUCUS. I say to the leader, I am willing to reduce mine down to 2 minutes if the Senator will agree to my amendment. (Laughter.)

Mr. LOTT. That would take unanimous consent. You might get my agreement, but I am not sure you will get the rest of them.

Mr. BAUCUS. If I get your agreement, I will reduce mine to 2 minutes.

Mr. MCCONNELL. Will the leader yield for an observation?

Mr. LOTT. I yield to the Senator from Kentucky.

Mr. MCCONNELL. I say to the majority leader, Senator GLENN suggested that my amendment will require 30 minutes, 15 minutes on a side, and then he wanted 30 minutes for his amendment. I had offered him earlier in the day that we could adopt them both on voice vote which will require no time at all for the Senate. If I understand the GLENN amendment, it is adding $2.8 million for the FEC; is that the GLENN amendment?

Mr. GLENN. Correct.

Mr. LOTT. Let me renew the request because Senator DASCHLE and I have other things we would like to do. If you want to talk and have votes, we will just be having votes every 20 minutes the rest of the night. We are not going to stack them. You need to be reasonable. The request as it now stands—does Senator GRAHAM have an addition?

Mr. GRAHAM. The central Florida drug trafficking area amendment.

Mr. LOTT. I understand you have an amendment in there which they are attempting to work out.

Mr. GRAHAM. I hope we can work it out. I want to be certain I am protected in the event.

Mr. LOTT. I renew my request with the present conditions:

Bingaman amendment for 20 minutes;

Baucus amendment for 20 minutes;

McConnell amendment for 30 minutes;

Glenn amendment for 30 minutes;

Harkin amendment for 30 minutes;

And Senator WELLSTONE, two amendments, 20 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Mr. President, reserving the right to object, if you are not on this list, does this mean you are precluded from offering your amendment?

Mr. LOTT. No, you would be in the order about 10 or 11 o'clock.

Mr. GRAHAM. I want to make sure I am protected to offer my amendment.

Mr. LOTT. The Senator's reservation is recognized, and if the issue is not worked out, he will have an opportunity to offer it and vote on it. Senator DASCHLE has a suggestion to make.

Mr. DASCHLE. I think we ought to add the Graham amendment and then limit it to the ones on this list. I don't want to see this list grow.

Mr. LOTT. Mr. President, let's add Senator GRAHAM to the list for 10 minutes. I don't think we can lock it in at this point because we have the managers' amendment and other problems could be caused doing that.

Mr. DASCHLE. Mr. President, at the very least, why don't we proceed that no second-degree amendments be in order prior to a vote on a tabling motion.

Mr. LOTT. I agree. I further ask that no second-degree amendments be in order prior to a vote on a tabling motion.

The PRESIDING OFFICER. Is there objection to the majority leader's request as amended by the minority leader? Without objection, it is so ordered.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 3376

Mr. TORRICELLI. Mr. President, I rise in support of the amendment of the Senator from New Mexico, Mr. BINGAMAN, with regard to the Strategic Petroleum Reserve.

Among the great attributes of our country, historic memory may not be our greatest strength. It was only 25 years ago that America found her economy crippled by attempts made to compromise her national security by an oil embargo placed upon states that disagreed with fundamental aspects of our national foreign policy.

The 1970s may be a memory, but we have been revisited by the low oil prices that preceded the oil embargo of that decade.

Mr. President, because of the foresight of this Congress in creating a Strategic Petroleum Reserve, there is now space for 120 million barrels of oil. This Congress had the foresight, during and after the oil embargo, to plan to preserve our foreign policy independence, to preserve a large capacity to

store oil so we could not be intimidated.

What is missing now is the foresight to fill that reserve. The Senator from New Mexico has noted there is no better time, with oil being sold at historically low prices. But it is important for Members of the Senate to understand that this is a propitious moment not only because the reserve has capacity and prices are low, but because in many ways the principal factors that led to the embargo of the 1970s, in an attempt to exercise leverage over American foreign policy, many of those factors are being revisited.

In 1973, the United States imported less than 27 percent of its crude oil requirements. In 1979, we imported less than 43 percent of our requirements. Yet, an embargo, given those numbers, was enough to create a national recession, hyperinflation, and caused a serious debate about foreign policy objectives.

The United States has now passed the 50 percent limit on importing foreign crude oil—9.2 million barrels per day—and by the year 2015 could import fully 70 percent of America's oil. Indeed, in the last 10 years, the rate of increase in the American importation of oil is more than all the imported oil of all nations in the world, other than Japan and Russia. Not only are we dependent, not only is it at historic highs, it is increasing.

Secretary of Energy Pena said:

> The United States is highly dependent on Persian Gulf oil for a large and growing percent of our imports.

Mr. President, it is not only a question of the level of our imports, it is also the fact that many of those importations of oil continue to come from volatile areas of the world, including the Persian Gulf where we have serious foreign policy disputes with nations in the region.

It is estimated by the year 2010, the Persian Gulf's share of world export markets could surpass 67 percent, a level not seen since the oil embargoes of 1973 and 1974. Simultaneously, while American dependence on foreign oil is increasing, and world dependence on Persian Gulf oil is increasing, the United States continues to abandon domestic wells at an extraordinary rate. In the last 10 years alone, 173,000 U.S. oil wells have been abandoned. And oil production from smaller stripper wells is at its lowest level in 50 years.

Mr. President, at a time when Americans are enjoying a low price for oil and foreign policy threats have retreated for the moment, it is difficult for the Senator from New Mexico to rise and gain support of the Congress for this important initiative. But almost certainly this country will be revisited at another time when there will be an attempt to compromise our foreign policy and use the economic leverage of oil against this country.

We cannot be so foolish to forget what the oil lines were like or the recessions or the high inflation. In only a year after the Shah fell in Iran, in 1979, oil prices rose 250 percent. There are few easy ways to guard against this attempted intimidation or the economic shocks that would follow. Indeed, I know of only one. It is not perfect, it is not complete, but it is a contribution—it is the Strategic Petroleum Reserve.

It is time again to take advantage of these low prices to begin filling the reserve. For that reason, Mr. President, I rise in favor of the amendment offered by the Senator from New Mexico, Senator BINGAMAN, and I urge its adoption.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I do not know how much time is left on the amendment, but I would like to speak briefly on it.

The PRESIDING OFFICER. The Senator from New Mexico controls the time, and there are 6½ minutes remaining.

Mr. BINGAMAN. I am glad to yield the remaining time to the Senator from Alaska.

Mr. MURKOWSKI. I thank my colleague from New Mexico.

I rise in support of the amendment authorizing the purchase of 420 million dollars worth of oil for the Strategic Petroleum Reserve. First of all, as chairman of the Energy and Natural Resources Committee, it is my responsibility to protect the energy security interests of this country. The Strategic Petroleum Reserve was created for emergency purposes.

This amendment today would accomplish several goals: one, replace the oil that has been sold over the past several years for budgetary purposes. Now is a most opportune time to buy oil, when prices are at a 30-year low.

In this context, it is interesting to reflect on the fact that the average price of the oil in the SPR is about $33 a barrel. Over the past several years, the average price we have gotten in selling it is about $19 a barrel. So far, the Government has not done very well. I do not know whether they figured they would make it up in volume, but it is certainly poor business to buy high and sell low.

By taking action earlier this year, we stopped a proposed sale of oil from the Strategic Petroleum Reserve that was ordered in the 1998 Interior appropriations bill. We saved the American taxpayers over $½ billion by that action, and our energy security insurance policy remained intact. We did this, Mr. President, on an emergency appropriations bill.

Over the past 3 years, we have steadily drained our Nation's energy security insurance policy. The drain started in 1996 when the Department of Energy proposed the sale of $96 million worth of oil to pay for the decommissioning of the Weeks Island facility. In other words, we had a piggy bank. We broke into it. We did it in order to meet some budgetary requirements. We have had a hard time staying out of that piggy bank ever since.

In addition to the sale we canceled last year, there have been three additional sales. In January of 1996, the Balanced Budget Downpayment Act authorized the sale of $5.1 million barrels from Weeks Island. The oil cost a total of $40.33 a barrel. We sold it for $18.82. We lost $110 million.

In the 1996 budget agreement, we required the sale of 12.8 million barrels for $227 million. Based upon the average cost of oil in the SPR, the American taxpayer lost approximately $200 million.

The fiscal year 1997 appropriations required the sale of 10 million barrels for $220 million. Oil prices were up that winter, so the American taxpayer lost only $110 million.

So far we have lost the American taxpayer $½ billion by selling oil that we put in the SPR by buying it high and selling it low. And, of course, two years ago the President proposed to balance the budget in the year 2002 by selling $1.5 billion worth of SPR oil at $10 a barrel, which would be 150,000 barrels of oil. I am grateful that wiser heads have prevailed.

However, we did not stop the drip, drip, drip of small sales, the appropriations process. As I indicated, we paid an average of $33 per barrel. With three sales so far, it has cost the taxpayers a great deal of money—$½ billion. But now we have an opportunity to stop that by pursuing the amendment offered by my friend and colleague from New Mexico, who is also a member of the Energy Committee, because we are able to at an all-time low.

It is a great investment for our national energy security interests. I am told that what we are doing now is replacing, in this 28 million barrels, the amount that we have sold over the past several years for budgetary purposes. So while we are still short of our objective of a 90-day supply of net imports, we will be somewhere in the area of a 64-day supply.

I urge my colleagues to adopt this amendment. Let me congratulate my friend from New Mexico for offering it. I yield the floor and yield back whatever time I have.

Mr. BINGAMAN. Mr. President, let me first thank the Senator from Alaska for his strong support of this amendment and his leadership on this issue over many years.

Let me also indicate the strong support that we have had from the Independent Petroleum Association of America and the National Stripper Well Association. I thank them for the

good work they have done in developing the facts that support what we are doing here.

I ask unanimous consent a letter from the President and chairman of those two organizations be printed in the RECORD.

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

IPAA,
Washington, DC, July 29, 1998.

Hon. JEFF BINGAMAN,
Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATORS BINGAMAN AND MURKOWSKI: The Independent Petroleum Association of America (IPAA) and the National Stripper Well Association (NSWA) write in support of your amendment to the FY 1999 Treasury/Postal Appropriations. IPAA and NSWA, national associations representing America's 8,000 crude oil and natural gas producers, applaud your effort to seek an emergency appropriation of $420 million to purchase 28 million barrels of crude oil for the Strategic Petroleum Reserve (SPR).

Throughout 1998, America's independent oil producers have been experiencing a price crisis of historic magnitude. From October 1997 through July 1998, crude oil prices have dropped more than $7.00 per barrel. In many producing regions, oil producers are facing price declines of up to $10.00 per barrel.

A combination of events—increased foreign oil production, the collapse of Asian economies, and a mild winter—helped to create a temporary oversupply of crude oil on the world market. The result of the price collapse is that many of the 500,000 marginal oil wells, representing 20 percent of U.S. production or the same volume of oil imported from Saudi Arabia, are at risk of being permanently shut-in.

The amendment, which is similar to the recent $500 million emergency appropriation to remove excess agriculture commodities from the world market, would benefit (1) domestic oil producers, (2) the economies of the U.S. and other countries, and (3) U.S. national security.

1. Removing 28 million barrels of oil from a saturated market would help stabilize oil prices. In effect, policy makers would be signaling oil markets that the U.S. government is committed to preserving America's true strategic petroleum reserve—domestic crude oil producers.

This action could potentially increase prices to levels that would keep marginal oil wells economic. The average marginal oil well produces 2.2 barrels per day and costs $41.11 a day to operate. When oil sells for $14 a barrel, the marginal well generates only $30.80, resulting in a loss of $10.31 per day. Annually, the well loses $3,752. For a typical operator of 100 marginal wells, annual losses exceed $375,000.

2. This one-time purchase of oil for the SPR will stimulate U.S. and world economies. According to the National Petroleum Councils' 1994 Marginal Wells report, marginal wells generate 80,000 jobs and contribute an annual $14.4 billion to the U.S. economy. When oil prices fall, so do state and federal revenues. IPAA estimates that from November 1997 through July 1998 state severance taxes and federal oil royalties have dropped by more than $819 million.

The consequence of these revenue losses falls not on the producer but on the nation's citizens. The pinch is already being felt in state school spending where a great deal of this revenue is used. Construction spending, book purchases, and other key costs for state schools are being constrained because of lost revenues.

Additionally, the oversupply of oil on the world market is having a serious impact on the economies of Russia, Indonesia, Malaysia, and other countries. Last week, the International Monetary Fund announced the approval of an additional $11.2 billion in aid to Russia. Of that amount, $2.9 billion was directed to make up for shortfalls in Russia's oil export earnings.

3. The purchase of crude oil for the SPR would enhance America's energy and economic security. U.S. dependence on oil imports has grown to 54 percent, and is projected to climb to 61 percent by 2015. The SPR is America's best tool to combat the impact of growing import dependence and possible disruptions in crude oil supply. However, the federal government has sold 28 million barrels of oil from the Strategic Petroleum Reserve. Revenues raised from all three non-emergency sales were used to pay for government programs and to balance the federal budget.

Given the low price of crude oil, the purchase of additional stockpiles for the SPR would be a bargain for the U.S. Treasury. This purchase should be viewed as an asset transfer rather than spending. Purchasing cheap oil for the SPR makes good business sense for the U.S. government and more importantly, for the tax paying citizens of this country. It's that simple.

IPAA and NSWA strongly support this important amendment. If you have any questions, please contact Craig Ward of the IPAA staff at 202-857-4722.

Sincerely,

GEORGE YATES,
Chairman, Independent Petroleum Association of America.

STEPHEN D. LAYTON,
President, National Stripper Well Association.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Colorado.

Mr. CAMPBELL. I add my support to the Bingaman amendment. To my knowledge, there is no opposition on the majority side. I urge its support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3376) was agreed to.

Mr. CAMPBELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, if I am going to stay around here and we are going to have these 30-minute discussions and then the amendments are going to be taken, I am going to move to table them and we are going to have votes and I am going to fight every one of them.

Senators, get serious. You have an amendment. Give a very brief explanation and let's dispose of it. This is ridiculous. I am going to start insisting on recorded votes. If we have an agreement to take an amendment, take it. Don't take the time and then not have a vote.

I yield the floor.

AMENDMENT NO. 3377

(Purpose: To express the sense of the Congress that a postage stamp should be issued honoring the 150th anniversary of Irish immigration to the United States that resulted from the Irish Famine of 1845–1850)

Mr. CAMPBELL. I have a couple of housekeeping things that have been accepted. I send an amendment to the desk and ask for its immediate consideration on behalf of Senators DURBIN, KENNEDY, DODD and MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL] for Mr. DURBIN, for himself, and Mr. KENNEDY, Mr. DODD and Mr. MCCAIN proposes an amendment numbered 3377.

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

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

The amendment is as follows:

At the appropriate place, insert:

The Senate finds more than 44 million Americans trace their ancestry to Ireland;

Finds these 44 million, many are descended from the nearly two million Irish immigrants who were forced to flee Ireland during the "Great Hunger" of 1845–1850;

Finds those immigrants dedicated themselves to the development of our nation and contributed immensely to it by helping to build our railroads, our canals, our cities and our schools;

Finds 1998 marks the 50th anniversary of the mass immigration of Irish immigrants to America during the Irish Potato Famine;

Finds commemorating this tragic but defining episode in the history of American immigration would be deserving of honor by the United States Government:

It is the sense of Congress that the United States Postal Service should issue a stamp honoring the 150th anniversary of Irish immigration to the United States during the Irish Famine of 1845–1850.

Mr. CAMPBELL. This is a sense of Congress regarding a commemorative stamp for the 150th anniversary of the Irish immigration to the United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3377) was agreed to.

Mr. CAMPBELL. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table.

AMENDMENT NO. 3378

(Purpose: To amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes)

Mr. BAUCUS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for himself, Mr. JEFFORDS, Mr. ALLARD, Mr. CONRAD, Mr. LEAHY, Mr. DORGAN, Mr. ENZI, Mr. REID and Mr. BRYAN proposes an amendment numbered 3378.

Mr. BAUCUS. 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:

At the appropriate place, add the following:

SEC. ___. POST OFFICE RELOCATIONS, CLOSINGS, AND CONSOLIDATIONS.

(a) SHORT TITLE.—This section may be cited as the "Community and Postal Participation Act of 1998".

(b) GUIDELINES FOR RELOCATION, CLOSING, OR CONSOLIDATION OF POST OFFICES.—Section 404 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Before making a determination under subsection (a)(3) as to the necessity for the relocation, closing, or consolidation of any post office, the Postal Service shall provide adequate notice to persons served by that post office of the intention of the Postal Service to relocate, close, or consolidate that post office not later than 60 days before the proposed date of that relocation, closing, or consolidation.

"(2)(A) The notification under paragraph (1) shall be in writing, hand delivered or delivered by mail to persons served by that post office, and published in 1 or more newspapers of general circulation within the zip codes served by that post office.

"(B) The notification under paragraph (1) shall include—

"(i) an identification of the relocation, closing, or consolidation of the post office involved;

"(ii) a summary of the reasons for the relocation, closing, or consolidation; and

"(iii) the proposed date for the relocation, closing, or consolidation.

"(3) Any person served by the post office that is the subject of a notification under paragraph (1) may offer an alternative relocation, consolidation, or closing proposal during the 60-day period beginning on the date on which the notice is provided under paragraph (1).

"(4)(A) At the end of the period specified in paragraph (3), the Postal Service shall make a determination under subsection (a)(3). Before making a final determination, the Postal Service shall conduct a hearing, and persons served by the post office that is the subject of a notice under paragraph (1) may present oral or written testimony with respect to the relocation, closing, or consolidation of the post office.

"(B) In making a determination as to whether or not to relocate, close, or consolidate a post office, the Postal Service shall consider—

"(i) the extent to which the post office is part of a core downtown business area;

"(ii) any potential effect of the relocation, closing, or consolidation on the community served by the post office;

"(iii) whether the community served by the post office opposes a relocation, closing, or consolidation;

"(iv) any potential effect of the relocation, closing, or consolidation on employees of the Postal Service employed at the post office;

"(v) whether the relocation, closing, or consolidation of the post office is consistent with the policy of the Government under section 101(b) that requires the Postal Service to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns in which post offices are not self-sustaining;

"(vi) the quantified long-term economic saving to the Postal Service resulting from the relocation, closing, or consolidation;

"(vii) whether postal officials engaged in negotiations with persons served by the post office concerning the proposed relocation, closing, or consolidation;

"(viii) whether management of the post office contributed to a desire to relocate;

"(ix)(I) the adequacy of the existing post office; and

"(II) whether all reasonable alternatives to relocation, closing, or consolidation have been explored; and

"(x) any other factor that the Postal Service determines to be necessary for making a determination whether to relocate, close, or consolidate that post office.

"(5)(A) Any determination of the Postal Service to relocate, close, or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (4).

"(B) The Postal Service shall respond to all of the alternative proposals described in paragraph (3) in a consolidated report that includes—

"(i) the determination and findings under subparagraph (A); and

"(ii) each alternative proposal and a response by the Postal Service.

"(C) The Postal Service shall make available to the public a copy of the report prepared under subparagraph (B) at the post office that is the subject of the report.

"(6)(A) The Postal Service shall take no action to relocate, close, or consolidate a post office until the applicable date described in subparagraph (B).

"(B) The applicable date specified in this subparagraph is—

"(i) if no appeal is made under paragraph (7), the end of the 60-day period specified in that paragraph; or

"(ii) if an appeal is made under paragraph (7), the date on which a determination is made by the Commission under paragraph (7)(A), but not later than 120 days after the date on which the appeal is made.

"(7)(A) A determination of the Postal Service to relocate, close, or consolidate any post office may be appealed by any person served by that post office to the Postal Rate Commission during the 60-day period beginning on the date on which the report is made available under paragraph (5). The Commission shall review the determination on the basis of the record before the Postal Service in the making of the determination. The Commission shall make a determination based on that review not later than 120 days after appeal is made under this paragraph.

"(B) The Commission shall set aside any determination, findings, and conclusions of the Postal Service that the Commission finds to be—

"(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(ii) without observance of procedure required by law; or

"(iii) unsupported by substantial evidence on the record.

"(C) The Commission may affirm the determination of the Postal Service that is the subject of an appeal under subparagraph (A) or order that the entire matter that is the subject of that appeal be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

"(D) The provisions of sections 556 and 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

"(E) A determination made by the Commission shall not be subject to judicial review.

"(8) In any case in which a community has in effect procedures to address the relocation, closing, or consolidation of buildings in the community, and the public participation requirements of those procedures are more stringent than those provided in this subsection, the Postal Service shall apply those procedures to the relocation, consolidation, or closing of a post office in that community in lieu of applying the procedures established in this subsection.

"(9) In making a determination to relocate, close, or consolidate any post office, the Postal Service shall comply with any applicable zoning, planning, or land use laws (including building codes and other related laws of State or local public entities, including any zoning authority with jurisdiction over the area in which the post office is located).

"(10) The relocation, closing, or consolidation of any post office under this subsection shall be conducted in accordance with section 110 of the National Historic Preservation Act (16 U.S.C. 470h–2).".

(c) POLICY STATEMENT.—Section 101(g) of title 39, United States Code, is amended by adding at the end the following: "In addition to taking into consideration the matters referred to in the preceding sentence, with respect to the creation of any new postal facility, the Postal Service shall consider the potential effects of that facility on the community to be served by that facility and the service provided by any facility in operation at the time that a determination is made whether to plan or build that facility.".

Mr. BAUCUS. In the spirit of cooperation, although I have been allotted 20 minutes, I will be very brief, hoping I can pick up a vote or two. It is a good amendment, anyway.

Very simply, the matter is this: In my State, and I know various other Senators in various other States, ran into a problem with the Postal Service. Namely, when the Postal Service wants to properly close, relocate or build a new post office, it has been, frankly, not the most sensitive operation in the world. That is, just close a post office, announce a closure, and that is it—giving the public and communities no say and no opportunity to comment on the closing, no opportunity to work out some accommodation with the Postal Service.

There are many examples of this. Let me give one in Livingston, MT. The Postal Service decided they were going to close the post office in downtown Livingston, just announced that they will build a new building on the edge of town. The community was up in arms because they had no notice of this, they had no opportunity to try to work something out with the Postal Service.

This is a very, very, very, popular part of town. It is the center of a small town. People go to the post office, linger, talk to their friends. It is basically kind of a commons. To have this willy-nilly moved out of town is quite disruptive to the community.

So one day when I was in Livingston, I decided to walk over to the post office to see what was going on there. The Postal Service might have a good argument, but the folks also had a pretty good argument. So I walked over to the post office. They said I couldn't come in. They said, "Sorry, Senator, you can't come in. We have to check in with headquarters to see if you can come in or not: So I say, "OK." I cooled my heels for 5 minutes, 10 minutes, 15 minutes, 20 minutes; 45 minutes later they got OK and approval from the headquarters someplace—maybe the Denver office, I don't know—that I could come to the post office, walk around and see why they needed to move the post office.

I wasn't being arrogant. I wasn't being unreasonable at all. I was just being a person. This is one example of the arrogance that we run up against. As it turns out, as a consequence of this, they are very embarrassed and sat down and worked out a solution with the community.

My amendment is very simple. Basically, it says whenever the Postal Service wants to close a post office, and I am sure there are needs to close post offices, and there are needs to relocate. Whenever they close or decide to relocate, they have to do several things.

No. 1, give notice. Give notice to the public, 60 days' notice to the communities being served. No. 2, have a hearing. No. 3, that they abide by the local zoning requirements of the community.

It is quite simple. I know the Postal Service will object, saying, gee, Congress shouldn't get into managing the Postal Service, and we are not getting into the managing of the Postal Service. We are saying give the communities an opportunity to be heard. If the Postal Service and the Commission reject the community's demand, that is it. There is no right of appeal or judicial jurisdiction over any decision made by the Postal Commission after the public has an opportunity to comment.

It is my experience that sometimes when a Government agency sits down with a community, in advance, and talks it over with the community and asks their opinions about things before making a decision of what they will do, that usually things work out pretty well.

On the other hand, if an agency doesn't in advance go talk to the community, but just announces a decision arbitrarily, the community feels like it has not been consulted and it hasn't been consulted. The committee feels like they are taken for granted. The fact is that we are talking about the public. They are the employers. The employees are the Postal Service. I just ask Senators to support this amendment because it does give communities a little bit of a say in where the facilities are located. It is as simple as that.

Mr. JEFFORDS. Will the Senator yield?

Mr. BAUCUS. I yield to my good friend from Vermont.

Mr. JEFFORDS. Mr. President, I rise today to argue in support of an amendment sponsored by myself and Senator BAUCUS that would require the U.S. Postal Service to let communities know when they are planning to shut down, relocate, or consolidate a community's post office. This amendment aims to preserve the fabric of downtowns and prevent sprawl by giving citizens a say in Postal Service decisions to close, relocate, or consolidate their local post office.

This amendment is supported by the National Governors Association, the National League of Cities, the National Trust for Historic Preservation, the National Association of Postmasters of the United States, the National Conference of State Historic Preservation Officers, the American Planning Association, the Association of United States Postal Lessors, and the International Downtown Association.

Coming from a small town in Vermont, I understand the importance downtowns or village centers play in the identity and longevity of a community. Downtowns are where people go to socialize, shop, learn what their elected representatives are doing, and gather to celebrate holidays with their neighbors.

One of the focal points of any downtown area is the community's post office. Post offices have been part of downtowns and village centers as long as most cities and towns have existed. These post offices are often located in historic buildings and have provided towns with a sense of continuity as their communities have changed over time. The removal of this focal point can quickly lead to the disappearance of continuity and spirit of a community and then the community itself.

Mr. President, this amendment will enable the inhabitants of small villages and large towns to have a say when the Postal Service decides that their local post office will be closed, relocated, or consolidated. Some of my colleagues may ask why this legislation is necessary. A few stories from my home state of Vermont will answer this question.

A few years ago the general store on the green in Perkinsville, Vermont went bankrupt and the adjacent post office wanted to leave the small village center for a new building outside of town. By the time the community was aware of the project, plans were so far along—the new building had actually been constructed based on the promise of the post office as the anchor tenant—that there was no time to fully investigate in-town alternatives. One elderly resident wrote that in contrast to families now being able to walk to the post office, "we certainly won't be walking along the busy Route 106 two miles or more to get our mail." The State Historic Preservation Officer commented that as people meet neighbors at the post office, the threads of community are woven and reinforced. "It may be intangible, but its real, and such interaction is critically important to the preservation of the spirit and physical fabric of small village centers like Perkinsville."

In 1988, the post office in the Stockbridge, Vermont, General Store needed to expand. The store owner tried to find money to rehabilitate an 1811 barn next to the store to provide the needed space, but was not successful. In 1990, the post office moved into a new facility located on the outskirts of Stockbridge on a previously undeveloped section of land at the intersection of two highways. People can no longer walk to the post office as they once were able to do when it was located in the village center. The relocation of the Stockbridge post office unfortunately removed one of the anchors of the community.

These are not isolated examples.

Mr. President, post office relocations are not only occurring in Vermont, but all across the country. My colleagues will quickly discover similar examples in their own states where the removal of the post office has harmed the economic vitality of the downtown area, deprived access to citizens without cars, and contributed to urban sprawl.

The basic premise for this legislation is to give the individuals in a community a voice in the process of a proposed relocation, closing or consolidation of a post office. This community voice has been lacking in the current process. This bill does not give the citizenry the ultimate veto power over a relocation, closing or consolidation. Instead, the bill sets up a process that makes sure community voices and concerns are heard and taken into account by the Postal Service.

Additionally, this act will require the Postal Service to abide by local zoning laws and the historic preservation rules regarding federal buildings. Because it is a federal entity, the Postal Service has the ability to override local zoning requirements. In some cases this has lead to disruption of traffic patterns, a rejection of local safety standards, and concerns about environmental damage from problems such as storm water management.

Mr. President, post offices in Vermont and across the nation are centers of social and business interaction.

In communities where post offices are located on village greens or in downtowns, they become integral to these communities' identities. I believe that this legislation will strengthen the federal-local ties of the Postal Service, help preserve our downtowns, and combat the problem of sprawl. I urge my colleagues to join Senator BAUCUS and me in support of this important amendment.

This is a simple amendment. I can't believe it can't be accepted.

Vermonters are tired of waking up in the morning and finding out their post office will be somewhere else. Under the proposed rule, all they get is a notice in the mail. There is no public hearing required. There is no way to appeal. It is just given carte blanche as to what they want to do.

In one little town in Vermont, they found out their post office moved 2 miles outside of town, and the people who had gathered in the village, a lot of the reason they gathered in the village was to be able to walk to the post office. They have to go 2 miles to get their mail.

No notice, no ability to participate at all. Blanket exemption for many zoning rules. They don't have to even take care of what the planning for the town has been. There is an exemption from the historic preservation rule. It says they can exempt projects from the new standards if the project is to meet an emergency requirement or is for temporary use, with no definition of what they are.

You are at the complete mercy of the post office to stick it anywhere they want. I tell you, our post offices are up in arms over this. All we want is a simple logical way where people are notified, they get a chance to be heard, they find out where the locations are going to be, they have an opportunity to make suggestions, and then they get on with life. But right now the way it is, it has my people in Vermont in the small town areas deeply upset. They have got postmasters who are ready to march on Washington. Why? Because we want some simple, commonsense rules to be abided by so that there is local input as to where your next post office is going to be.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I rise in opposition, reluctantly, to this amendment because I agree very strongly with the fact that customers and residents of an area where a post office facility is located that is considered for relocation, consolidation, or closing, ought to have an opportunity to have a say-so in that process.

For over a year, our subcommittee, which has jurisdiction over the legislation involving the Postal Service, has been working closely with officials at the U.S. Postal Service to try to improve the processes. I can tell you that we have received a lot of cooperation, and I am convinced that we will continue to receive cooperation in improving this process and showing some sensitivity to political concerns and to local interests that are affected by these decisions.

The Postal Service's continued efforts are appreciated very much by me. I think it would be a mistake for the Senate to legislate a new set of requirements or procedures that the U.S. Postal Service would have to follow. It would have the effect of undoing a lot of the good work that has been done recently when we have tried to work with them on this issue.

In fact, Postmaster General Henderson has recently placed a moratorium on the closing of small post offices. This is an important issue. I agree with that. It deserves the attention of the Congress. But it is also a complex issue, one that should receive the careful consideration of the legislative committee in the due course of business, not by the adoption of an amendment, with 10 minutes of debate on each side, attached to an appropriations bill.

This amendment would add a lengthy procedural set of requirements for all facility replacements, relocations, and closings. If a fire destroyed a postal facility, for example, necessary replacement would be delayed, as this new process—if we adopt it—ran its course. For each facility change, the postmasters would have to write to each customer explaining what, why, and when the action was planned. A public hearing would then be required, with testimony received from persons served by the facility. The Service would then have to respond in writing to any proposal of an alternative, giving reasons for rejecting such proposal. And then if one postal customer objects, the proposed action could be appealed to the Postal Rate Commission, causing additional delay.

The effect of this amendment would be to seriously slow down the facility modernization program of the U.S. Postal Service. The Service has over 35,000 facilities around the country, and 8,000 of these facilities were modernized or improved during the last year.

The Service has just recently published in the Federal Register new requirements that it is imposing on itself for consultation with local leaders and customers on all facility projects. The projects must be publicized in the local newspaper and a public hearing held to explain the proposal. Additionally, local public officials receive at least a 45-day notice before the Postal Service solicits for a new site. The new processes should provide ample opportunity for public input in a responsible and orderly way. I think they should be given a chance to work.

I urge Senators to reject this amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. How much time remains on both sides?

The PRESIDING OFFICER. Your side has 3 minutes 6 seconds. The other side has 6 minutes 7 seconds.

Mr. BAUCUS. Mr. President, I yield a minute and a half to my good friend from Vermont.

Mr. JEFFORDS. Mr. President, the list of things I presented is the list that the Senator from Mississippi was talking about. It doesn't do anything for you. It allows you to know and gives you a 1-day notice. You get it in the mail and you find out the next day where it is located. There is a minimum 60 days for the—there is a gross exemption, blanket exemption, of the zoning requirements. They are exempt from new standards if it is for temporary use, but there is no definition of what that is. All these things I mentioned are what we are talking about. That is why we believe very strongly that our amendment should prevail and we will work it out in conference.

I yield whatever time I have.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Simply, Mr. President, this is already in the law. A person may already appeal a decision to close a post office. The Commission then decides whether that is reviewable. We are not changing that. That is in the law today. Any person can appeal the decision made by the Postal Service to close a post office. That is in the law today. We are saying, at least give the community notice that they are going to close. If that is done, then fewer people are going to appeal. That is all this is.

I just urge Senators to vote for something which is just common sense and reasonable. It is not going to be an excessive burden on the Postal Service. It is just asking for people up front to have an opportunity to be in on the process.

Mr. COCHRAN. Mr. President, I am prepared to yield back the remainder of the time in opposition and move to table the amendment. I don't want to cut off any Senator's right to express themselves. I yield back the time left on this side on the amendment.

The PRESIDING OFFICER. Does the Senator from Montana yield back his time?

Mr. BAUCUS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. COCHRAN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS) and the Senator from Washington (Mr. GORTON) are necessarily absent.

I also announce that the Senator from North Carolina (Mr. HELMS) is absent because of illness.

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

The result was announced—yeas 21, nays 76, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—21

Ashcroft	Gramm	Nickles
Campbell	Gregg	Roberts
Cleland	Lott	Roth
Cochran	Lugar	Santorum
Craig	Mack	Stevens
Faircloth	Moynihan	Thompson
Graham	Murkowski	Thurmond

NAYS—76

Abraham	Enzi	Leahy
Akaka	Feingold	Levin
Allard	Feinstein	Lieberman
Baucus	Ford	McCain
Bennett	Frist	McConnell
Biden	Glenn	Mikulski
Bingaman	Grams	Moseley-Braun
Bond	Grassley	Murray
Boxer	Hagel	Reed
Breaux	Harkin	Reid
Brownback	Hatch	Robb
Bryan	Hollings	Rockefeller
Bumpers	Hutchinson	Sarbanes
Burns	Hutchison	Sessions
Byrd	Inhofe	Shelby
Chafee	Inouye	Smith (NH)
Collins	Jeffords	Smith (OR)
Conrad	Johnson	Snowe
Coverdell	Kempthorne	Specter
D'Amato	Kennedy	Thomas
Daschle	Kerrey	Torricelli
DeWine	Kerry	Warner
Dodd	Kohl	Wellstone
Domenici	Kyl	Wyden
Dorgan	Landrieu	
Durbin	Lautenberg	

NOT VOTING—3

Coats	Gorton	Helms

The motion to lay on the table the amendment (No. 3378) was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, if the Senator from Ohio will yield momentarily, I know he is up next, but I think we have an agreement that will help us bring this to conclusion.

AMENDMENT NO. 3378

The PRESIDING OFFICER. The question is on the Baucus amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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. I believe we have to act on the underlying amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3378) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I am continuing to struggle to try to get a finite list of amendments. I think we have that. I know a number of these amendments will be worked out, will be included in the managers' package. I have discussed this arrangement and this list with the chairman of the subcommittee, the ranking member, and with Senator DASCHLE. I believe this is the best way to get this to a conclusion that would be fair to one and all.

Again, I do note, before I make that unanimous consent request, that we do have some Senators who are going to represent the entire body at the funeral in the morning. So we are trying to go ahead and take up the Department of Defense appropriations bill first thing in the morning, lay it down at 9 o'clock, and then any stacked votes would occur at 1 o'clock.

To renew the bidding, in the earlier unanimous consent agreement, we have lined up for consideration the McConnell amendment for 30 minutes, the Glenn amendment for 30 minutes, and the Harkin amendment for 30 minutes; Harkin with regard to drug control, the other two with regard to FEC.

I now ask unanimous consent that no further first-degree amendments be in order other than the list agreed to earlier this evening and the below-listed amendments, and they be subject to relevant second-degree amendments: Graham relevant amendment, managers' package; DeWine regarding Customs; Domenici regarding FLETC; Stevens relevant amendment; Senators Daschle and Lott—one relevant each; Conrad regarding high-intensity drug areas; Dorgan regarding an advisory commission; one by Graham; Harkin and Bingaman—all three on the high-intensity drug issue. I hope they could work those out or roll them into one or something of that nature; Kerrey regarding sense of the Senate; and a Kohl managers' amendment.

I further ask all amendments must be offered and debated tonight and the votes be postponed to occur at 1, if any are needed, on the amendments. And, of course, final passage on Thursday, and that they occur in stacked sequence with 2 minutes for debate at that time before each vote for closing remarks, and that following those votes the bill be advanced to third reading.

I further ask that if the motion relative to the Graham motion to reconsider is not tabled, the underlying amendment and motions be limited to unlimited debate.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I could, through the Chair, address the majority leader: We have a matter at 1 o'clock, for the hour. We have the Director of the CIA coming. We have 35 Senators who have said they want to hear him. It is going to be in 407. Could we do it at 2 o'clock, or 10 till, the votes?

Mr. STEVENS. If the Senator will yield for a moment, it is the intention of the leader to take up the defense bill when we convene in the morning, right?

Mr. LOTT. That is correct.

Mr. STEVENS. With the understanding we can proceed with business other than votes prior to that time, I think we can handle it.

Mr. LOTT. All right. Then we would have those stacked votes at——

Mr. REID. At 2 o'clock?

Mr. LOTT. At 2 o'clock? Is that agreeable with the chairman?

Mr. STEVENS. Yes, it is. I ask the leader if there is any possibility we might get some agreement, however, that we can see the amendments that are going to be brought up in the balance of the day by noon tomorrow with regard to the Defense bill. If we could just have an indication what Senators are going to have amendments so we can start scheduling the action after the vote on the stacked amendments?

Mr. LOTT. Let me say if I could, to the chairman, if there are amendments that are debated and ready for a vote at that time, we could put them in the sequence at 2 o'clock.

Mr. STEVENS. We would be happy to do that. We would like to see what the remainder of the day, and Friday morning, is going to look like if we are going to finish the bill sometime Friday.

Mr. LOTT. We amend the request, then, to 2 o'clock.

Mr. REID. I extend my appreciation to the leader.

Mr. WELLSTONE. Reserving the right to object, and I will not.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I am trying to discern whether or not the post office in St. Paul named after Eugene McCarthy will be in the managers' amendment? Is that correct?

Mr. LOTT. That will be accepted. The objection that has been lodged will be withdrawn and the agreement was, the understanding was, when that is withdrawn, the Senator had another amendment that he would withhold.

Your amendment will be in the bill when it is passed.

Mr. WELLSTONE. I thank the majority leader.

The PRESIDING OFFICER. Is there objection to the majority leader's request? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, reserving the right to object, and I don't intend to, may I just have scheduled, between 12:30 and 1:30, 5 minutes?

Mr. LOTT. Five minutes or so?

Mr. KENNEDY. Five.

Mr. LOTT. We will make sure that occurs, Mr. President.

Mr. KENNEDY. Thank you.

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

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 3379

(Purpose: To amend the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) to provide for appointment and term length for the staff director and general counsel of the Federal Election Commission, and for other purposes)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator McCAIN, Senator BENNETT and Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], for himself, Mr. McCAIN, Mr. BENNETT and Mr. WARNER, proposes an amendment numbered 3379.

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

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

The amendment is as follows:

At the end of title V, add the following section:

SEC. ___. PROVISIONS FOR STAFF DIRECTOR AND GENERAL COUNSEL OF THE FEDERAL ELECTION COMMISSION.

(a) APPOINTMENT AND TERM OF SERVICE.—

(1) IN GENERAL.—The first sentence of section 306(f)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)(1)) is amended by striking "by the Commission" and inserting "by an affirmative vote of not less than 4 members of the Commission for a term of 4 years".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to any individual serving as the staff director or general counsel of the Federal Election Commission on or after January 1, 1999, without regard to whether or not the individual served as staff director or general counsel prior to such date.

(b) TREATMENT OF INDIVIDUALS FILLING VACANCIES; TERMINATION OF AUTHORITY UPON EXPIRATION OF TERM.—Section 306(f)(1) of such Act (2 U.S.C. 437c(f)(1)) is amended by inserting after the first sentence the following: "An individual appointed as a staff director or general counsel to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the individual whose term is being filled. An individual serving as staff director or general counsel may not serve in such position after the expiration of the individual's term unless reappointed in accordance with this paragraph.".

(c) RULE OF CONSTRUCTION REGARDING AUTHORITY OF ACTING GENERAL COUNSEL.—Section 306(f) of such Act (2 U.S.C. 437c(f)) is amended by adding at the end the following:

"(5) Nothing in this Act shall be construed to prohibit any individual serving as an acting general counsel of the Commission from performing any functions of the general counsel of the Commission.".

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I had earlier offered to enter into a much shorter time agreement, because this amendment really requires very little explanation.

Last year, in the Treasury-Postal bill, we enacted term limits for the FEC Commissioners, and the terms of the Federal Election Commission members, Mr. President, are now one 6-year term.

This amendment continues the necessary reform of the Federal Election Commission by providing that two critical staff members at the Federal Election Commission—the staff director and the general counsel—serve a 4-year term, but it is important to note, these important staff members could continue to serve with the vote of four of the six FEC Commissioners. It is important to remember the FEC is a 3–3 Commission, three Republicans, three Democrats. It was structured that way on purpose. It is necessary that it be structured that way.

A very important part of the Federal Election Commission team is the staff director and the general counsel. Under the amendment that I have offered, cosponsored by Senator McCAIN, Senator BENNETT and Senator WARNER, the chairman of the Rules Committee, beginning in January, the general counsel and the staff director will be subject to a 4-year term, and in order to achieve that 4-year term, Mr. President, they would have to enjoy the confidence of both parties; that is, they would have to achieve four votes which means at least three of one party and one of another——

Mr. GLENN. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order. Those Senators wishing to continue discussions please take your discussions off the floor of the Senate.

The Senator from Kentucky.

Mr. McCONNELL. Or for that matter, Mr. President, the general counsel might achieve the votes of two of one party and two of another. In other words, four votes to achieve a 4-year term, after which the general counsel, if he or she wanted to continue—and many of them might not—would have to be able to reach across party lines, which is, of course, the spirit of the Federal Election Commission, in order to achieve a 4-year term.

There is really nothing else to say about this amendment. It continues the reform process.

Mr. President, how much of my time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes, 23 seconds.

Mr. McCONNELL. I yield to the distinguished Senator from Utah whatever time he may desire.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, my understanding of the actions and activities of the FEC up to this point indicate that it is an agency badly in need of reform, and I am delighted that the term limits have been enacted. It is also my understanding that because of its past history, some Commissioners of the FEC have been less than diligent in their duties and, as a result, the power to run the Commission has devolved to the staff.

When we debate term limits generally, we are often told that one of the reasons we should oppose term limits is because it will put too much power in the hands of the staff. The staff becomes the permanent and institutional memory of the body, while those who are supposed to run it keep cycling through on term limits.

I think it entirely appropriate that we give the new Commissioners, as their terms expire, the opportunity to act affirmatively on the staff and not allow the power of inertia to keep staff members in forever and forever. It is a logical thing to do, and I am happy to support it and happy to be a cosponsor of this amendment.

I reserve the remainder of the time.

Mr. McCONNELL. I reserve the remainder of my time.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise to oppose the amendment. If this is adopted, this means that this will be the only independent agency or department of Government to time limit the general counsel or staff director—the only independent agency in the Government.

One of the FEC Commissioners has indicated to us what he thought would happen in this regard. He said it would cause chaos in the agency because, as the distinguished Senator from Kentucky has said, the Commission normally must have four votes for any action to ensure action is bipartisan.

This means that if they were trying to get rid of the general counsel for whatever reason, the amendment would allow a minority of three to fire the general counsel because there wouldn't be a majority to retain, there

wouldn't be the four votes. So there is concern about who they can get to even serve in a general counsel position in that situation.

I think this will go a long ways toward destroying the FEC's independence in its own investigations under the law, because the general counsel will have to continually lobby for reinstatement. That just doesn't make any sense. I see no reason why we should be carving out the FEC, which is so important to us these days in trying to get elections laws straightened out, to be the only independent agency in all of Government to have such a time limit put on their general counsel or their staff director.

They serve there, they have served for longer terms before, and served very honorably and well, but to place them under these different restrictions on voting, that would mean a general counsel could be ousted much more easily than I believe any of us would like to see and is something I don't think we should do.

Mr. President, I rise to oppose this. If there are any others who wish to speak against this amendment, I will be glad to yield such time. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes, 52 seconds.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I wonder if the Senator from Ohio will yield me 6 minutes.

Mr. GLENN. I yield such time as the Senator may desire.

Mr. FEINGOLD. I thank the Senator from Ohio.

Mr. President, I rise in strong opposition to this amendment offered by the Senator from Kentucky. I already spoke at length on the floor against a very similar amendment in its other incarnation in the other House. Fortunately, that body did not keep this provision on the bill.

What is happening here is the opposite of reform. It is the opposite of reform. This is an effort, plain and simple, to hamstring the agency that is charged with the very important responsibility of enforcing the Federal election law to which we all have to adhere—the Federal Election Commission. This effort has deadly serious consequences in terms of the independence of this Commission, and it has to be defeated.

The effect of the amendment of the Senator from Kentucky would be to result in the firing of the Commission's general counsel. The amendment involves the Congress in the personnel decisions of the FEC, the agency that we have charged with overseeing the way we conduct our reelection campaigns.

The Senator from Kentucky wants to get rid of a career civil servant who is simply trying to do his job to enforce the election laws. The current general counsel's institutional memory and knowledge is critically important now, because we are poised to confirm three new Commissioners, perhaps before the August recess.

If we do that, Mr. President, the Commission will be at full strength for the first time in almost 3 years. It has been that long since all six slots on the Commission were filled. And right as that happens, if we adopt this amendment, we are going to throw the Commission into turmoil once again by getting rid of the general counsel and forcing this newly constituted Commission to come to agreement on someone else. That could take months and hamper the enforcement efforts of the Commission at a crucial time, a very interesting time, right after the 1998 elections.

Mr. President, I want my colleagues to understand, as the Senator from Ohio has well stated, just how unprecedented this micromanaging of an agency's personnel decisions is.

No other agency must reappoint or replace its top staff every 4 years—not one. According to the Congressional Research Service, there are three independent agencies where the general counsel is actually a political appointee, nominated by the President and confirmed by the Senate. In each of these cases, the general counsel has direct statutory authority.

But in every other independent agency, including the FEC, the general counsel is appointed by either the chairman or the entire body and serves at the pleasure of the appointing entity. That is what the law is now with respect to the FEC, and there is no reason to change it.

In recent years, the FEC has undertaken a number of controversial actions in a very reasonable attempt to enforce the law that the Congress has written. Some of these cases have taken on very powerful political figures or groups—and they have done it on both sides of the aisle. And the crucial point is that the FEC itself has authorized all of these cases by a majority vote. If you don't like a case that the FEC has filed, you need to look to the Commission, not the general counsel. He is just trying to do his job as he sees fit.

What we have here, Mr. President, is an effort to intimidate an agency. The proponents of this firing want to punish the FEC's general counsel for bringing forward recommendations to enforce the law, even though in all of the cases I have mentioned, a bipartisan majority of the commission has agreed with him. In every one of those cases a bipartisan group has agreed to take the action.

Mr. President, I submit that we cannot let this happen. We need to let the professional staff of the FEC do its job. Surely the 3 to 3 party split on the Commission is enough to make sure that the Commission doesn't go off on some partisan vendetta. We must stop the partisan vendetta that this proposal represents. Protect the independence of the FEC and the nonpartisan nature of its staff by defeating the McConnell amendment.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, I rise in opposition to the McConnell amendment. If this provision is enacted, the traditional bipartisan balance of the Federal Elections Commission will be disrupted. Under this provision the general counsel and staff director of the FEC can essentially be fired by either the three Democratic or Republican Commissioners on the FEC.

This amendment has the potential of paralyzing the Federal Elections Commission and further eroding what is already a weakened campaign oversight agency.

Mr. President, such a move would be unprecedented in the Federal Government. According to a memorandum prepared by the Congressional Research Service, no general counsel which is not subject to Senate confirmation may be removed in this manner. It would be ironic that the agency charged with investigating political campaigns is crippled by Congress.

When this amendment was put forward in the House of Representatives, the New York Times noted that this provision would cripple the FEC and guarantee "an open field for influence peddlers and influence buyers."

In a year when this Congress failed to pass campaign finance reform, it would be even more tragic if we crippled the only watchdogs of our campaign finance system.

I urge my colleagues to vote against the McConnell amendment.

Mr. INOUYE. Mr. President, I oppose this amendment which proposes to limit the Federal Election Commission's (FEC) general counsel and staff director to a term of 4 years unless four of the six Commissioners vote to renew their terms. The Commission is composed of six members—three Republicans and three Democrats.

Consistent with the FEC's overall statutory scheme, requiring a majority decision to take official action, four votes are currently needed to remove the general counsel or staff director from office. If this amendment is adopted, four affirmative votes would be required for these officials to retain their position. That means three Commissioners from the same party voting as a block could force the termination of either the general counsel or the staff director and hold hostage either of the two top career officials at the FEC.

This amendment injects partisanship into the carefully balanced bipartisan structure at the FEC. Further, this could cause the staff to make recommendations based on partisan considerations in order to protect their

jobs. These consequences would be extremely detrimental to the administration of the FEC and the enforcement of our campaign finance laws.

There appears to be little question that the purpose of this provision is to retaliate against the general counsel, Lawrence Noble, for certain actions. The general counsel recently made several controversial recommendations to the Commission. In response to 1997 rulemaking petitions filed by President Clinton and others, Mr. Noble recommended that the FEC seek public comment on a proposal to prohibit the use of soft money in connection with federal elections.

Acting on the general counsel's recommendation, the Commission also pursued cases in court that have received negative reactions from some Members. A review of Mr. Noble's record indicates that he has been nonpartisan, balanced and fair. Mr. Noble has aggressively pursued enforcement of campaign finance laws against Democrats and Republicans alike.

In a year in which the need for campaign finance reform has received so much attention, Congress would be sending the wrong message if it passes a provision designed to weaken the very agency responsible for enforcing campaign finance laws.

I urge you to oppose this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. One other item I would like to note for everyone's illumination on this.

The House had a similar provision to that which is proposed by the Senator from Kentucky. They had a similar provision in the bill when it came to the House floor. They had a debate over there on this very provision which was described to me as being a bitter debate, a lot of rancor in it. It wound up with a bipartisan effort being put forward to strike this position on the floor of the House; and it was struck. They voted this provision out of the House bill on a bipartisan vote. And now this is an effort being made to put it back in on the floor of the Senate here.

I urge my colleagues to defeat this amendment.

I reserve the remainder of my time.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, the House vote was on a point of order. In fact, this particular reform has been recommended by the House authorizing committee. Let us not make this more complicated than it is.

All this amendment does that the Senator from Kentucky has offered, in concert with the Senator from Utah, is require that on this—in this unique agency; it is different from any other agency in the Federal Government; it is three and three: three Republicans and three Democrats—to require that in this agency every 4 years the top two staff people enjoy enough confidence across party lines to be reappointed for 4 years.

In fact, Mr. President, this amendment ensures that the agency will, in fact, be operated on a bipartisan basis because any staff director or general counsel who, after 4 years in the office, cannot get the confidence of both parties, Mr. President, clearly is not operating on a bipartisan basis and therefore should not be reappointed.

So it is, in fact, this amendment that ensures that the Federal Election Commission achieves its original mission, which was to operate on a bipartisan basis.

I see that my friend from Utah is on the floor. I yield to him whatever time he may need.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I simply have to respond to the notion that this is an amendment to fire the incumbent general counsel. That is what we were told in the last debate. That assumes that the present general counsel does not enjoy bipartisan support. That assumes that the present general counsel has conducted himself in such a way that he cannot gather the necessary four votes. I have no knowledge that that is indeed the case. But if it is indeed the case, it is a strong argument for saying that the present general counsel probably should not be in his job.

If he cannot muster bipartisan support to hold this job, we have a situation where he is obviously supporting one party over the other in order to maintain those three votes. That is the only conclusion that can be drawn from the argument made by the Senator from Wisconsin who claims this is an attempt to fire the incumbent general counsel.

There is nothing in here that says this is an attempt to fire the incumbent general counsel. It simply says the incumbent general counsel has to enjoy bipartisan support. And if he is as wonderful and as bipartisan as the Senator from Wisconsin says he is, he has nothing to fear from this amendment.

Mr. McCONNELL. I would say to my friend from Utah, in further elaboration, after the enactment of this into law, we are not making the general counsel or the staff director subject to removal on a whim. They have a 4-year term, an opportunity to develop a record of bipartisan cooperation with both the Republicans and the Democrats on the Federal Election Commission before reaching the end of the 4-year term. At that point, if they want to continue enjoying enough confidence across party lines to achieve another 4-year appointment—it seems to me eminently reasonable. And, Mr. President, I think it guarantees that the Federal Election Commission will be the kind of agency that the Congress intended it to be when it was created in the mid 1970s.

Mr. President, I retain the remainder of my time, if I have any.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes 37 seconds.

Mr. GLENN. We are prepared to go to a vote. I am prepared to yield back the remainder of my time if the Senator from Kentucky is prepared to do the same thing.

Mr. McCONNELL. I yield back our time.

The PRESIDING OFFICER. All time has been yielded back by both parties. The question is on the amendment.

Mr. GLENN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. I ask unanimous consent that Elizabeth Coliguri, a member of my staff, be given floor privileges for the remainder of the consideration of the Treasury-Postal appropriations bill.

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

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. There is obviously some misunderstanding about the earlier consent agreement that was entered into between all of us and the Parliamentarian. I think there is no misunderstanding among the Senators, so I ask unanimous consent that all of the amendments debated tonight be voted upon in order of their offering beginning at 2 o'clock tomorrow.

The PRESIDING OFFICER. That would be the order.

Is there objection?

Mr. GLENN. Reserving the right to object, and I do not plan to object, but my understanding is the majority leader proposed that and it was already entered. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MCCONNELL. There was some misunderstanding by the Parliamentarian as to whether we were voting further tonight. I do not think there was any misunderstanding among Senators.

Mr. GLENN. OK. Fine. Whatever.

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

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3380

(Purpose: To provide additional funding for enforcement activities of the Federal Election Commission)

Mr. GLENN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. JEFFORDS, Mr. KOHL, Mr. LEVIN, Mr. FEINGOLD and Mr. DODD, proposes an amendment numbered 3380.

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

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

The amendment is as follows:

On page 44, line 13, insert after "$33,700,000" the following: "(increased by $2,800,000 to be used for enforcement activities)".

On page 46, line 18, strike "$5,665,585,000" and insert "$5,662,785,000".

On page 56, line 20, strike "$5,665,585,000" and insert "$5,662,785,000".

Mr. GLENN. Mr. President, I send this to the desk, along with my cosponsors, Senators JEFFORDS, KOHL, LEVIN, FEINGOLD, and DODD. I offer this amendment to increase the budgeted funds a small amount for enforcement efforts by the Federal Election Commission. This agency bears the very difficult and thankless task of policing all of our campaigns in the whole Congress.

Mr. President, I would like to point out, first, that this amendment was offered in the House, was debated there, and was approved. And the amendment I offer today adds exactly the same amount. It is just an additional $2.8 million to the FEC budget. The money would help the agency to investigate and prove wrongdoing. These additional funds are just a small step toward giving the Commission the resources that it really needs.

In past years, we have seen attempts by Congress to stop vigorous enforcement of the law by failing to provide an adequate budget for this agency. Just last year, following an election in which unprecedented abuse of the campaign finance laws occurred, Congress refused to give money to the FEC to hire more staff to investigate these abuses. I thought that was a tragedy.

Just last week in the House, we saw an extraordinary display of bipartisanship because the House defeated provisions intended to politicize the agency, and instead approved additional funds, as I mentioned a moment ago, for the Federal Election Commission. The extra money was set aside very specifically to help the FEC pay for investigations, many stemming from the events of the 1996 campaign. Those of us who support campaign finance reform—which is a clear majority in this body—agree that the system is broken and needs to be fixed.

Until we can pass new laws, we must at least allow the agency we created to do its best to actively and vigorously enforce the existing law. This amendment takes an important step toward assuring that the FEC can do just that. This amendment is a renewed commitment by the Members of Congress to make a real effort to ensure that people who violate our existing campaign finance laws are found and are held accountable. This is the only way we can assure the continued integrity of our election process.

Last year, we saw a lot of effort on campaign finance reform, and with Chairman THOMPSON, I had the privilege of serving as the ranking member of the Committee on Governmental Affairs' investigation into the 1996 campaign finance fiasco. During the course of those hearings, Chairman THOMPSON called on several campaign finance experts to testify. One of those witnesses was Norm Ornstein of the Brookings Institution who told us in testimony that he believed that the FEC would probably need at least $50 million—that is about twice what they are receiving—in order to become an effective enforcement agency.

These funds I am proposing are a very small step. They just match the House funds that have already passed over there. It is a small step, but still leaves the agency woefully short of what experts think it needs.

Let me give a little bit of perspective of the job facing the FEC. Right now, the FEC has 200 cases pending; 93 of those cases are under investigation and 107 cases, over half, are sitting in a file cabinet. Why? Why are these cases just sitting there in the cabinets with no action? They are waiting for staff to become available for these 200 cases. The FEC can only afford 25 staff attorneys.

How about the investigators who could help the attorneys? The FEC has two, which they consider a great improvement from 1994 when they had exactly zero. They had none. By way of contrast, on last year's investigative staff of the Governmental Affairs Committee, we had 44 lawyers and a dozen investigators, and we weren't dealing with the whole aspect of everything the FEC has to deal with. We were dealing with only one limited aspect of what occurred during the 1996 campaign. We faced nowhere near the caseload that confronts the agency that is trying to do the best job it can on a real shoestring.

I think we can all agree it doesn't matter how good the law that you have, if it isn't actively and vigorously enforced, it means nothing. It becomes a scofflaw. The Federal Election Commission already enforces a law readily exploited and bent in ways never intended. We, in Congress, fail to give the FEC the resources to find and hold accountable those who willfully violate these laws, who misuse soft money, who attempt to disguise political ads as issue advertising, and on and on. With all of the things we know that can happen, how can we hope to ensure the public has confidence in its elections and in its elected officials?

This amendment is a very, very small and reasonable step towards allowing the FEC to accomplish its mission and enforce the law. I hope my colleague will support it. I repeat, it is one that has already passed in the House. We just matched the figure of $2.8 million that they have already passed in the House. I hope my colleagues will support my amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, very briefly, the FEC is clearly not underfunded. Its budget has more than doubled in the past decade. They are already getting $2 million more this year than last year under the budget of the Senator from Colorado, who has been quite generous to the Federal Election Commission—frankly, beyond what I would have done had I been in his shoes. The FEC's problems are certainly not on the financial side.

Senator GLENN would give them an extra $2.8 million over and above the additional $2 million that the distinguished Senator from Colorado is already providing for this agency. You are talking about a 16-percent budget increase, a 16-percent budget increase for the Federal Election Commission. I think the U.S. district court, in a recent case, said it best when they reported in a Wall Street Journal editorial of July 13:

If there is one thing all the players agree on, it is the need for better disclosure of contributions and a crackdown on violators. But a Federal court this week [the Wall Street Journal referring to a court decision] signaled that the Nation's electoral traffic cop, the Federal Election Commission, is lax in carrying out even that basic function.

That is the point. The basic function of the Federal Election Commission is disclosure.

The distinguished Senator from Colorado has more than adequately provided funding for this agency. To give them the additional money offered by the distinguished Senator from Ohio would provide a 16-percent increase

over last year. Clearly, that is not appropriate.

I yield the floor.

Mr. GLENN. Mr. President, that's difficult to respond to, to say the FEC needs more resources. My distinguished colleague, my friend from Kentucky, says they need to monitor disclosure better; but how do they monitor that if they don't have the people to do it? They should crack down on violators. How do they crack down if they don't have the people on the staff to do it? They have a grand total of 25 staff attorneys. Until 1994, they didn't have any investigators.

To say that we put them up a certain percentage this year, when estimates we had in testimony before the Governmental Affairs Committee were that we should probably double their budget to give them a fair shot at doing their job, which would put their budget up around, somewhere around $50 million was the estimate, instead of where it is now, to think if they could even come close to fulfilling the law and the requirements they are supposed to monitor with the staff they have, just isn't right.

I said in my statement a moment ago, the FEC has 200 cases pending. They are only investigating 93. Why? It is because they don't have the people to do it. To say that they don't need more money and are quite adequately funded just flies in the face of logic. They do not have adequate staff. They can't even keep up with these things. These cases are years and years old. Many of them will not even be settled before the next election cycle comes around. They don't have the staff over there for any expeditious treatment. Ninety-three of those cases are under investigation, 107 cases are sitting in file cabinets for lack of people.

In 1994, they didn't have any investigators and then they hired one. Then it was said later on they had 100-percent improvement in their investigative staff because they then hired two; they had two people on their investigative staff. None of these attorneys are people who are normally going out and doing all the spadework, doing all of the investigating, doing the fieldwork out in the field. To say that they have quite adequate funding because they went up a certain small percentage just flies in the face of logic.

I know we are not going to probably change many minds on this particular subject, but if we are serious about ever improving our campaign financing and having the FEC as the monitoring body that does that, this is such a modest little amount of $2.8 million. I hope my colleagues will vote for this and match the House with the exact same amount the House put in. We wanted to match what they have done.

They had a debate on this in the House and decided to put this in. It was because they felt they not only needed this, they probably needed much more, but could not get more through. I would like to see us do this an extra $15 million or $20 million. I know we are not going to do that here, but this is such a modest increase and they need it so badly that I hope my colleagues will agree to the amendment I am proposing when we vote tomorrow.

Mr. FEINGOLD. Mr. President, I'm pleased to cosponsor and rise in support of the amendment offered by the Senator from Ohio, Senator GLENN. And how fitting that Senator GLENN has taken the lead on this issue since he spent much of last year investigating the fundraising scandals of the 1996 election. I congratulate him on that work and on offering this very modest, but very important amendment today.

Mr. President, as you know, I have spent a lot of time on this floor in this Congress debating the McCain-Feingold bill, and the issue of campaign finance reform. It has been a very difficult issue to make progress on. We have a strong bipartisan majority, including seven Senators from the Republican side of the aisle, in support of reform. A partisan minority continues to block our bill.

But one area on which this entire body is united, Mr. President, is the need to enforce the laws that are already on the book. In fact, time after time when we debated the issue last fall and again early this spring, opponents of our bill raised that issue as a reason that they opposed McCain-Feingold. Why should we enact new laws, they said, when we can't even enforce the ones on the book? No less than eight Senators made some version of that argument in last fall's debate, right in the middle of the Thompson Committee hearings. More still raised it when we revisited campaign finance reform in February.

In fact, given the arguments made by the opponents of the McCain-Feingold bill, I would hope this amendment would be adopted by 100-0 when we vote. Because all the amendment does is give the resources that the Federal Election Commission says it needs to carry out the duties that we have given it under the law. The very small amount of money that this amendment proposes to add to the FEC's appropriation—just 2.8 million dollars—will bring the FEC's funding up to its full budget request, which is the level that the House passed bill includes.

This is a particularly good and important time to fully fund the FEC. The Rules Committee recently recommended approval of three new nominees to the Commission, and one reappointment. If the Senate follows that recommendation, the FEC will have a full complement of Commissioners for the first time since October 1995 when then Chairman Trevor Potter left the Commission. We therefore have a chance to have a fully functioning Commission prior to this year's elections. What better time to have a fully funded Commission as well. What better time to give the FEC the resources it says it needs to do its job right.

The additional funding provided in this amendment will go directly to hiring new personnel to beef up the FEC's enforcement capacity. And there is no doubt at all that these additional investigative and legal staff are truly necessary. The FEC simply is not able to keep up with the workload as things now stand. In Fiscal Year 1997, it dismissed 133 cases as being too minor or too old to be worth pursuing. Through June of this year, three quarters of the way through this Fiscal Year, the FEC has already dismissed 144 cases. Now these are not frivolous cases, these are cases that staff has determined are worth pursuing.

And here is the most disturbing statistic, Mr. President. In every year since the FEC adopted this practice of dropping cases that it can't get to the number of cases that are dropped because they are not that important has exceeded the number that are dropped because they are stale. Until this year. This year, nearly 60 percent of the cases dropped were high priority but stale. This is a very disturbing fact. The FEC is having a harder and harder time getting to the cases that it deems to be significant because of the rising caseload and inadequate resources.

So, Mr. President, frankly, I can hardly imagine how one could argue against this amendment. The FEC is a very small agency, with a very small appropriation, and a very big job. Campaign spending by candidates continues to increase. Involvement in election activity by outside groups continues to expand. We simply cannot pretend that we want the laws to be enforced at election time and then ignore the FEC at budget time.

There is nothing that undermines the public's faith in government more, Mr. President, than a feeling that the rules of the election game are being ignored. In a very real sense, Mr. President, this amendment gives us the chance to put our money where our mouth is. I hope we take it.

Once again, I congratulate the senior Senator from Ohio for offering this amendment, and I urge its adoption.

Mr. KOHL. Mr. President, I rise today to support the amendment by Senator GLENN to bring the funding for the Federal Elections Commission to the level requested by the administration. Mr. President, we have watched during the last few years as public confidence in our electoral system has crumbled. We've seen investigations, deliberations, orations—but nothing substantive to improve how we elect Members of Congress.

We all know that despite the strong efforts of many in this institution—especially Senator MCCAIN and my colleague from Wisconsin, Senator FEINGOLD—we have not passed genuine campaign finance reform.

At the same time, the workload at the FEC has exploded. Since 1991, campaign spending has increased by nearly 150 percent. The number of audits have gone up 110 percent. And the sheer number of transactions recorded by the FEC has increased by 157 percent. This increase in work has come at a time when the FEC, an independent federal agency, has lost employees. In the last three years the number of full time employees has actually dropped from 314 to 300.

With this increase in work and decrease in staff, it should not be a surprise that the FEC—the agency charged with investigating campaign fraud and abuse—has been forced to drop legitimate cases because of insufficient resources. In 1998 alone, of the cases the FEC dismissed, nearly two out of three cases were dropped because the FEC did not have the resources to fully investigate them.

Mr. President, if I came before this body today and told you that criminals were being let out of jail because there were not enough policemen on the beat, we would rush to provide more resources to law enforcement. But because those allegedly breaking the law are political candidates and campaigns, we are ignoring the problem.

The House of Representatives recognized the deficiency in funding and voted to bring the FEC budget to $36.5 million. Senator GLENN's amendment would do the same, and without increasing overall spending.

Mr. President, we should have passed meaningful campaign finance reform this year, but we did not. Therefore, the only real improvement we can make to our campaign finance system is to provide the policemen of that systems the tool they need to enforce our laws. The Glenn amendment will provide that additional support, and I urge its passage.

Mr. GLENN. Mr. President, I will reserve the balance of my time. Do we have 2 minutes to explain this before the vote tomorrow? Was that the agreement?

The PRESIDING OFFICER. There will be 2 minutes, evenly divided, before each vote.

Mr. GLENN. Mr. President, I yield the balance of my time for this evening.

Mr. CAMPBELL. Mr. President, I ask for the yeas and nays on the Glenn amendment at the agreed to time tomorrow.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I appreciate the great courtesies that the Senator from Colorado and the Senator from Wisconsin have extended in terms of a series of amendments that relate to drug issues. It is my hope and expectation that before we come to closure on this matter, those various amendments will be combined in an amendment that will be supported by the managers of this bill.

I am in a difficult situation, however, wanting to assure that in the unlikely event that that doesn't occur, the amendment that I propose to offer is protected. So in a minimum amount of time, I would like to offer the amendment.

I ask unanimous consent that a letter from Mr. Robert Warshaw, the Associate Director of the Office of National Drug Control Policy, which outlines the severity of the situation in the region of central Florida, which is the subject of the amendment, be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF NATIONAL DRUG CONTROL POLICY,
Washington, DC, July 29, 1998.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: This is in response to your inquiry concerning the status of the Central Florida High Intensity Drug Trafficking Area (HIDTA). The Central Florida HIDTA was designated by this office on February 27, 1998 after consultation with the governor of Florida, the Attorney General, the Secretary of Health and Human Services and the Secretary of the Treasury.

A thorough analysis of the Threat Assessment and supporting information submitted by the Central Florida HIDTA reveals that this region has been severely affected by the flow of illegal drugs from domestic and international sources, and that this drug trafficking affects the nation as a whole. Illegal drugs are increasingly smuggled into Orlando and Tampa from the Caribbean and Latin America. Among Florida cities in 1996, Orlando reported the highest rate of heroin deaths. Marijuana seizures doubled between 1995 and 1996. Violent crime in Orlando and St. Petersburg increased by 8% in the first six months of 1997, at a time when violent crime declined in many other locations.

The Central Florida HIDTA will provide federal assistance intended to measurably reduce drug trafficking through a more coordinated, deliberate and focused approach to drug enforcement and interdiction in the Central Florida area. We anticipate that Federal assistance will enhance combined federal, state and local law enforcement agencies who will focus on heroin, marijuana, methamphetamine and money laundering organizations.

With the support of Congress, and federal, state and local law enforcement programs, the Central Florida HIDTA and the national HIDTA program will continue to provide assistance in countering drug trafficking. ONDCP looks forward to your continued support and cooperation in advancing this goal.

Respectfully,

ROBERT WARSHAW,
Associate Director,
State and Local Affairs.

Mr. GRAHAM. Mr. President, I do not propose to have further debate on this matter now. I hope this amendment can be vitiated tomorrow because it will have been adopted or ready to be adopted in a form that would be submitted and supported by the managers of the bill.

Mr. CAMPBELL. Mr. President, I want to assure our colleague, Senator GRAHAM of Florida, that staff is working very diligently trying to reach agreement to work these amendments into one and make sure they are protected. We have a little work to do in finding offsets, but we are very close to that.

AMENDMENT NO. 3381

(Purpose: To provide funding for the Central Florida High Intensity Drug Trafficking Area)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. MACK, proposes an amendment numbered 3381.

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

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

The amendment is as follows:

On page 20, line 16, strike $3,164,399,000" and insert "$3,162,399,000.

On page 39, line 10, strike "$171,007,000" and insert "$173,007,000".

On page 40, line 3, strike ": *Provided*, That funding" and insert the following: ", and of which $3,000,000 shall be used to continue the recently created Central Florida High Intensity Drug Trafficking Area: *Provided*, That except with respect to the Central Florida High Intensity Drug Trafficking Area, funding".

Mr. GRAHAM. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3382

(Purpose: To designate the building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, as the "Eugene J. McCarthy Post Office Building")

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. WELLSTONE, proposes an amendment numbered 3382.

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

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

The amendment is as follows:

On page 104, between lines 21 and 22, insert the following:

SEC. 6___. DESIGNATION OF EUGENE J. MCCARTHY POST OFFICE BUILDING.

(a) IN GENERAL.—The building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, shall be known and designated as the "Eugene J. McCarthy Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Eugene J. McCarthy Post Office Building".

Mr. CAMPBELL. Mr. President, this amendment is on behalf of Mr. WELLSTONE, and it deals with the naming of a post office, which has been agreed to by both sides.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3382) was agreed to.

ADDITIONAL COSPONSOR ON AMENDMENT NO. 3377

Mr. CAMPBELL. Mr. President, I ask unanimous consent that Senator MACK be added as a cosponsor to amendment No. 3377.

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

AMENDMENT NO. 3357

(Purpose: To promote the public's right to know about Federal regulatory programs, improve the quality of Government, increase Government accountability, and for other purposes)

Mr. CAMPBELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. THOMPSON, proposes an amendment numbered 3357.

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

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

The amendment is as follows:

Strike section 625 and insert the following:

SEC. 625. (a) IN GENERAL.—Beginning in calendar year 2000, and every 2 calendar years thereafter, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible—

(A) in the aggregate;

(B) by agency and agency program; and

(C) by major rule;

(2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and

(3) recommendations for reform.

(b) NOTICE.—The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

(c) GUIDELINES.—To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize—

(1) measures of costs and benefits; and

(2) the format of accounting statements.

(d) PEER REVIEW.—The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section. Such peer review shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Mr. THOMPSON. Mr. President, today I am offering an amendment to strengthen the regulatory accounting provision in Section 625 of the Treasury-Postal Appropriations bill. This amendment would require OMB to submit a biannual report to Congress on the costs and benefits of federal regulatory programs. I ask unanimous consent that Majority Leader LOTT and Senators BREAUX, SHELBY, and ROBB be added as cosponsors to my amendment. We come from different political viewpoints, but we all agree that we need to improve our regulatory system and make it more open and accountable.

This amendment continues the effort begun by Senator STEVENS, the former Chairman of the Governmental Affairs Committee, when he passed the Stevens Regulatory Accounting Amendment on the Treasury-Postal Appropriations bill in 1996. Our goal is to promote the public's right to know about regulation, increase government accountability, and to improve the quality of regulatory programs. This amendment would not change any regulation or regulatory standard. It just provides important information for smarter and more accountable regulation.

Under the Stevens Amendment, the Office of Management and Budget issued its first regulatory accounting report to the Congress in September 1997. While this first Report was an important step toward government accountability, it left a lot to be desired. Following that first Report, Senator STEVENS and I wrote to the OMB Director expressing our concern that OMB was not fully complying with the Amendment. Several members of the House sent a similar letter. In addition, the American Enterprise Institute and the Brookings Institution held a workshop reviewing the first OMB Report in the fall of 1997. At that workshop, a distinguished group of economists unanimously agreed that OMB had fallen short on the Stevens Amendment.

Now it's time to take another step toward a more open and accountable regulatory system. This amendment would add a few simple requirements to the Stevens regulatory accounting provision to ensure that:

Regulatory Accounting is a permanent requirement. Every two years, OMB would submit the Report with the President's budget.

The Report is more informative. To the extent feasible, agencies would provide cost and benefit estimates for agency programs. In addition, the Report will clearly cover paperwork costs, including the large costs of complying with our Byzantine tax system. That was always supposed to be covered.

The Report is of higher quality. OMB guidelines to the agencies and peer review will improve future reports.

As OMB said in their first regulatory accounting Report, "regulations (like other instruments of government policy) have enormous potential for both good and harm." Better information will help us regulate smarter—to increase the benefits of regulation while reducing needless waste and redtape. This will help ensure the success of important programs, while enhancing the economic security and well-being of our families and our communities.

Mr. President, I ask unanimous consent that a copy of a letter to former OMB Director Franklin Raines, and a letter from the Alliance USA be printed in the RECORD following my remarks.

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

U.S. SENATE,
Washington, DC, October 29, 1997.

Subject: Implementation of Regulatory Accounting Amendment.

Hon. FRANKLIN D. RAINES,
Director, Office of Management and Budget, Washington, DC.

DEAR DIRECTOR RAINES: We would like to work with you toward the successful implementation of the regulatory accounting provision in section 625 of the Treasury and General Government Appropriations Act, 1998 (Pub. L. 105-61). This provision carries forward for another year the requirement that OMB report to Congress on the total costs and benefits of Federal regulatory programs. Based on our review of OMB's first regulatory accounting report, we believe there is an opportunity to make further progress toward a more transparent, cost-effective, and accountable regulatory system.

We believe that the public has a right to know the costs and benefits of federal regulatory programs. While the budget process provides the public and Congress with an opportunity to monitor and control tax-and-expenditure programs, regulatory programs do not receive such scrutiny. As your first report says, "regulations (like other instruments of government policy) have enormous potential for both good and harm." We believe that better information will help us to increase the benefits and reduce the costs of regulation. This would contribute to the success of programs the public values, while enhancing the economic security and well-being of our families and communities.

While the first regulatory accounting report has some serious omissions, it is an important foundation for improving the regulatory system. Critics said it could not be done, and we appreciate that OMB's Office of Information and Regulatory Affairs ("OIRA"), with limited staff, proved the critics were wrong. We agree that OMB should use the report to raise the quality and utility of agency analyses—for developing new regulations, reviewing existing regulations, and tracking regulatory impacts over time. We encourage OMB to build on this effort by tracking the net benefits of regulations and reforms of old rules.

As OMB develops its second report, we believe there are several opportunities for improvement, and we would like to make the following recommendations. First, the report should adhere to specific statutory requirements. The first report fails to recommend improvements for specific regulatory programs or program elements, as required by subsection (a)(4). OMB need not base its recommendations on perfect empirical information nor on its overall estimates of the impacts of the regulatory system. Moreover, the first report does not assess the indirect impacts of Federal regulation, as required by subsection (a)(3).

Second, the report should more fully implement the legislation to achieve its goals. The first report failed to break down costs and benefits by program or program element where feasible, as intended by subsection (a)(1). The public also deserves a complete accounting of federal mandates—not simply those that fall within OMB's categories of "social" and "economic" regulations. OMB should estimate the costs of all paperwork requirements, including those associated with tax collection. OMB also should estimate transfer costs, even if they are viewed as a different category of regulatory costs.

Finally, OMB should exercise leadership to assure the quality and reliability of information reported. Specifically, we urge OMB to standardize procedures government-wide for collecting, analyzing, and documenting the best available information. OMB should leverage its effort with cooperation from the agencies and the President's Council of Economic Advisors. OMB also should establish a database, enforce its "Best Practices" guidelines, and track the costs and benefits of programs, program elements, and rules over time. OMB should synthesize and evaluate the information provided by the agencies and provide an independent assessment. To this end, OMB staff should be directed to critique the quality of the estimates provided to them, not to simply compile data presented by the agencies.

We commend you for an important first step toward a more open, efficient, and accountable regulatory system. We look forward to working with you to advance further in the 1998 report. We would appreciate your response to our recommendations by December 1, 1997.

With best wishes,
Cordially,

FRED THOMPSON,
Chairman, Senate Governmental Affairs Committee.
TED STEVENS,
Chairman, Senate Appropriations Committee.

ALLIANCE USA,
Washington, DC, July 28, 1998.

Hon. FRED THOMPSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR THOMPSON: I am writing you on behalf of Alliance USA (member list attached) to express our support of your regulatory accounting amendment to the Treasury-Postal Appropriations bill to our coalition. As you know, this amendment would continue the important work on regulatory accounting begun by Senator Stevens.

Alliance USA is a nationwide coalition of over 1,000 companies united by their support for responsible regulatory reform. Our coalition believes that your regulatory accounting amendment would improve the effectiveness of several pending regulatory reform measures, including S. 981, the Regulatory Improvement Act of 1998.

We believe that the successful addition of your amendment would result in a more informed public and Congress about the benefits and burdens of federal regulations. It would also enable Congress to assess more accurately the effectiveness of regulatory programs.

We commend you for your continued efforts to improve the regulatory accounting process. If our coalition can be helpful in this effort, please let me know.

Thank you for your consideration of this request.

Sincerely,

LEWIS I. DALE,
Executive Director.

Mr. CAMPBELL. Mr. President, this amendment is acceptable to both sides of the aisle, and I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3357) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. I wonder if the chairman of the committee would indulge me for an amendment on the Federal Law Enforcement Training Center.

Mr. CAMPBELL. I am happy to yield to the Senator from New Mexico.

AMENDMENT NO. 3383

(Purpose: To provide additional funding for the Federal Law Enforcement Training Center)

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. COVERDELL, and Mr. BINGAMAN, proposes an amendment numbered legislative 3383.

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

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

The amendment is as follows:

On page 8, line 11, strike "$66,251,000" and insert "$71,923,000".

On page 10, line 12, strike "and related expenses, $15,360,000" and insert "new construction, and related expenses, $42,620,000".

On page 46, line 18, strike "$5,665,585,000" and insert "$5,632,552,000".

On page 50, line 20, strike "$668,031,000" and insert "$634,998,000".

On page 50, line 23, strike "$323,800,000" and insert "$309,499,000".

On page 52, line 13, strike "$344,236,000" and insert "$311,203,000".

On page 56, line 20, strike "$5,665,585,000" and insert "$5,632,552,000".

On page 45, line 21, strike "$508,752,000" and insert "$475,719,000".

Mr. DOMENICI. Mr. President, I offer this amendment today with my distinguished colleague from Georgia, Senator COVERDELL, and my colleague from, New Mexico, Senator BINGAMAN, to address funding for the Federal Law Enforcement Training Center, referred to as FLETC.

This is a consolidated law enforcement training center for the Federal Government that is operated by the Department of the Treasury.

The committee bill reduces the funding for FLETC by $18.7 million below the President's budget request of $100.3 million.

The bill reduces funding for both the operating and the construction and maintenance accounts, which will have serious effects on our law enforcement training program.

Mr. President, some years ago, because law enforcement training became a necessity for a number of departments of the Federal Government, every major department which wanted to train their own law enforcement people, and the U.S. Government made a very good decision. They said the Department of Treasury will establish the Federal Law Enforcement Training Center, and it will take care of most of law enforcement training that is required for institutions and entities like the Bureau of Indian Affairs, Immigration, and just an untold number of agencies that need to have their law enforcement people trained.

Through good fortune, an earlier abandoned naval base in the State of Georgia, called Glynco, was the site that was determined for this Federal Law Enforcement Training Center.

As a matter of fact, I am sure some wonder why I remain so interested in this. A little part of it is in the State of New Mexico. But, believe it or not, when I was a second-year Senator on the Public Works Committee, we were about to spend $600 million on a new center for the Federal Law Enforcement Training Center. I suggested, almost in a very mild voice, wondering whether then committee chairman of the Public Works Committee would even consider this new center, and said, "Would you adopt a resolution saying

that before we agree to build a new one that we will take a year and look around and see if we might not already own a facility such as an abandoned military base?" I think, to get rid of me, they all said, "Let's adopt the resolution." And sure enough, 9 months later, before we ever spent any money, the chairman called me to his office and said, "Look. They found a naval base in the State of Georgia which has just recently been closed, and it will be perfect. We will not have to build a new one."

Although many, many claimed they were the people that got Glynco, I was very pleased to be invited as a brand new Senator in the back row and know that because I had asked that we not spend money until we look around, that we found it.

It has been doing a marvelous job. The only major competitor is the Federal Bureau of Investigation.

Some time ago, the Federal Law Enforcement Training Center, when Jim Baker was Secretary of Treasury, decided to expand and create a new one. They picked a former college in the city of Artesia, NM, which offered them the entire campus at a bargain rate, and it has since grown along with the Glynco establishment in Georgia.

I came to the floor tonight to urge the committee to restore the FLETC salary and expenses and construction to the President's level.

I know the committee had difficulty because they had to do a lot of things the House didn't do in their bill with the same amount of allocation, overall. But this amendment will actually allow $20 million for new construction of critical dormitory and classroom facilities at both Artesia in New Mexico and Glynco: $6.4 million for new dormitories in Artesia; $7.5 million for new dormitories at headquarters in Glynco; and, $6.4 million dollars for new classrooms at Glynco, which will be augmented by the amounts in the bill, restoring the budget request, and a proposed reprogramming of funds.

Mr. President, the Congress has put a significant emphasis on law enforcement over the past decade. I have been concerned for quite some time that the law enforcement agencies of the Treasury Department—that is FLETC, the Customs Service, and the Bureau of Alcohol, Tobacco, and Firearms—are overlooked when Congress talks about violent and youth crimes, drugs, gangs, and illegal immigration. The Department of the Treasury plays a very important role in this regard. While Congress has more than tripled the budget of the Department of Justice law enforcement agencies over the last decade, Treasury agencies—and this is no aspersions on the current leadership of the subcommittee—have often struggled to keep up with workloads that are increasing all the time. FLETC is a case in point. Since Congress began serious anticrime efforts, thousands of law enforcement agents have been recruited. Many of these agents receive their basic as well as advanced training at these Federal law enforcement facilities. While the administration and Congress added these agents, sufficient resources were not devoted to keep up with the training requirements. The President requested $71.9 million for the Federal law enforcement training salaries and expenses, and the committee provided $66.25.

There are 70 Federal agencies that depend solely upon the Federal Law Enforcement Training Center to provide all direct costs for entry level training. Without these additional funds, the number of students trained in 1999 will fall below the actual number of agents trained in 1997 while the demand is greater. That will be 3,900 less. Should the administration decide to keep training levels stable, as much as 10 percent would have to be cut from other sources or some programs would have to be reduced or eliminated such as the Office for State, Local and International Training within FLETC.

Rather than go on with all of the details that I have regarding this, I just want to conclude that this is not good policy. If Congress is going to commit to strong law enforcement, it needs not only the personnel but the high-quality training needed to prepare and protect our law enforcement agents. FLETC, the Federal Law Enforcement Training Center, must be in position to meet those demands.

Mr. President, this amendment provides important resources to support the training of our Federal law enforcement personnel. I believe the Federal Law Enforcement Training Center should be a priority in this bill, and I urge adoption of the amendment.

I ask unanimous consent to have printed in the RECORD a letter from the Treasury Department, signed by Raymond Kelly, Under Secretary, to me indicating that they would very much support funding the President's level in this bill for operation and for getting ready for future demands in terms of construction.

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

DEPARTMENT OF THE TREASURY,
Washington, DC, July 28, 1998.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of Secretary Rubin, I want to thank you for your leadership and support of Treasury Enforcement programs. Like you, we believe that the Federal Law Enforcement Training Center (FLETC) should be funded at the President's request of $100.283 million and thereby ensure our capacity to meet critical infrastructure needs. The Treasury Department considers this a high priority so FLETC can have adequate facilities, at both Glynco and Artesia, in order to meet the surging workload associated with border management build-up, drug interdiction, anti-terrorism, and related activities.

Equally important, we are committed to ensuring that funding for FLETC does not offset other Treasury programs. We hope that the Senate will be able to restore the funding levels requested by the Administration during its deliberations on the FY 1999 appropriations.

Very truly yours,

RAYMOND W. KELLY,
Under Secretary for Enforcement.

Mr. DOMENICI. Mr. President, I would like to ask the chairman, with whom I have conferred and whose staff I have conferred at length, would the chairman do his best to fully fund FLETC as requested by the President when he goes to conference?

Mr. CAMPBELL. Mr. President, I would be honored to support Senator DOMENICI's request in this amendment. I had some experience with FLETC, too. I visited the campus in Artesia, NM, a few years ago and was very impressed. It is one of the opportunities that Federal agencies really have to interact with each other, and certainly the agents who are going back to separate departments.

The Senator also mentioned other agencies. We have the Indian law enforcement agents who work throughout America.

Mr. DOMENICI. Exactly.

Mr. CAMPBELL. We have, of course, as every other subcommittee, only a certain amount of spending authority, and we have to deal with that. We have had a great many requests. We are now wrestling, in fact, with the request for the six high-density drug trafficking areas which are all becoming more expensive, and certainly they work in an allied fashion, because people who get out of FLETC sometimes go into those different agencies. But I want to assure the Senator I am very supportive and we will do our very best to come up with the money necessary to deal with the President's request.

AMENDMENT NO. 3383, WITHDRAWN

Mr. DOMENICI. Mr. President, I withdraw the amendment which I heretofore sent to the desk.

The PRESIDING OFFICER. The Senator's first amendment is withdrawn.

The amendment (No. 3383) was withdrawn.

AMENDMENT NO. 3384

(Purpose: To provide additional funding for the Federal Law Enforcement Training Center)

Mr. DOMENICI. I will send an amendment to the desk shortly which I hope will be adopted. This one is in behalf of myself, Senator COVERDELL, Senator BINGAMAN, and Senator CLELAND from the respective States, the largest center in Georgia by far, and we have kind of a small adjunct to it in the State of New Mexico. So all four Senators are on the amendment.

First, we are relying upon the distinguished chairman, who will see to it in conference that the President's request for operations and the like will be met, and that probably is already in the House bill.

This amendment says that within the amounts appropriated in the act, up to $20.3 million may be transferred to the acquisition, construction, improvements and related expenses account of the Federal Law Enforcement Training Center for new construction. I send that amendment to the desk. It is the one with the four Senators who I have mentioned.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. COVERDELL, Mr. BINGAMAN, and Mr. CLELAND, and others propose an amendment numbered 3384.

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

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

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. . Within the amounts appropriated in this Act, up to $20.3 million may be transferred to the Acquisition, Construction, Improvements, and Related Expenses account of the Federal Law Enforcement Training Center for new construction."

Mr. COVERDELL. Mr. President, I rise today to speak on behalf of an amendment that I have cosponsored and introduced today with my colleague from New Mexico and Chairman of the Budget Committee, Senator DOMENICI, regarding funding for the Federal Law Enforcement Training Center.

To date only fifty one percent of FLETC's master construction plan is completed, and this amendment would move FLETC closer toward its goal of being the centralized training center for our federal agencies.

Whether traveling in my home state of Georgia, or chairing a Subcommittee hearing on drug interdiction, the need to address the crisis we face with drugs and crime is consistently brought to my attention. Through continued funding and support of the Federal Law Enforcement Training Center we will be able to take the necessary steps to achieve this goal for all Americans.

Mr. President, I once again urge my colleagues to join me in supporting this amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. Mr. President, will the Senator withhold?

Mr. CAMPBELL. I withhold that.

Mr. DOMENICI. If there is nothing further before the Senate, is not the next matter adoption of the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3384) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank the chairman and ranking member for their help in this matter, and I yield the floor.

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

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

AMENDMENT NO. 3385

(Purpose: To provide for an adjustment in the computation of annuities for certain Federal officers and employees relating to average pay determinations, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3385.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. AVERAGE PAY DETERMINATION OF CERTAIN FEDERAL OFFICERS AND EMPLOYEES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended by inserting after section 8339 the following:

"§ 8339a. Average pay determination in certain years

"(a) For purposes of this section the term 'covered position' means—

"(1) any position for which pay is adjusted by statute whenever an adjustment takes effect under section 5303 (or any statute relating to cost-of-living adjustments in statutory pay systems in effect before the effective date of section 101 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509; 104 Stat. 1429)); or

"(2) any position for which pay is adjusted by rule, practice, or order based on an adjustment in the pay of a position described under paragraph (1).

"(b) Subject to subsection (d), for purposes of determining the average pay of an employee or Member, the basic pay of the employee or Member during a year described under subsection (c) shall be deemed to be the basic pay paid at the actual rate of pay adjusted by the same percentage as any cost-of-living adjustment of annuities under section 8340 which took effect during such year, on the date such cost-of-living adjustment took effect.

"(c) Subsection (b) refers to any year in which—

"(1) any cost-of-living adjustment of annuities under section 8340 took effect; and

"(2) the applicable employee or Member serving in a covered position did not receive an adjustment in pay described under subsection (a) (1) or (2) because a statute provided that such adjustment would not take effect with respect to a covered position described under subsection (a) (1).

"(d) Average pay shall be determined under this section, if the applicable employee or Member, or the survivor of such employee or Member, deposits to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the employee or Member during the period of service in a covered position and the amount which would have been deducted during such period if the rate of basic pay had been adjusted as provided under subsections (b) and (c), plus interest as computed under section 8334(e).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8339 the following:

"8339a. Average pay determination in certain years.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 84 of title 5, United States Code, is amended by inserting after section 8415 the following:

"§ 8415a. Average pay determination in certain years

"(a) For purposes of this section the term 'covered position' means—

"(1) any position for which pay is adjusted by statute whenever an adjustment takes effect under section 5303 (or any statute relating to cost-of-living adjustments in statutory pay systems in effect before the effective date of section 101 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509; 104 Stat. 1429)); or

"(2) any position for which pay is adjusted by rule, practice, or order based on an adjustment in the pay of a position described under paragraph (1).

"(b) Subject to subsection (d), for purposes of determining the average pay of an employee or Member, the basic pay of the employee or Member during a year described under subsection (c) shall be deemed to be the basic pay paid at the actual rate of pay adjusted by the same percentage as any cost-of-living adjustment of annuities under section 8462 which took effect during such year, on the date such cost-of-living adjustment took effect.

"(c) Subsection (b) refers to any year in which—

"(1) any cost-of-living adjustment of annuities under section 8462 took effect; and

"(2) the applicable employee or Member serving in a covered position did not receive an adjustment in pay described under subsection (a) (1) or (2) because a statute provided that such adjustment would not take effect with respect to a covered position described under subsection (a) (1).

"(d) Average pay shall be determined under this section, if the applicable employee or Member, or the survivor of such employee or Member, deposits to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the employee or Member during the period of service in a covered position and the amount which would have been deducted during such period if the rate of basic pay had been adjusted as provided under subsections (b) and (c), plus interest as computed under section 8334(e).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 84 of

title 5, United States Code, is amended by inserting after the item relating to section 8415 the following:

"8415a. Average pay determination in certain years."

(c) EFFECTIVE DATE.—This section shall take effect on January 2, 1999, and shall apply only to any annuity commencing on or after such date.

Mr. STEVENS. Mr. President, I will explain this amendment further tomorrow. What it does is deal with the computation of pay for retired Federal employees. It is an attempt to try to adjust the payment for retired former employees. It has nothing to do with the pay of any current Member. It will deal only with adjusting the pay of retired employees. I will explain it further. I ask it be set aside for the time being.

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

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise in objection to the amendment and suggest we vote on it tomorrow.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3386

(Purpose: To protect Federal law enforcement officers who intervene in certain situations to protect life or prevent bodily injury.)

Mr. CAMPBELL. Mr. President, I ask unanimous consent that I be allowed to send an amendment to the desk on behalf of Senator GRASSLEY and that it be considered as being the LOTT relevant amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. GRASSLEY, for himself, Mr. D'AMATO, Mr. SESSIONS, Mr. STEVENS and Mr. GRAMS, proposes an amendment numbered 3386.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ____. (a) DEFINITIONS.—In this section—

(1) the term "crime of violence" has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term "law enforcement officer" means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes reasonable action, including the use of force, to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence.

Mr. GRASSLEY. Mr. President, I thank my colleague from Colorado for offering my amendment. This is legislation that I originally offered last year as a free standing bill. I would like to say a few words on the amendment and ask my colleagues to support. It is co-sponsored by Senators D'AMATO, SESSIONS, STEVENS, and GRAMS.

First, let me remind my colleagues of what the amendment does. I have outlined these in letters to my colleagues and in my original statement on the floor. In addition, many of you have heard from various federal law enforcement associations that support this amendment. Its main intent is to address a problem, a gray area, in current law. As it now stands, the situation reminds me of the old saying that no good deed goes unpunished.

This involves what I call the 7–11 situation. Suppose for a moment that an off-duty Capitol Police officer or a Customs Agent or some other federal officer goes into the 7–11 to buy coffee. While he is there, a robber tries to hold up the store and is threatening the public with violence. Under the present circumstance a not so funny thing can happen. If the off-duty officer intervenes to protect the public and is hurt in the process. Or if someone is hurt in the incident, the officer could lose his workman's compensation or be sued by the felon for injuries because the Federal officer was acting outside the scope of his work. If he was not on duty or if the felony did not occur as part of the duties involved in his job description, he has no protections.

This is a real concern to serving officers. It puts them in a difficult situation. That is what this amendment fixes. It would give protection to Federal officers in these situations.

Now, let me make it clear. This does not mean an expansion of the authorities to Federal officers to make arrests in matters reserved to the states. I have checked this with the States' Attorneys General. This amendment also does not authorize Federal law enforcement officers to act like cowboys. Nothing in current law, even when acting on official duty, would permit an officer to act irresponsibly. They are subject to penalties if they should do so under their scope of work and they are subject to the same sanctions here.

What we have now, however, is a situation where a law enforcement officer has to make a sudden decision. Does he intervene to protect the public, which is what we would all expect? Or does he sit it out to avoid the risk of being sued or losing his workman's compensation if he is injured? I think I know what most of us would expect. I know what most of us believe is the responsible thing to do. We would expect the officer to intervene with a clear conscience and the knowledge that his act of decency and responsibility will not be punished. I would add that this situation, fortunately, is not a common one. It is, however, one that needs to be addressed.

I hope that we will adopt this amendment today. It has been a long time in coming and I urge my colleagues to join me in voting for it. Again, let me remind my colleagues that this language has been a free-standing bill for almost a year and has been available for comment. We have worked with DEA, Customs, and many others on the language. It has been provided to both majority and minority members. Most of these members have been visited by all the major Federal law enforcement associations and unions, which, I might mention, support this legislation wholeheartedly. I offer for the RECORD a few of the letters that have been written to me and other Members in support. I believe all the Federal law enforcement officers who risk their lives on our behalf deserve this much. We know only too well the risk they take on our behalf.

I ask unanimous consent that these letters be printed in the RECORD.

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

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION,
East Northport, NY, April 10, 1998.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of the approximately 14,000 members of the Federal Law Enforcement Officers Association (FLEOA), I wish to thank you for introducing S. 1031, the Federal Law Enforcement Officer's Good Samaritan Act of 1997. This bill has the support of every FLEOA member, their families, and their friends. FLEOA guarantees you of our strong support and, pledges our efforts to see that this important piece of legislation is passed.

FLEOA is a non-partisan professional association representing federal agents and criminal investigators from the federal agencies listed on the left masthead. We represent line agents, supervisors and managers, with over sixty chapters across the United States and several overseas. We provide a voice for our members to express their concerns regarding legislative activity in Washington, D.C., relating to law enforcement. Having visited over 25 chapters within

these last few months, I can assure you of the overwhelming support that S. 1031 has all over the country. Without a doubt, this piece of legislation will allow law enforcement to be more effective and better serve the American Public. We commend you for your efforts on S. 1031.

If you have any questions or need further information, please feel free to contact me directly at (212) 264-8406 or through FLEOA's Corporate Service offices at (516) 368-6117. We look forward to working with experienced and expert staffers, such as William Olson, on this issue. Thank you again.

Sincerely,

RICHARD J. GALLO,
President.

FRATERNAL ORDER OF POLICE,
EASTERN CHAPTER #111,
April 30, 1998.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of the men and women of the Fraternal Order of Police (FOP), lodge #111, I wish to thank you for introducing S. 1031, the Federal Law Enforcement Officer's Good Samaritan Act of 1997. This bill has the support of each and every member, their families, and friends. The F.O.P. guarantees you our strong support and pledges our efforts to see that this important piece of legislation is passed.

If you have any questions or need further information, please feel free to contact me directly at (215) 597-3507.

Sincerely,

FRANK NORRIS,
President #111.

THE LAW ENFORCEMENT
STEERING COMMITTEE,
Washington, DC, June 10, 1998.

Hon. ORRIN G. HATCH,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR HATCH: On behalf of the Law Enforcement Steering Committee (LESC), I write to request your support of S. 1031, the Federal Law Enforcement Officers Good Samaritan Act of 1998. The LESC is a nonpartisan coalition of police organizations collectively representing over 500,000 law enforcement officers and managers nationwide.

This bill, introduced by Senator Chuck Grassley in 1997, would provide full legal protection for federal law enforcement officers who intervene in certain situations to prevent loss of life or serious bodily injury to a citizen. This bill, if enacted, would offer legal protection to federal law enforcement officers who unexpectedly encounter and take action to prevent a violent crime in progress or to assist in an emergency. The bill does not expand the investigative authority or jurisdiction of any federal agency. The bill has the support of the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the National District Attorney's Association, and many other law enforcement organizations. The citizens of the United States would benefit in that the country's well trained and equipped law enforcement officers would be encouraged to assist the public. Federal law enforcement officers would benefit in the knowledge that the Congress of the United States supports them when they take appropriate action to help a citizen in need.

It is our desire to see this bill enacted during the 105th Congress. We would appreciate your assistance in this effort.

Sincerely,

ROBERT L. STEWART,
Chairman.

THE LAW ENFORCEMENT
STEERING COMMITTEE,
Washington, DC, June 10, 1998.

Hon. PATRICK J. LEAHY,
Ranking Minority Member, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR LEAHY: On behalf of the Law Enforcement Steering Committee (LESC), I write to request your support of S. 1031, the Federal Law Enforcement Officers Good Samaritan Act of 1998. The LESC is a nonpartisan coalition of police organizations collectively representing over 500,000 law enforcement officers and managers nationwide.

This bill, introduced by Senator Chuck Grassley in 1997, would provide full legal protection for federal law enforcement officers who intervene in certain situations to prevent loss of life or serious bodily injury to a citizen. This bill, if enacted, would offer legal protection to federal law enforcement officers who unexpectedly encounter and take action to prevent a violent crime in progress or to assist in an emergency. The bill does not expand the investigative authority or jurisdiction of any federal agency. The bill has the support of the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the National District Attorney's Association, and many other law enforcement organizations. The citizens of the United States would benefit in that the country's well trained and equipped law enforcement officers would be encouraged to assist the public. Federal law enforcement officers would benefit in the knowledge that the Congress of the United States supports them when they take appropriate action to help a citizen in need.

It is our desire to see this bill enacted during the 105th Congress. We would appreciate your assistance in this effort.

Sincerely,

ROBERT L. STEWART,
Chairman.

THE LAW ENFORCEMENT
STEERING COMMITTEE,
Washington, DC, June 10, 1998.

Hon. HENRY HYDE,
Chairman, House Committee on the Judiciary, Washington, DC.

DEAR REPRESENTATIVE HYDE: On behalf of the Law Enforcement Steering Committee (LESC), I write to request your support of H.R. 3839, the Federal Law Enforcement Officers Good Samaritan Act of 1998. The LESC is a nonpartisan coalition of police organizations collectively representing over 500,000 law enforcement officers and managers nationwide.

This bill, introduced by Senator Chuck Grassley in 1997, would provide full legal protection for federal law enforcement officers who intervene in certain situations to prevent loss of life or serious bodily injury to a citizen. This bill, if enacted, would offer legal protection to federal law enforcement officers who unexpectedly encounter and take action to prevent a violent crime in progress or to assist in an emergency. The bill does not expand the investigative authority or jurisdiction of any federal agency. The bill has the support of the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the National District Attorney's Association, and many other law enforcement organizations. The citizens of the United States would benefit in that the country's well trained and equipped law enforcement officers would be encouraged to assist the public. Federal law enforcement officers would benefit in the knowledge that the Congress of the United States supports them when they take appropriate action to help a citizen in need.

It is our desire to see this bill enacted during the 105th Congress. We would appreciate your assistance in this effort.

Sincerely,

ROBERT L. STEWART,
Chairman.

THE LAW ENFORCEMENT
STEERING COMMITTEE,
Washington, DC, June 10, 1998.

Hon. JOHN CONYERS,
Ranking Member, House Committee on the Judiciary, Washington, DC.

DEAR REPRESENTATIVE CONYERS: On behalf of the Law Enforcement Steering Committee (LESC), I write to request your support of H.R. 3839, the Federal Law Enforcement Officers Good Samaritan Act of 1998. The LESC is a nonpartisan coalition of police organizations collectively representing over 500,000 law enforcement officers and managers nationwide.

This bill, introduced by Senator Chuck Grassley in 1997, would provide full legal protection for federal law enforcement officers who intervene in certain situations to prevent loss of life or serious bodily injury to a citizen. This bill, if enacted, would offer legal protection to federal law enforcement officers who unexpectedly encounter and take action to prevent a violent crime in progress or to assist in an emergency. The bill does not expand the investigative authority or jurisdiction of any federal agency. The bill has the support of the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the National District Attorney's Association, and many other law enforcement organizations. The citizens of the United States would benefit in that the country's well trained and equipped law enforcement officers would be encouraged to assist the public. Federal law enforcement officers would benefit in the knowledge that the Congress of the United States supports them when they take appropriate action to help a citizen in need.

It is our desire to see this bill enacted during the 105th Congress. We would appreciate your assistance in this effort.

Sincerely,

ROBERT L. STEWART,
Chairman.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that this amendment be temporarily set aside.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, what is the order of business? I have an amendment I wish to send to the desk. Is that proper to do so at this time?

The PRESIDING OFFICER. It is proper to do so.

AMENDMENT NO. 3387

(Purpose: To provide additional funding to reduce methamphetamine usage in High Intensity Drug Trafficking Areas)

Mr. HARKIN. I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mrs. MURRAY, proposes an amendment numbered 3387.

Mr. HARKIN. 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:

At the appropriate place in the bill add the following:

On page 39, strike lines 10 through 12 and insert in lieu thereof the following: "Area Program, $179,007,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which $8,000,000 shall be used for methamphetamine programs above the sums allocated in fiscal year 1998 and otherwise provided for in this legislation with no less than half of the $8,000,000 going to areas solely dedicated to fighting methamphetamine usage and in addition no less than $1,000,000 of the $8,000,000 shall be allocated to the Cascade High Intensity Drug Trafficking Areas, of which"

Amend page 50, line 20 by reducing the dollar figure by $8,000,000;

Amend page 52, line 13 by reducing the dollar figure by $8,000,000.

Mr. HARKIN. Mr. President, there is a plague sweeping across our Nation. It is ruining an untold number of lives, claiming countless numbers of our children. It is in our streets as well as our classrooms. Drugs have become more abundant. But there is a new drug, one that is far more addictive and readily available than heroin, cocaine, or any other illegal narcotic. Methamphetamine is becoming the leading addictive drug in this Nation. From the suburbs, to city streets, to the corn rows of Iowa, meth is destroying thousands of lives every year. The majority of those lives, unfortunately, are our children.

Methamphetamine is commonly referred to as Iowa's drug of choice in my State. It is reaching epidemic proportions as it sweeps from the west coast, ravages through the Midwest, and is now beginning to reach the east coast. The trail of destruction of human lives as a result of methamphetamine addiction stretches across America.

To illustrate the violence that meth elicits in people, methamphetamine is cited as a contributing factor in 80 percent of domestic violence cases in my State, and a leading factor in a majority of violent crimes. I recently introduced the Comprehensive Methamphetamine Control Act which I think will get support and get through the Senate. But I offer this amendment today as an opportunity to take immediate action to help our Nation's law enforcement in their war on methamphetamine.

This amendment makes a simple and modest request, taking $8 million in certain offsets and puts those dollars where they can do real good to combat the growing problem of methamphetamine.

These funds will be added to the High Intensity Drug Trafficking Areas Program to be used for increased enforcement and prosecution of meth dealers, additional undercover agents, and to help pay for the tremendous cost of confiscation and cleanup of clandestine meth labs.

The number of meth arrests, court cases, and confiscation of labs continues to escalate. The number of clandestine meth labs confiscated and destroyed in 1998 is on pace to triple the number that was confiscated in 1997—so triple this year over last year. The cost of cleaning up each lab ranges from $5,000 to $90,000. This cost is being absorbed by communities who are not prepared or experienced to deal with the dangers of methamphetamine.

These clandestine meth labs create an enormous amount of hazardous waste. For every 1 pound of methamphetamine produced, there are 5 to 6 pounds of hazardous waste as a byproduct. This waste is highly toxic and seeps into the ground where eventually it ends up in our drinking water supply.

The dangers posed to law enforcement officers are also greatly increased by these meth labs. Many peddlers of meth have now what they call "kitchen" labs. Meth pushers are now simply using mobile homes or even pickup trucks to produce their drugs. Combining many volatile chemicals in an uncontrolled environment, meth labs are time bombs to police officers and communities everywhere.

I believe we have a window of opportunity as a nation to take a stand right now to defeat this scourge. This amendment will not solve all of these problems, but it will give law enforcement the support that they vitally need in their efforts to defeat this dangerous drug.

Mr. President, family after family is being devastated across the Midwest. In my State, I have seen methamphetamine skyrocket in its use—the importation in the State and the development of these methamphetamine labs in the State of Iowa. Communities are trying to fight this, but they do not have the resources. Children are being lost and getting hooked to this deadly drug every day. So the time now is to do whatever we can to try to halt the growth of these meth labs, to give our high-intensity drug traffic areas the tools that they need to stop this drug, to help our communities, and most importantly to help our law enforcement officials.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I want to assure the Senator we are doing our very best to find a resolution in the funding of this. We have four that we are working with. And just in my own personal experience of having worked with several, particularly one in Denver, CO, I am certainly aware of the good work that they do in coordinating local, State, tribal and Federal law enforcement agencies so they are not duplicating their efforts and so that these agencies can share ideas and share resources.

The Senator's comments certainly underscore the importance of trying to stop the growth of the methamphetamine labs. These things are volatile. They are mobile. They are contaminative, so even when you do go through an expensive process of cleaning them up, you still have to worry about what it has done to contaminate the area, particularly the earth.

So I just want to assure him, we are working very hard to find a resolution to make sure they are all funded properly. I thank the Senator for his comments.

Mr. HARKIN. I thank the chairman. I know of his great interest in this area. And I know of his great support for our law enforcement agencies to crack down on the methamphetamine labs. I know your chairman is having the same experience out in his State, too, as we are in Iowa. I understand that you and the chairman, and Senator KOHL, are working on putting all this together. Obviously, it would be my intention to withdraw the amendment if this whole thing gets worked out. I am sure that we will get it worked out.

I thank the Senators.

Mr. CAMPBELL. I thank the Senator for his comments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3388

(Purpose: To provide funding for Customs drug interdiction and High Intensity Drug Trafficking Areas)

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

The PRESIDING OFFICER. Without objection, the Harkin amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for himself, and Mr. KOHL, proposes an amendment numbered 3388.

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

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

The amendment is as follows:

At the appropriate place, strike and insert the following:

On page 10, line 14, strike through Page 10, line 20.

On page 17, line 7, strike "98,488,000," and insert in lieu thereof "113,488,000,"

On page 17, line 20 strike "1999." and insert in lieu thereof "1999: *Provided further*, That of the amount provided, $15,000,000 shall be made available for drug interdiction activities in South Florida and the Caribbean."

On page 39, line 10 strike "171,007,000" and insert in lieu thereof "183,977,000".

On page 39, line 19 after "criteria," insert "and of which $3,000,000 shall be used to continue the recently created Central Florida High Intensity Drug Trafficking Area, and of which $1,970,000 shall be used for the addition of North Dakota into the Midwest High Intensity Drug Trafficking Area, and of which $7,000,000 shall be used for methamphetamine programs otherwise provided for in this legislation with not less than half of the $7,000,000 shall expand the Midwest High Intensity Drug Trafficking Area, and of which $1,000,000 shall be used to expand the Cascade High Intensity Drug Trafficking Area, and of which $1,500,000 shall provided to the Southwest Border High Intensity Drug Trafficking Area,"

Mr. DEWINE. Mr. President, last week I introduced legislation that would bring a new, comprehensive strategy to America's effort against illegal drugs.

The Western Hemisphere Drug Elimination Act would support enhanced drug interdiction efforts in the major transit countries, and support a comprehensive supply eradication and crop substitution program in source countries. This legislation has 16 other Senate cosponsors.

Mr. President, this is a $2.6 billion authorization initiative over 3 years for enhanced international eradication, interdiction and crop substitution efforts. This important counter-drug initiative would restore a balanced drug control strategy by renewing our nation's commitment to international eradication and interdiction efforts—efforts that have proven successful in reducing the trafficking and use of illegal drugs. I believe that this is an important investment in the future of America—and the future of our children.

The day after the new drug initiative was introduced, I offered an amendment to the Transportation appropriations bill to provide much-needed resources for the U.S. Coast Guard—resources that will increase their drug interdiction capability. Other cosponsors of this amendment included Senators COVERDELL, GRAHAM, BOND, FAIRCLOTH, and GRASSLEY. This amendment, which was agreed to by voice vote, accomplishes two goals: First, it increases funds available for equipment devoted to drug interdiction by approximately $37.5 million. Second, the amendment sets aside resources needed to restore a much-needed drug interdiction operation in the Caribbean—an operation which I had the opportunity to visit earlier this year.

Today, I rise again with Senators COVERDELL, GRAHAM, BOND, FAIRCLOTH, GRASSLEY, and MACK to introduce an amendment to the Treasury, Postal appropriations bill. Specifically, we seek $15 million for enhanced drug interdiction efforts for the U.S. Customs Service in South Florida and the Caribbean.

Mr. President, in May, I traveled to the Caribbean for a very short—36-hour—visit to look at our interdiction operations there. I visited with U.S. Customs officials in Key West, Florida. It was on this very trip that I gained a greater appreciation of the actual difficult task of drug interdiction. I learned that it is far from an easy task—it is in fact highly dangerous.

U.S. Customs officials showed me video tapes of U.S. Customs go-fast boats pursuing Colombian go-fast boats in the middle of the night in high waves—waves that reached 5 or 6 feet. The videos showed Colombian boats ramming into our boats.

One of the key problems I learned about on that trip was that U.S. Customs has very few go-fast boats—and the ones they have lack 1990's technology. Our boats have a top speed of 70 mph—while Colombian boats can reach 80 or 90 mph. I rode in one of our go-fast boats in Key West during a mock chase—and I can tell you that even during the day and in low waves, this is dangerous work.

There can be no doubt that our U.S. Customs agents in Florida and the Caribbean need more equipment, better equipment dedicated to drug interdiction, and more personnel. Since 1986, the number of U.S. Customs vessels has decreased from 77 to 30. There has also been a significant decrease in maritime officers, from 124 to 23. In fact, U.S. Customs no longer runs a 7-day, 24-hour drug interdiction operation.

Mr. President, the amendment I offer today would provide U.S. Customs with more go-fast boats and more manpower for South Florida and the Caribbean. Let me tell you what this amendment would accomplish.

First, it would refurbish 22 interceptor and Blue Water Platform Boats. The interceptor boats are what is known as "go-fast boats." The Blue Water Platform Boats are for deep waters and have command and control capability—these vessels can accommodate satellite communications equipment and radar to communicate with the interceptor boats to enable them to better interdict the drug traffickers. Right now, these 22 vessels cannot be used because of lack of funding for refurbishment. This small amount of money will make a huge, huge difference. The amendment would also appropriate money for 9 new interceptor go-fast boats.

The amendment would also provide money for the hiring and training of 30 special agents—criminal investigators—for maritime operations. Finally, the amendment would provide resources for overhead coverage and operation and maintenance in the Caribbean.

Mr. President, this is a very important amendment which will accomplish a lot with a small amount of resources. The amendment has bipartisan support.

Mr. President, I see the distinguished Chairman and the Ranking Member of the Treasury, Postal Service, and General Government Subcommittee, Senator CAMPBELL and Senator KOHL. I thank them for their cooperation with this bipartisan amendment.

First, I want to make clear that I intend to work with the conferees and the Treasury Department on alternatives to fund this amendment. While an offset has been identified in order to pay for this amendment, I want to work with them to find alternatives.

Mr. CAMPBELL. I appreciate the efforts of the Senator from Ohio—first in offering this very important amendment and for his diligence in seeking additional funds for the U.S. Customs Service. I look forward to working with him on this important issue and we will work to address any remaining items during conference.

Mr. KOHL. I too appreciate the Senator from Ohio's efforts in seeking additional funds for the U.S. Customs Service to better interdict drug traffickers. I look forward to working with him to find an appropriate offset for this amendment.

Mr. DEWINE. Mr. President, again, I would like to express my thanks to the chairman and the ranking member of the Treasury, Postal Service, and General Government Subcommittee for their efforts to assist me and the distinguished list of cosponsors of this amendment. I also extend my thanks to the staff of the subcommittee for their efforts, which were nothing less than first rate.

Mr. President, this amendment today is another important step toward restoring a balanced drug interdiction strategy. I expect there will be many more steps in the future—steps that are needed if we are going to restore a truly balanced, truly effective drug control strategy. This amendment represents a bipartisan effort to make a targeted and specific investment in stopping drugs before they reach America. It will take similar efforts over the course of the next 3 years to bring our drug strategy back into balance, and most important, back on the course of reducing drug use in our homes, schools, and communities.

I thank the chair and I yield the floor.

Mr. CAMPBELL. This amendment deals with funding for Customs drug addiction, and High-Intensity Drug Trafficking Areas.

This amendment has been agreed to by both sides of the aisle. It accommodates Senators, DEWINE, CONRAD, HARKIN, GRAHAM, MACK, COVERDELL, BOND, FAIRCLOTH, GRASSLEY, BINGAMAN, and MURRAY.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 3388) was agreed to.

Mr. CAMPBELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3389

(Purpose: To express the sense of the Senate regarding payroll tax relief)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for Mr. KERREY, proposes an amendment numbered 3389.

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

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

The amendment is as follows:

SECTION 1. SENSE OF THE SENATE REGARDING THE REDUCTION OF PAYROLL TAXES.

(a) FINDINGS.—The Senate finds the following:

(1) The payroll tax under the Federal Insurance Contributions Act (FICA) is the biggest, most regressive tax paid by working families.

(2) The payroll tax constitutes a 15.3 percent tax burden on the wages and self-employment income of each American, with 12.4 percent of the payroll tax used to pay social security benefits to current beneficiaries and 2.9 percent used to pay the medicare benefits of current beneficiaries.

(3) The amount of wages and self-employment income subject to the social security portion of the payroll tax is capped at $68,400. Therefore, the lower a family's income, the more they pay in payroll tax as a percentage of income. The Congressional Budget Office has estimated that for those families who pay payroll taxes, 80 percent pay more in payroll taxes than in income taxes.

(4) In 1996, the median household income was $35,492, and a family earning that amount and taking standard deductions and exemptions paid $2,719 in Federal income tax, but lost $5,430 in income to the payroll tax.

(5) Ownership of wealth is essential for everyone to have a shot at the American dream, but the payroll tax is the principal burden to savings and wealth creation for working families.

(6) Since 1983, the payroll tax has been higher than necessary to pay current benefits.

(7) Since most of the payroll tax receipts are deposited in the social security trust funds, which masks the real amount of Government borrowing, those whom the payroll tax hits hardest, working families, have shouldered a disproportionate share of the Federal budget deficit reduction and, therefore, a disproportionate share of the creation of the Federal budget surplus.

(8) Over the next 10 years, the Federal Government will generate a budget surplus of $1,550,000,000,000, and all but $32,000,000,000 of that surplus will be generated by excess payroll taxes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) if Congress decides to use the Federal budget surplus to provide tax relief the payroll tax should be reduced first; and

(2) Congress and the President should work to reduce this tax which burdens American families.

Mr. KOHL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KOHL. Mr. President, I ask unanimous consent that the amendment be laid aside in keeping with the prior unanimous consent.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—AMENDMENT NO. 3356

Mr. CAMPBELL. Mr. President, I now ask unanimous consent that, notwithstanding the previous consent, it be in order on Thursday for the managers to offer a modification to amendment No. 3356, which was previously adopted.

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

DASCHLE MARRIAGE PENALTY AMENDMENT

Mr. BYRD. Mr. President, earlier today I voted to table an amendment to the Treasury-Postal Service appropriations bill that had been offered by the distinguished Democratic leader, Senator DASCHLE. So there will be no confusion with respect to my position on this issue, I wish to advise my colleagues of the reason for my opposition.

First, I am, as are others, deeply concerned with that anomaly in the tax code known as the "marriage penalty." I can think of no rational reason why two individuals—individuals who have vowed a lifelong commitment to each other through the sacred institution of marriage—should, in certain cases, have their combined income taxed at a higher rate than that of two unmarried persons. At a time of declining social values, it simply does not make sense for the Congress to sanction policies which clearly work to the detriment of family stability.

However, despite this concern, I could not, in all good conscience, support the Daschle amendment for the most basic of reasons, namely, that Article I, section 7 of the Constitution of the United States requires that all revenue bills originate in the House of Representatives, not here in the Senate. As I am sure my colleagues know, that is a prerogative that the House vigorously defends. Consequently, I believe that had the Daschle amendment been adopted to the Treasury-Postal appropriations bill, which is a Senate-originated bill, that that bill would have been subjected to a constitutional point of order in the House. In short, adoption of the Daschle amendment would have killed this very important appropriations measure.

Again, Mr. President, notwithstanding my vote earlier today, I wish my colleagues to know that I remain committed to working toward the goal of alleviating the marriage penalty in the tax code.

Mr. FAIRCLOTH. I would like to engage in a colloquy with Senator CAMPBELL from Colorado.

Mr. CAMPBELL. I would welcome the opportunity to engage in a colloquy with my colleague from North Carolina.

Mr. FAIRCLOTH. Mr. President, as you know there has been severe financial turmoil in Asia. This has lead to a dramatic increase in the trade deficit. It is my understanding that exports from Asian nations are up significantly, particularly with respect to textiles. This is an important industry to my home State of North Carolina. My principal concern is that when quotas are met, there will be an attempt to illegally ship textiles into this country through other countries, like Mexico. This is a process known as "transhipment." As you know, the U.S. Customs Service has frontline responsibility for enforcing the laws that would bar illegal shipments into this country. We have already written our Senate report, but I would hope that in Conference you would advocate report language that would encourage the Customs Service to step up their enforcement activities in this area.

Mr. CAMPBELL. I certainly agree with the Senator that this is an important issue and I will work with you on that. We are running high trade deficits. I will certainly work with the gentleman to encourage the Customs Service to work diligently to stop illegal textile shipments into the United

States. I thank the gentleman for raising this issue, I think it is one that deserves our attention and the attention of the administration.

Mr. FAIRCLOTH. I thank the Senator from Colorado and I look forward to working with him on this issue in conference.

Mr. TORRICELLI. It has come to our attention that concerns have been raised regarding report language in the Treasury-General Government Appropriations bill on tax standards for tax-exempt health clubs. We would like to enter into a colloquy to clarify our intent in including the report language.

Mr. KOHL. I am pleased to have this opportunity to address the concerns that have been raised. The issue of tax-exempt health clubs has been of concern in my home State of Wisconsin. However, I share the Senator from New Jersey's desire to clarify the intent of the report language. In so doing, we also have the opportunity to emphasize that no one wishes to harm community service organizations who are legitimately using their tax-exempt status to serve our young people, our families, and our seniors through a variety of health-related programs, including health and fitness programs.

Ms. MOSELEY-BRAUN. I, too, share Senator KOHL's concerns and want to be clear that long-standing community service providers engaged in legitimate tax-exempt activities related to their central mission will not be targeted by this study. I am also concerned, however, that some tax-exempt organizations are moving away from their core purpose and that there are legitimate concerns as to whether they are engaging in commercial competition with the for-profit sector. Was it the Committee's intent to address this concerns?

Mr. KOHL. Yes, it was. But while addressing those concerns, we certainly do not wish the Internal Revenue Service [IRS] to reinvent the wheel. The IRS has issued several private letter rulings and technical advice memoranda (including Technical Advice Memorandum 8502002) over the past years regarding the circumstances when adult fitness can be a charitable activity. It is my understanding that these rulings have stated that adult fitness is a charitable activity as long as the program serves a broad section of the community.

Mr. TORRICELLI. While considering current business practices, we would expect the IRS to focus on adult fitness provided by tax-exempt organizations that serve only adults.

Ms. MOSELEY-BRAUN. As a member of the Senate Finance Committee, I want to state that it is my understanding this report will in no way require the IRS to effect any changes in current tax policy. It only asks the IRS to provide clear guidance for examining the issue in light of new market factors that may need to be considered.

Mr. KOHL. I appreciate your input. I Know Senator GRASSLEY will also have a statement on this issue, and that I and the Senator from Colorado would certainly be happy to work with any and all group that may have further concerns as we prepare to conference the Treasury-General Government Appropriations bill with the House.

Mr. GRASSLEY. I rise today to express my concern about some language included in Senate report that accompanies this bill. This language is not in the House report. This Senate language directs the Internal Revenue Service to review the legal standards and decisions the IRS utilizes in determining when fitness services and activities of tax-exempt organizations should be subject to unrelated business income tax. The stated intent of this review is to insure that tax-exempt health clubs are not unfairly competing with for-profit health clubs. I am afraid that the effect of this language will be to harm non-profit community organizations. Is this the intent of the language?

Mr. CAMPBELL. No, it is not. This language is not intended to harm non-profit community organizations.

Mr. GRASSLEY. These non-profit community organizations provide a unique variety of programs based on community needs. Some of the programs offered are child care, Head Start, GED classes, job training, substance abuse prevention, delinquency prevention, teen centers, counseling, and health and fitness for all children, youth, families, and adults. They have partnerships with public housing projects, juvenile courts and schools. It is of utmost importance to me that the Congress not urge the IRS to change current IRS policies in a way that will hurt our communities and our families. The IRS has determined that adult fitness is a charitable activity as long as the organization serves a broad segment of the community. does the committee intend that this determination be changed?

Mr. CAMPBELL. No, it is not the committee's intent to change this determination because it would hurt the poor and the young—the very people who benefit most from these community organizations. I agree that it is important that these non-profit community organizations are able to continue to provide their health, fitness, and other services to both adults and children. I would be glad to work with you to insure that any language included in the conference report takes into account the unique aspects of these community organizations, and does not unfairly target them.

Mr. GRASSLEY. I thank the Senator from Colorado.

ATF ARSON TASK FORCES

Mr. HATCH. Mr. President, I see my friend and colleague, Senator CAMPBELL, on the floor. I would like to briefly discuss with him a concern I have relating to BATF arson task forces.

Mr. CAMPBELL. I would be glad to respond to my friend from Utah.

Mr. HATCH. I thank the manager of the bill for his courtesy. I was very pleased to note that the committee report accompanying this bill specifically notes that the program objectives of the BATF include assisting "Federal, State, and local investigative and regulatory agencies in explosives and arson-related areas."

Until recently, BATF was involved in just such a program in my State of Utah, where in the past year there has been a very troubling escalation of arsons connected with the animal rights movement. Utah has experienced a string of animal rights terrorism arsons, including an attack on a West Jordan McDonald's, the firebombing of a Murray mink co-op, and numerous other arsons.

I am very concerned, however, by reports last week that the BATF has withdrawn the last remaining agent assigned to this task force, leading to its imminent disbandment. I believe this will have a serious negative effect on counter-terrorism efforts in Utah, and will send the wrong message to those pursuing social and political goals through violence.

I think the Utah task force is exactly the type of program the Subcommittee has in mind, and I would like to ask Senator CAMPBELL if he agrees.

Mr. CAMPBELL. The Senator from Utah is correct. The arson task force he describes is exactly the kind of program the Subcommittee wishes the BATF to engage in.

Mr. HATCH. Would the Chairman also agree that BATF should devote sufficient resources to ensure the continued viability of these efforts?

Mr. CAMPBELL. I agree with the Senator that disbanding a successful taskforce sends the wrong message to arsonists.

Mr. HATCH. I would appreciate the Senator working with me to address my concerns over the BATF's withdrawing support for this important task force.

Mr. CAMPBELL. I would be happy to work with Senator HATCH to address his concerns, and ensure that BATF dedicates necessary resources to arson task forces such as the one he describes.

Mr. HATCH. I thank Senator CAMPBELL for his assistance and his courtesy, and yield the floor.

REDUCING THE NUMBER OF EXECUTIVE BRANCH POLITICAL APPOINTMENTS

Mr. FEINGOLD. Mr. President, in the past, the Treasury-Postal Appropriations bill has been the vehicle for proposals relating to an area of great concern to me; namely, growing numbers of executive branch political appointees, and I want to offer a few comments on this matter.

I was pleased to introduce legislation early in this session to address this issue. That bill, S. 38, would cap the total number of political appointees at 2,000, and I am pleased to be joined in that effort by my good friend, the Senior Senator from Arizona (Mr. MCCAIN). Our proposal to cap the number of political appointees has been estimated by CBO to save $330 million over five years.

Mr. President, our bill was based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the Presidential Appointment Process. The task force findings are only the latest in a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO's annual publication, "Reducing the Deficit: Spending and Revenue Options," and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

Mr. President, our proposal is also consistent with the recommendations of the Vice President's National Performance Review, which called for reductions in the number of federal managers and supervisors, arguing that "over-control and micro management" not only "stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs."

Those sentiments were also expressed in the 1989 report of the Volcker Commission, when it argued the growing number of presidential appointees may "actually undermine effective presidential control of the executive branch." The Volcker Commission recommended limiting the number of political appointees to 2,000, as our legislation does.

Mr. President, it is essential that any Administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership.

Between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of Executive Branch employees and looking back to 1960 their growth is even more dramatic. In his recently published book "Thickening Government: Federal Government and the Diffusion of Accountability," author Paul Light reports a startling 430% increase in the number of political appointees and senior executives in Federal government between 1960 and 1992.

In recommending a cap on political appointees, the Volcker Commission report noted that the large number of presidential appointees simply cannot be managed effectively by any President or White House. This lack of control is aggravated by the often competing political agendas and constituencies that some appointees might bring with them to their new positions. Altogether, the Commission argued that this lack of control and political focus "may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable."

The Volcker Commission also reported that the excessive number of appointees is a barrier to critical expertise, distancing the President and his principal assistants from the most experienced career officials. Though bureaucracies can certainly impede needed reforms, they can also be a source of unbiased analysis. Adding organizational layers of political appointees can restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

Author Paul Light says, "As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them." Light adds that "Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively. . ."

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the mushrooming number of political appointees; namely, the increasingly lengthy process of filling these thousands of positions. As the Task Force reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The Task Force noted that "on average, appointees in both administrations were confirmed more than eight months after the inauguration—one-sixth of an entire presidential term." By contrast, the report noted that in the presidential transition of 1960, "Kennedy appointees were confirmed, on average, two and a half months after the inauguration."

In addition to leaving vacancies among key leadership positions in government, the appointment process delays can have a detrimental effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can "wait for months on end in a limbo of uncertainty and awkward transition from the private to the public sector."

Mr. President, there is little doubt that the large number of political appointments currently made aggravates a cumbersome process, even in the best of circumstances. The long delays and logjams created in filling these positions under the Bush and Clinton Administrations simply illustrates another reason why the number of positions should be cut back.

Mr. President, let me also stress that the problem is not simply the initial filling of a political appointment, but keeping someone in that position over time. The General Accounting Office reviewed a portion of these positions for the period of 1981 to 1991, and found high levels of turnover—7 appointees in 10 years for one position—as well as delays, usually of months but sometimes years, in filling vacancies.

Mr. President, I was pleased to see the Government Affairs Committee beginning to examine issues surrounding political appointees and the political appointment process. The issues of vacancy rate, turnover, delays in the appointment process, and of course the total number of appointees, all merit scrutiny by that Committee, and I would very much like to work with Chairman THOMPSON and the Committee in crafting a bipartisan response to the set of problems that have been identified in this area.

I am also encouraged that the Administration is moving forward as well. The total number of appointees is down from last year, and down significantly from the levels seen in 1992. This is a healthy trend, and I very much hope it continues.

Mr. President, because the Government Affairs Committee is examining a variety of issues surrounding the presidential appointment process, and with the modest improvements in the overall number of political appointees, I will not pursue an amendment to the Treasury-Postal Appropriations measure capping the number of political appointees.

I will, however, continue to monitor the progress made both by the Government Affairs Committee and the Administration. This issue is important not only because of the potential to realize significant deficit reduction, but also because of the impact the appointees have on the day to day functioning of government.

As we move forward to implement the NPR recommendations to reduce the number of government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any Administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

RANDOM AUDITS BY THE IRS

Mr. COVERDELL. Mr. President, I rise today to express my appreciation to the managers for accepting an amendment to S. 2312, the FY 1999 Treasury-Postal Service Appropriations bill, regarding the practice of randomly selecting innocent taxpayers for audits, otherwise known as random audits. This is an issue that has been a

focus of mine for a long time. I would like to take this opportunity to discuss this matter with my good friend, the senior Senator from Colorado and the manager of the bill, who shares my concern about the impact the Internal Revenue Service has upon taxpayers and the potential for abuse of taxpayers' rights.

Mr. CAMPBELL. Indeed, I share many of the concerns of Senator COVERDELL regarding taxpayer rights. I commend the Senator for his tenacious work on behalf of taxpayers, particularly low-income taxpayers who are least able to defend themselves. This amendment the Senator offers presents a critical foundation upon which the Senate can build.

Mr. COVERDELL. I thank my good friend. Over the past several years, all of us have seen news accounts of regular, average citizens who have become the targets of grueling IRS audits. These individuals were neither wealthy nor powerful; in fact, they were most often ordinary, law-abiding taxpayers who earned a modest wage, ran a small business, or operated a family farm. Some struggled just to make ends meet, and many were understandably confused about what wrong they had committed to justify the scrutiny of the IRS.

The truth is they committed no wrong. They were simply unfortunate victims of a scandalous IRS practice called "random audits," where the IRS just picks people out of a hat in the hope it can uncover some wrongdoing.

A recent report produced by the General Accounting Office at my request confirms that the IRS has been targeting thousands of poor taxpayers and small businesses for random audits. In fact, almost 95 percent of all random audits performed between 1994 and 1996 were conducted on individual taxpayers who earned less than $25,000 each year.

Last fall, hearings held by the Senate Finance Committee brought the IRS's abuse of taxpayers to the attention of the entire Nation. One witness, Jennifer Long, who is a current field agent with the IRS, remarked, "As of late, we seem to be auditing only the poor people. The current IRS Management does not believe anyone in this country can possibly live on less than $20,000 per year, insisting anyone below that level must be cheating by understating their true income."

The IRS' belief that low-income families are more likely to cheat than others serves as a disturbing sign of how far it has strayed from the principles of American justice. The GAO report also indicates that the IRS has been specifically targeting the State of Georgia for random audits. Nearly twice as many random audits took place in Georgia between 1994 and 1996 than in all the New England states combined and Georgians are three-times more likely to be randomly audited than their California counterparts. Earlier this year, I introduced legislation to prohibit the use of random audits by the IRS and will continue to protect innocent taxpayers.

AMENDMENT OF THE GUN CONTROL ACT TO EXEMPT CERTAIN MUZZLE LOADING WEAPONS FROM REGULATION

Mr. GRASSLEY. Mr. President, according to the amendment, would the Knight DISC rifle manufactured in my State fall under the definition of a muzzle loader, or a regulated firearm?

Mr. CAMPBELL. The Knight DISC rifle would be defined as a muzzle loader.

Mr. GRASSLEY. Mr. President, with regard to the amendment of the Gun Control Act to Exempt Certain Muzzle Loading Weapons from Regulation ("the amendment"), in subparagraph (c), did the Committee intend "fixed ammunition" to mean a completed centerfire or rimfire cartridge?

Mr. CAMPBELL. Yes, for the purposes of the amendment, fixed ammunition is defined as a complete centerfire or rimfire cartridge.

Mr. GRASSLEY. Mr. President, subparagraph (c) of the amendment states that the term "antique firearm" shall not include any weapon which incorporates a firearm frame or receiver . . ." However, the amendment does not define the terms firearm frame or receiver.

Mr. CAMPBELL. For the purpose of the amendment, a firearm frame or receiver is defined as a serial numbered firearm frame or receiver.

Mr. GRASSLEY. Mr. President, the first sentence of subparagraph (c) of the amendment does not address the types of ignition systems which would fall within the definition of muzzle loading rifles.

Mr. CAMPBELL. The Committee did not address the issue of ignition systems because muzzle loaders may use black powder or a black powder substitute with any ignition system.

BLUE WATER VESSELS

Ms. SNOWE. Mr. President, I would like to take a moment to address my colleagues on a matter of critical importance to our national drug interdiction program.

I am very concerned about the condition of some of the currently deployed drug interdiction vessels. I understand that some of the vessels currently deployed in the U.S. Customs Service's marine program fleet are 30 years old and may pose a threat to U.S. Customs Service agents and the viability of our drug interdiction program.

The Customs Service already has a contract to build replacement vessels on demand. However, this contract will expire at the end of FY 1999, and no vessels have been purchased to date. I believe the Customs Service should extend this contract and make efforts to replace aging vessels in the field a high priority.

Mr. CAMPBELL. I thank Senator SNOWE for bringing this serious matter to our attention. I certainly understand and share her concerns about the importance of operating these drug interdiction vessels in a safe condition.

Ms. SNOWE. In recent years, drug seizures by the Customs Service have increased significantly. This progress is due in no small part to the Customs agents who put their lives on the line to help stem the flow of illegal narcotics into the United States. Protecting our borders and reducing the proliferation of narcotics is an enormous challenge.

It is imperative that we maintain the viability of our drug interdiction program and the fleet we use to enforce our drug laws on the high seas. I believe procurement of drug interdiction vessels would be an invaluable investment in our drug interdiction program.

In 1995, the U.S. Customs Service entered into a contract to build 82-foot "blue water" vessels for drug interdiction. As I mentioned, the contract was effective through FY 1999 but no vessel has been built.

These vessels have a proven track record, and the contract was awarded by Customs in anticipation of resources for replacement vessels. However, the FY 1995 budget request proposed a 50-percent reduction in Customs marine program operations and staffing. The Congress restored some of the funding for this program. However, no additional funds were appropriated to Customs for the replacement costs of vessels.

Mr. CAMPBELL. The Customs Service has certainly had to make difficult choices in the marine program under budget constraints. However, I recognize the importance of these vessels to drug interdiction efforts.

Ms. SNOWE. I am grateful to Senator CAMPBELL and Senator KOHL for their leadership on this important program. In the Committee's report on FY 1999 Customs' appropriations, the Committee recognizes the importance of the blue water vessels as a central component of the marine interdiction strategy, and urges the Customs Service to maintain its fleet of blue water vessels at a level which is safe for its agents.

I understand the delicate funding balance that the Customs Service and the Committee must strike. I had hoped to see some replacement blue water vessels built in FY 1999. Unfortunately, it was not possible to allocate the funding for this purpose this year. However, we should not let this opportunity to upgrade these vessels slip by—I believe we should ensure that the option to fund these vessels remains in the event that funding becomes available next year.

Again, Customs already has a contract to build these vessels on demand scheduled to expire in the 1999 fiscal

year. I strongly believe that Customs should extend this contract.

Mr. CAMPBELL. I agree that the U.S. Customs Service should revisit this issue.

Ms. SNOWE. Again, I applaud the leadership of the Committee on this matter, and thank them for their cooperation. I look forward to working with the Committee on this continuing and important effort in the future.

MARRIAGE PENALTY AMENDMENTS

Mr. DODD. Mr. President, I rise today to offer my views on providing tax relief for working families, and more specifically about the marriage penalty. I have always supported efforts to alleviate the tax burden felt by many of our nation's working families. In 1993, I supported tax cuts for millions of working families making less than $30,000 per year through an expansion of the Earned Income Tax Credit. And again, last year, I supported tax cuts targeted toward working families, including the $500 per-child-tax credit, the $1,500 HOPE education tax credit, reinstatement of student loan deductions, full deductibility of health insurance premiums for the self-employed and capital gains and estate tax relief, I was pleased to support these tax cuts, Mr. President, because each was carefully targeted, fully paid for, and consistent with a balanced budget.

Today, I continue to support efforts to bring relief to working families, including providing them with substantial relief from the marriage penalty. Yet, despite my support for repealing the marriage penalty which affects more than 20 million American families, I felt compelled to vote against the amendment offered by Senator BROWNBACK, because in my view, the amendment did not provide targeted relief to those who need it most. In fact, Senator BROWNBACK's amendment would offer marriage penalty relief to only about 40 percent of those currently penalized. Moreover, this amendment was both a costly measure—costing $125 billion over five years and $300 billion over the next ten years—and one that was not paid for.

Mr. President, because Senator BROWNBACK's amendment was not offset, it would have significantly drained the Treasury and put an incredible strain on the Social Security trust fund. Indeed, had this amendment been adopted without an offset as proposed, we would be forced to make draconian across-the-board spending cuts to all discretionary spending, including many important programs like Head Start, public health programs, and defense. In addition, this amendment threatened to use as its offset, funds from the Social Security reserves, which clearly would jeopardize the solvency of and undermine the strength of the Social Security trust fund. Mr. President, in my view, we could ill afford to pay for this amendment with either option, and that is why I, in good conscience, could not support this amendment.

I want to be clear, however, that I support efforts to repeal the marriage penalty. Yet I remain committed to doing so in a way that does not harm the progress we've made in balancing the budget and in a way that targets relief to working families who need it most. That is why I was pleased to support the Democratic alternative, which would have reduced the marriage penalty in the tax code for approximately 90 percent of the families currently penalized. Indeed, this amendment was carefully targeted and would cut the marriage tax penalty more for a greater number of families Furthermore, this proposal would have cost far less than Senator BROWNBACK's proposal—$7 billion over five years and $21 billion over the next ten years. And finally, the Democratic alternative was fully offset without using reserves from the Social Security trust fund, but rather by using a number of widely supported proposals from the President's budget.

Although I was disappointed that the Democratic alternative was defeated, I remain hopeful that Congress will continue to work to repeal the marriage penalty in a way that is both fiscally responsible and carefully targeted to the American families who need relief the most.

Mr. KYL. Mr. President, I wish to enter into a colloquy with the Chairman of the Subcommittee, Senator CAMPBELL, regarding the importance of High Intensity Drug Trafficking Areas (HIDTAs).

Mr. CAMPBELL. I understand the Senator's interest in this area.

Mr. KYL. Mr. President. I would like to take a few minutes to describe the importance of HIDTAs, and specifically the creation of a new Central Arizona HIDTA.

As you know, HIDTAs are an effective mechanism for fighting drugs and especially for combating the increase in methamphetamine use and meth labs. Arizona has a huge problem with meth and meth lab cleanup. In April, I held a field hearing in Phoenix on this issue and I heard first-hand about the magnitude of the drug problem in urban and rural areas of the state. For example, I heard testimony that the Maricopa County HIDTA Meth Lab Unit presently dismantles an average of three labs per week and that, during fiscal year 97, it seized 137 meth labs. Projections for seizures this year are expected to reach 200. Moreover, the DEA testified that clandestine lab seizures in Arizona have increased 910 percent since 1994.

The formation of a new Arizona HIDTA, the Central Arizona HIDTA, is a cooperative effort among three Arizona counties—Maricopa, Pinal, and Mohave—representing both rural and urban interests.

Designating new HIDTAs where a need can be demonstrated and where law enforcement has joined together is key to stopping the spread of drugs. I look forward to working with you to ensure that new HIDTAs, like the Central Arizona HIDTA, receive funding.

Mr. CAMPBELL. This Committee is increasingly aware of the unique problems meth poses, as well as the cleanup of their toxic labs. This is an area where a HIDTA can provide much needed assistance to a community, therefore I can understand your interest in the creation of a Central Arizona HIDTA. I look forward to working with the Senator in the coming months to address these concerns.

Mr. KYL. I thank the Senator.

TAX CODE TERMINATION

Mr. SMITH of New Hampshire: Mr. President, I rise today in support of the Tax Code Termination Act, which had been proposed as an amendment to the Treasury-Postal Appropriations Act. This measure, which I cosponsored with Senators HUTCHINSON and BROWNBACK, would sunset the Federal Tax Code by the end of 2002.

Our current Tax Code, with its many rates, deductions and exemptions, needs to be replaced with a simpler, fairer system that will eliminate the bias against savings and investment and promote economic growth. Consider these facts:

The Tax Code is made up of about 7,500 pages. All the Internal Revenue Service regulations, rulings and tax court decisions add tens of thousands more pages. By contrast, when the income tax was enacted eighty-five years, the Tax Code was under twenty pages long.

By the most conservative estimate, the total cost of collecting taxes, including the value of the 4.5 billion hours that taxpayers spend preparing tax returns, is $75 billion per year. Other estimates are several times higher. The cost of complying with some provisions exceeds what the government collects in taxes.

I can think of no more fitting commentary on the tax laws that are on the books today than The Federalist Papers, and I quote: "It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood."

Is there any doubt that our current Tax Code is too voluminous to be read or too incoherent to be understood? There probably is not a single accountant who understands the Code in its entirety. Not even the IRS, which employs about 110,000 people and is twice as big as the CIA, seems to have a complete grasp on the Code. In 1993, for example, the IRS provided an estimated 8.5 million incorrect or incomplete answers to taxpayer inquiries, and taxpayers were overcharged an estimated $5 billion in penalties.

Another measure of the Code's complexity is the number of disputes it

generates. As many as 40 percent of major corporate audits end up in administrative or legal disputes. Some last for years.

The Tax Code is so burdensome that it encourages tax evasion and distorts investment. the IRS has reported that there are hundreds of people who pay no taxes on incomes of more than $200,000 per year. Remember Leona Helmsly, the New York real estate magnate who spent eighteen months in jail for tax evasion? According to her former housekeeper, Leona said: "[w]e don't pay taxes. Only the little people pay taxes." Taxpayers who can afford to pay for tax planning have a strong incentive to invest in schemes to avoid paying taxes instead of investing in productive enterprises that will help the economy thrive.

Up to 30% of individuals reporting business income are not complying with the Tax Code, according to the IRS. Small wonder that many small businesses are not in compliance, when we consider the Code's complexity. For every $100 they paid in income taxes, small businesses with net profits paid an estimated $377 in accounting fees and other costs to comply with the tax laws, according to a 1996 Tax Foundation report. If the current tax code were not so complex, perhaps we would not be facing the enforcement problems that we brought to light by the Finance Committee in its April 1998 IRS oversight hearings.

Critics of the Tax Code Termination Act maintain that it would be irresponsible to sunset the Tax Code until a substitute is prepared. But there are already a number of other federal programs on the books that contain sunset language; and why should the Tax Code by any different? This legislation simply sets a fixed date by which the Tax Code will have to be reauthorized, thereby forcing the President and Congress to engage in a meaningful dialogue on the issue.

Mr. President, I urge my Senate colleagues to take the first step toward meaningful tax reform by setting a date when the Tax Code will expire. We should discard the current maze that is our Tax Code and enact a new tax system that is simple, fair and does not discourage savings or investment.

Mr. McCAIN. Mr. President, I want to thank the managers of this bill for their hard work in putting forth this legislation which provides federal funding for numerous vital programs. The Senate will soon vote to adopt the Treasury and General Appropriations Bill for the Fiscal Year 1999. I intend to support this measure because it provides funding for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies.

Mr. President, as elected officials, we bear no greater responsibility than to see the American people's hard earned tax dollars utilized in the most prudent fashion. We must remain committed to open and fair consideration of public expenditures. Our objective must always be to further the greatest public good. This must remain the cornerstone of the appropriations process.

I admit that this is a difficult task. Each year the appropriators face the daunting task of supporting necessary governmental activities and balancing additional competing interests for funding. However, this is a challenge that we must firmly uphold with integrity. I come forward to this body to once again declare that we are undermining the national faith by continuing the practice of earmarking and inappropriately designating funding for projects based on erroneous criteria rather than national priority and necessity.

After reviewing the Treasury Postal Appropriations Bill, it is painfully clear the subcommittee has not lost its appetite for pork-barrel spending. This bill has been fattened up with vast amounts of low-priority, unnecessary and wasteful spending. In fact, this appropriations bill contains well over $826 million in specifically earmarked pork-barrel spending. This is more than $791 million more than last year's pork-barrel spending total for this bill, which only contained $34.25 million in wasted funds. In addition, the bill and report directs that current year spending be maintained for hundreds of projects, without being specific about any dollar amount.

We now have the first unified-budget surplus in nearly 30 years. CBO projects that we will have $1.6 billion of budget surpluses over the next 10 years. However, if we continue with our current levels of wasteful spending, these budget surpluses may not occur. Pork-barrel spending today not only robs well-deserving programs of much needed funds, it also jeopardizes our fiscal well-being into the next century. I would be remiss if I did not inform the American public of the seriousness and magnitude of wasteful spending endorsed by this body. These individual earmarks may not seem extravagant. However, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low priority programs at the expense of numerous programs that have undergone the appropriate merit-based selection process. I take very strong exception to a large number of provisions in the bill before us today.

As usual, this bill and report contain numerous earmarks of new funds for particular states, as well as language designed to ensure the continued flow of federal funds into certain states. I have compiled a lengthy list of these and numerous other add-ons, earmarks in this bill. I will not spare precious time to recite the entire list. Instead, I will ask unanimous consent to have this list printed in the RECORD. However, I will discuss some of the more troubling provisions in this bill in detail.

Mr. President, this bill contains a provision which requires the Postal Service to work with the Hawaii Department of Agriculture to devise a plan to combat pest introduction into Hawaii through the U.S. mail. Also contained in this report is over one half billion dollars in new courthouse construction specifically allocated to certain states and localities. This type of earmarking of federal funds must stop.

Mr. President, in the last few weeks, the Senate has wasted billions of taxpayers' dollars on wasteful, unnecessary, or low priority projects. Most alarming, we still have 5 more appropriations bills still to be considered. When will Congress curb its appetite for wasteful pork-barrel spending? How much is too much?

Mr. President, I will not deliberate much longer on the objectionable provisions of this bill. I simply ask my colleagues to apply fair and reasonable spending principles when appropriating funds to the multitude of priority and necessary programs in our appropriations bills. Fiscal responsibility yields long term dividends to America as a whole. Moreover, responsible spending will renew the public's faith in their elected representatives, while also insuring that America realizes any projected budget surpluses.

Congress can ill afford to waste taxpayers' hard-earned dollars. Let us use these budget surpluses to pay down our multi-trillion-dollar national debt. Let us use the anticipated budget surpluses to save social security and for additional tax cuts. These objectives further the greater public good, and our long-term prosperity. Wasteful pork-barrel spending which has limited short term benefits to a few obscure special interests, does not further the public good. It drains our budget, and threatens our long-term prosperity. Congress will only make our potentially prosperous future a reality if it curbs its appetite for pork-barrel spending.

Mr. President, I urge my colleagues to think seriously about the repercussions that could soon be felt right here in this body, if we continue the long-standing practice of pork-barrel spending. Wasteful pork-barrel spending simply erodes the public's trust in our system of government. Congress must reaffirm its commitment to furthering the public good by curbing its appetite for pork-barrel spending.

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

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

LOW PRIORITY, UNNECESSARY, OR WASTEFUL SPENDING CONTAINED IN S. 2312, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS BILL FOR FISCAL YEAR 1999

The total dollar amount included in this bill is more than $3 billion over the Fiscal Year 1999 budget request.

BILL LANGUAGE

Sections 506, 507, 508, and 606 all contain the usual protectionist, Buy-America provisions.

REPORT LANGUAGE

BATF: $4.5 million to expand the National Tracing Center in Martinsburg, WV. $2.4 million for 12 trafficking agents, three of which are to be for Milwaukee, WI. The Committee urges the BATF to give strong consideration to Aurora, CO, Denver, CO, and Omaha, NE in determining the new locations for the expansion of the Youth Crime Gun Interdiction Initiative.

U.S. Customs Service: Language directing the Customs Service to maintain staffing levels at the Charleston, WV Customs office.

$750,000 for part-time and temporary positions in the Honolulu Customs District.

Language directing the Customs Service to ensure the staffing levels are sufficient to staff and operate all New Mexico border facilities.

Language stating that a high priority should be placed on the funding of the ports of entry in Florida.

Language directing the Customs Service to study the staffing levels of the Great Falls, MT area.

Language directing the Customs Service to conduct a feasibility study on the creation of an international freight processing center in McClain County, OK.

Language encouraging the Blaine, WA area port director to continue the current onboard clearance procedures for Amtrak passengers traveling inbound from Vancouver, BC.

$500,000 to expand the Vermont World Trade Office due to the fact that the current office has been "overwhelmed by requests from companies interested in exploring opportunities".

Internal Revenue Service: Language directing the IRS to maintain problem resolution specialist, problem resolution officer and associate problem resolution officer positions in the States of Alaska and Hawaii. Language stating that any reorganization of the IRS Criminal Investigative Division may not result in a reduction of criminal investigators in Wisconsin and South Dakota.

U.S. Postal Service: Language directing the Postal Service, together with the USDA and the Hawaii Department of Agriculture, to devise and implement a program to combat pest introduction into Hawaii through the U.S. mail.

Office of National Drug Control Policy: $1.5 million to expand the Milwaukee High-Intensity Drug Trafficking Area (HIDTA).

Language urging the Office of National Drug Control Policy (ONDCP) to give special consideration to the State of Hawaii's application to be HIDTA.

Language encouraging the ONDCP to assist in the clean up of methamphetamine labs in Missouri, Washington, Iowa, and New Mexico.

Language urging the ONCDP to consider Omaha, NE as the site for future conferences relating to methamphetamine.

General Services Administration: The Committee has funded the Federal Buildings Fund - Construction and Acquisition account at $553 million, which is $509 million above the budget request.

New Construction: $3.4 million for a U.S. Courthouse in Little Rock, AR.

$15.4 million for a U.S. Courthouse in San Diego, CA.

$10.8 million for a U.S. Courthouse in San Jose, CA.

$84 million for a U.S. Courthouse in Denver, CO.

$14.1 million for DOT Headquarters in Washington, D.C.

$10 million for the Southeast Federal Center remediation in Washington, D.C.

$86 million for a U.S. Courthouse in Jacksonville, FL.

$1.9 million for a U.S. Courthouse in Orlando, FL.

$46.5 million for a U.S. Courthouse in Savannah, GA.

$5.6 million for a U.S. Courthouse in Springfield, MA.

$572,000 for a Michigan border station.

$7.5 million for a U.S. Courthouse in Mississippi.

$2.2 million for a U.S. Courthouse in Missouri.

$6.2 million for a border station in Montana.

$152.6 million for a U.S. Courthouse in Brooklyn, NY.

$3.2 million to New York U.S. Mission to the United Nations.

$7.2 million for a U.S. Courthouse in Eugene, Oregon.

$28.2 million for a U.S. Courthouse in Greenville, TN.

$28.1 million for a U.S. Courthouse in Laredo, Texas.

$29.3 million for a U.S. Courthouse in Wheeling, WV.

$10 million for Nationwide: nonprospectus.

Language granting the GSA the authority to purchase the property located on block 111, East Denver, Denver, CO.

Language directing $475,000 of nonprospectus construction funds be used for the planning of the Mauna Kea Astronomy Educational Center in Hawaii.

Language stating that the Administrator of the GSA is not permitted to obligate funding for the design of the new headquarters of the DOT until the Secretary of Transportation approves landing rights for British Airways at Denver International Airport and Guarantees landing slots to the U.S. carrier authorized to serve the Charlotte-London (Gatwick) route.

FUNDING FOR REPAIRS AND ALTERATIONS TO FEDERAL BUILDINGS

$29.8 million for an appraisers building in San Francisco.

$29.4 million for the Denver Federal Building in CO.

$13.8 million for Federal Building 10B in Washington, D.C.

$84 million to the ICC.

$25.2 million for the OEOB.

$29.8 million for the State Department.

$20 million for an IRS service Center in Brookhaven, NY.

$4.8 million for a U.S. Courthouse in New York.

$11.2 million for a courthouse in Philadelphia, PA.

$9.1 million for the J.W. Powell Building in Reston, VA.

Language directing the GSA to upgrade the lighting system for the Bryne-Green Federal Courthouse in Philadelphia, PA.

$1.6 million for basic repair and alteration of a U.S. Courthouse and Federal Building located in Milwaukee, WI.

$1.1 million for a new fence around the Federal complex in Suitland MD.

$2.8 million for the Zorinsky building in Omaha, NE.

Language directing the GSA to study the cost and need for repair of the Federal Building in Tuscaloosa, AL.

Language directing the GSA to study the alternatives to repairing the Butte-Silver Bow Courthouse in Butte, MT.

Language directing the GSA to work with BATF to provide adequate facilities to meet the space needs of the National Tracing Center in Martinsburg, WV. ($4.5 million has been directed to this facility under a different account previously in this report.)

Language urging the GSA to report on the responsibility of the Federal Government to fund and provide security to the Federal complex in Newark, NJ.

Language directing the GSA to support the 1999 Women's World Cup Soccer and the 1999 World Alpine Ski Championships in Vail, CO.

Language directing the GSA to give the U.S. Olympic Committee special consideration to acquire a Federal Building in Colorado Springs, CO—should it become available.

Language providing for the demolition, cleanup, and transfer of property in Anchorage, AK.

Language stating that the GSA may convey the site which contains the U.S. Army Reserve Center in Racine, WI to the City of Racine.

National Archives: $875,000 to address space inadequacies in the Anchorage, AK facility.

Office of Personnel Management: Language directing the OPM to continue to work with the University of Hawaii to develop culturally sensitive model health programs.

MORNING BUSINESS

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

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

TRIBUTE TO DETECTIVE JOHN GIBSON, OFFICER JACOB CHESTNUT, AND THE MEMBERS OF THE CAPITOL POLICE FORCE

Mr. FEINGOLD. Mr. President, in the wake of the terrible crime committed in the Capitol last Friday, I want to take a moment to reflect on the courage exhibited by the Capitol Police force in the face of that attack at the heart of America's democracy.

The Capitol Police have guarded the U.S. Congress since 1828, but their finest, yet most tragic, moment came on July 24, 1998, when two officers gave their lives to defend their fellow citizens, and our Capitol and all that it represents.

Officer Jacob J. Chestnut and Detective John M. Gibson, like all the quiet heroes of the Capitol Police force and their colleagues across America, came to work each day, performing their duties with dedication and professionalism, prepared at any moment to lay down their lives so that others could be saved, and the security of the Capitol could be preserved.

In a few terrifying minutes on the afternoon of July 24th, that moment came, as Detective Gibson and Officer Chestnut gave their lives for ours, and for countless other people working and visiting here that day. As they bravely defended the Capitol, Detective Gibson and Officer Chestnut showed the enormity of their courage, the depth of their character, and the fullness of their commitment to duty as Capitol Police officers.

As Americans, we owe Officer Chestnut and Detective Gibson a debt that can never be repaid. Instead, we can only offer our deepest sympathies to the families of these two brave officers, and pledge to honor their memories with the same enduring strength and vigilance with which they defended our lives.

I also want to recognize the other Capitol Police officers involved in apprehending the gunman, rushing people in the building to safety, and conducting the subsequent investigation with such a high degree of professionalism. We commend their service in protecting our Capitol and reaffirm with confidence that under their watch the house of the people will stay open to all the people.

Americans can take great pride in the heroism the Capitol Police displayed last Friday, and in the bravery they summon every day as they protect our nation's Capitol. To them I offer my thanks, and the thanks of my staff and the people of the State of Wisconsin, for their courageous work.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

REPORT CONCERNING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 149

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

On November 14, 1994, in light of the danger of the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and of the means of delivering such weapons, using my authority under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), I declared a national emergency and issued Executive Order 12938. Because the proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have renewed the national emergency declared in Executive Order 12938 annually, most recently on November 14, 1997. Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)), I hereby report to the Congress that I have exercised my statutory authority to issue an Executive order to amend Executive Order 12938 in order to more effectively to respond to the worldwide threat of weapons of mass destruction proliferation activities.

The amendment of section 4 of Executive Order 12938 strengthens the original Executive order in several significant ways.

First, the amendment broadens the type of proliferation activity that is subject to potential penalties. Executive Order 12938 covers contributions to the efforts of any foreign country, project, or entity to use, acquire, design, produce, or stockpile chemical or biological weapons (CBW). This amendment adds potential penalties for contributions to foreign programs for nuclear weapons and missiles capable of delivering weapons of mass destruction. For example, the new amendment authorizes the imposition of measures against foreign entities that materially assist Iran's missile program.

Second, the amendment lowers the requirements for imposing penalties. Executive Order 12938 required a finding that a foreign person "knowingly and materially" contributed to a foreign CBW program. The amendment removes the "knowing" requirement as a basis for determining potential penalties. Therefore, the Secretary of State need only determine that the foreign person made a "material" contribution to a weapons of mass destruction or missile program to apply the specified sanctions. At the same time, the Secretary of State will have discretion regarding the scope of sanctions so that a truly unwitting party will not be unfairly punished.

Third, the amendment expands the original Executive order to include "attempts" to contribute to foreign proliferation activities, as well as actual contributions. This will allow imposition of penalties even in cases where foreign persons make an unsuccessful effort to contribute to weapons of mass destruction and missile programs or where authorities block a transaction before it is consummated.

Fourth, the amendment expressly expands the range of potential penalties to include the prohibition of United States Government assistance to the foreign person, as well as United States Government procurement and imports into the United States, which were specified by the original Executive order. Moreover, section 4(b) broadens the scope of the United States Government procurement limitations to include a bar on the procurement of technology, as well as goods or services from any foreign person described in section 4(a). Section 4(d) broadens the scope of import limitations to include a bar on imports of any technology or services produced or provided by any foreign person described in section 4(a).

Finally, this amendment gives the United States Government greater flexibility and discretion in deciding how and to what extent to impose penalties against foreign persons that assist proliferation programs. This provision authorizes the Secretary of State, who will act in consultation with the heads of other interested agencies, to determine the extent to which these measures should be imposed against entities contributing to foreign weapons of mass destruction or missile programs. The Secretary of State will act to further the national security and foreign policy interests of the United States, including principally our nonproliferation objectives. Prior to imposing measures pursuant to this provision, the Secretary of State will take into account the likely effectiveness of such measures in furthering the interests of the United States and the costs and benefits of such measures. This approach provides the necessary flexibility to tailor our responses to specific situations.

I have authorized these actions in view of the danger posed to the national security and foreign policy of the United States by the continuing proliferation of weapons of mass destruction and their means of delivery. I am enclosing a copy of the Executive order that I have issued exercising these authorities.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

REPORT OF THE DISTRICT OF COLUMBIA'S FISCAL YEAR 1999 BUDGET REQUEST ACT—MESSAGE FROM THE PRESIDENT—PM 150

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 202(c) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, I am transmitting the District of Columbia's Fiscal Year 1999 Budget Request Act.

This proposed Fiscal Year 1999 Budget represents the major programmatic objectives of the Mayor, the Council of the District of Columbia, and the District of Columbia Financial Responsibility and Management Assistance Authority. It also meets the financial stability and management improvement objectives of the National Capital Revitalization and Self-Government Improvement Act of 1997. For Fiscal Year 1999, the District estimates revenues of $5.230 billion and total expenditures of $5.189 billion resulting in a $41 million budget surplus.

My transmittal of the District of Columbia's budget, as required by law, does not represent an endorsement of its contents.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

REPORT CONCERNING THE ONGOING EFFORTS TO MEET THE GOALS SET FORTH IN THE DAYTON ACCORDS—MESSAGE FROM THE PRESIDENT—PM 151

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Pursuant to section 7 of Public Law 105–174, I am providing this report to inform the Congress of ongoing efforts to meet the goals set forth therein.

With my certification to the Congress of March 3, 1998, I outlined ten conditions—or benchmarks—under which Dayton implementation can continue without the support of a major NATO-led military force. Section 7 of Public Law 105–174 urges that we seek concurrence among NATO allies on: (1) the benchmarks set forth with the March 3 certification; (2) estimated target dates for achieving those benchmarks; and (3) a process for NATO to review progress toward achieving those benchmarks. NATO has agreed to move ahead in all these areas.

First, NATO agreed to benchmarks parallel to ours on May 28 as part of its approval of the Stabilization Force (SFOR) military plan (OPLAN 10407). Furthermore, the OPLAN requires SFOR to develop detailed criteria for each of these benchmarks, to be approved by the North Atlantic Council, which will provide a more specific basis to evaluate progress. SFOR will develop the benchmark criteria in coordination with appropriate international civilian agencies.

Second, with regard to timelines, the United States proposed that NATO military authorities provide an estimate of the time likely to be required for implementation of the military and civilian aspects of the Dayton Agreement based on the benchmark criteria. Allies agreed to this approach on June 10. As SACEUR General Wes Clark testified before the Senate Armed Services Committee June 4, the development and approval of the criteria and estimated target dates should take 2 to 3 months.

Third, with regard to a review process, NATO will continue the 6-month review process that began with the deployment of the Implementation Force (IFOR) in December 1995, incorporating the benchmarks and detailed criteria. The reviews will include an assessment of the security situation, an assessment of compliance by the parties with the Dayton Agreement, an assessment of progress against the benchmark criteria being developed by SFOR, recommendations on any changes in the level of support to civilian agencies, and recommendations on any other changes to the mission and tasks of the force.

While not required under Public Law 105–174, we have sought to further utilize this framework of benchmarks and criteria for Dayton implementation among civilian implementation agencies. The Steering Board of the Peace Implementation Council (PIC) adopted the same framework in its Luxembourg declaration of June 9, 1998. The declaration, which serves as the civilian implementation agenda for the next 6 months, now includes language that corresponds to the benchmarks in the March 3 certification to the Congress and in the SFOR OPLAN. In addition, the PIC Steering Board called on the High Representative to submit a report on the progress made in meeting these goals by mid-September, which will be considered in the NATO 6-month review process.

The benchmark framework, now approved by military and civilian implementers, is clearly a better approach than setting a fixed, arbitrary end date to the mission. This process will produce a clear picture of where intensive efforts will be required to achieve our goal: a self-sustaining peace process in Bosnia and Herzegovina for which a major international military force will no longer be necessary. Experience demonstrates that arbitrary deadlines can prove impossible to meet and tend to encourage those who would wait us out or undermine our credibility. Realistic target dates, combined with concerted use of incentives, leverage and pressure with all the parties, should maintain the sense of urgency necessary to move steadily toward an enduring peace. While the benchmark process will be useful as a tool both to promote and review the pace of Dayton implementation, the estimated target dates established will be notional, and their attainment dependent upon a complex set of interdependent factors.

We will provide a supplemental report once NATO has agreed upon detailed criteria and estimated target dates. The continuing 6-month reviews of the status of implementation will provide a useful opportunity to continue to consult with Congress. These reviews, and any updates to the estimated timelines for implementation, will be provided in subsequent reports submitted pursuant to Public Law 105–174. I look forward to continuing to work with the Congress in pursuing U.S. foreign policy goals in Bosnia and Herzegovina.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

REPORT CONCERNING THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM 152

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1998, to the *Federal Register* for publication.

The crisis between the United States and Iraq that led to the declaration on August 2, 1990, of a national emergency has not been resolved. The Government of Iraq continues to engage in activities inimical to stability in the Middle East and hostile to United States interests in the region. Such Iraqi actions pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Iraq.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1998.*

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 153

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1997 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1997.

Thirty years following the establishment of the Corporation for Public Broadcasting, the Congress can take great pride in its creation. During these 30 years, the American public has been educated, inspired, and enriched by the programs and services made possible by this investment.

The need for and the accomplishments of this national network of knowledge have never been more apparent, and as the attached 1997 annual CPB report indicates, by "Going Digital," public broadcasting will have an ever greater capacity for fulfilling its mission.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 29, 1998.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate on July 29, 1998, during the recess of the Senate, received a message from the House of Representatives announcing that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

MEASURE PLACED ON THE CALENDAR

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

H.R. 4250. An act to provide new patient protections under group health plans.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6232. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule regarding Truth in Savings disclosures (Docket R-0869) received on July 24, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6233. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule regarding employer plans to reflect changes to Section 457 of the Internal Revenue Code (Rev. Proc. 98-41) received on July 27, 1997; to the Committee on Finance.

EC–6234. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding air pollution standards for pulp and paper production and technical amendments to OMB control numbers (FRL5799-8) received on July 27, 1998; to the Committee on Environment and Public Works.

EC–6235. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Gloucester Harbor Fireworks Display, Gloucester Harbor, Gloucester, MA" (Docket 01-98-080) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6236. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747-100 Series Airplanes" (Docket 97-NM-82-AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6237. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Helicopter Systems Model 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, 500N, 600N, and OH-6A Helicopters" (Docket 98-SW-22-AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6238. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Wilmington Clinton Field, OH" (Docket 98-AGL-31) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6239. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Prairie Du Chien, WI" (Docket 98-AGL-32) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6240. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Faribault, MN" (Docket 98-AGL-26) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6241. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Marshall, MN" (Docket 98-AGL-33) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6242. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Cambridge, NE" (Docket 98–ACE–11) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6243. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Gordon, NE" (Docket 98–ACE–9) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6244. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Scottsbluff, NE" (Docket 98–ACE–18) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6245. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Kimball, NE" (Docket 98–ACE–10) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6246. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Remove Class E Airspace and Establish Class E Airspace; Springfield, MO" (Docket 98–ACE–20) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6247. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Knoxville, IA" (Docket 98–ACE–12) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6248. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Ainsworth, NE" (Docket 98–ACE–16) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6249. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Jet Route J–502; VOR Federal Airway V–444; and Colored Federal Airways Amber 2 and Amber 15; AK" (Docket 98–AAL–8) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6250. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Waupun, WI" (Docket 98–AGL–27) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6251. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Richland Center, WI" (Docket 98–AGL–30) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6252. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; New Lisbon, WI" (Docket 98–AGL–28) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6253. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Beaver Dam, WI" (Docket 98–AGL–29) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6254. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Stemme GmbH and Co. KG Model S10–V Sailplanes" (Docket 97–CE–128–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6255. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes" (Docket 98–NM–33–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6256. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace" (Docket 28860) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6257. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bell Helicopter Textron, Inc. Model 412 Helicopters and Agusta S.p.A. Model AB 412 Helicopters; Correction" (Docket 97–SW–58–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6258. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes, and Model MD–99 Airplanes" (Docket 97–NM–105–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6259. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Maule Aerospace Technology Corp. M–4, M–5, M–6, M–7, MX–7, and MXT–7 Series Airplanes and M–8–235 Airplanes" (Docket 98–CE–01–AD) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6260. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operating Regulation; Kelso Bayou, LA" (Docket 08–94–028) received on July 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6261. A communication from the Secretary of Defense, transmitting, notice of military retirements; to the Committee on Armed Services.

EC–6262. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Exporters Not Liable For Harbor Maintenance Fee" (RIN1515–AC31) received on July 28, 1998; to the Committee on Finance.

EC–6263. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the initiation of danger pay for the Kosovo Province under the Foreign Service Act; to the Committee on Foreign Relations.

EC–6264. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Department's report entitled "Outer Continental Shelf Lease Sales: Evaluation of Bidding Results and Competition" for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC–6265. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Colorado; Decreased Assessment Rate" (Docket FV98–948–1 IFR) received on July 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6266. A communication from the Human Resource Assistant of the Farm Credit Bank of Texas, transmitting, pursuant to law, the annual report of the Bank's Thrift Plus Plan for calendar year 1997; to the Committee on Governmental Affairs.

EC–6267. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Oral Dosage Form New Animal Drugs; Bacitracin Methylene Disalicylate Soluble" received on July 27, 1998; to the Committee on Labor and Human Resources.

EC–6268. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (Aluminum Borate)" (Docket 97F–0405) received on July 27, 1998; to the Committee on Labor and Human Resources.

EC–6269. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's report on the Employment of Minorities, Women and People with Disabilities in the Federal Government for fiscal year 1997; to the Committee on Labor and Human Resources.

EC–6270. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Authority to Approve Federal Home Loan Bank Bylaws" (RIN3069–AA70) received on July 28, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6271. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Financial Disclosure by Federal Home Loan Banks" (No. 98–28) received on July 28, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6272. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks" received on July 22, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6273. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6274. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6275. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6276. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6277. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" Species Group in the Eastern Regulatory Area" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6278. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands" (Docket 971208298–8055–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6279. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6280. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6281. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Central Regulatory Area of the

Gulf of Alaska" (Docket 971208297–8054–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6282. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery Off Alaska; Amendment 3" (RIN0648–AJ51) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6283. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Golden Crab Fishery off the Southern Atlantic States; Amendment 8; OMB Control Numbers" (RIN0648–AG27) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6284. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Gear Allocation of Shortraker and Rougheye Rockfish in the Aleutian Islands Subarea" (RIN0648–AJ99) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6285. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Summer Flounder Commercial Quota Harvested for Massachusetts" (Docket 971015246–7293–02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6286. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule regarding revisions to the NASA Federal Acquisition Regulation Supplement received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1222: A bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes (Rept. No. 105–273).

By Mr. HATCH, from the Committee on the Judiciary: Report to accompany the bill (S. 512) to amend chapter 47 of title 18, United States Code, relating to identify fraud, and for other purposes (Rept. No. 105–274).

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

S. 1978: A bill to designate the auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, as the "Steve Schiff Auditorium" (Rept. No. 105–275).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment.

H.R. 3453: A bill to designate the Federal Building and Post Office located at 100 East B Street, Casper, Wyoming, as the "Dick Cheney Federal Building."

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation:

Diane D. Blair, of Arkansas, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004. (Reappointment)

Kelley S. Coyner, of Virginia, to be Administrator of the Research and Special Programs Administration, Department of Transportation.

Ritajean Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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

Bill Richardson, of New Mexico, to be Secretary of Energy.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. AKAKA:

S. 2368. A bill to permit the use of the proceeds from Senate recycling efforts for the expenses and activities of the Senate Employees Child Care Center; to the Committee on Rules and Administration.

By Mr. ROTH:

S. 2369. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

By Mr. CLELAND:

S. 2370. A bill to designate the facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, as the "Lieutenant Henry O. Flipper Station"; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. THURMOND.

S. Res. 259. A resolution designating the week beginning September 20,1998, as "Historically Black Colleges and Universities Week," and for other purposes to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 2368. A bill to permit the use of the proceeds from Senate recycling efforts for the expenses and activities of the Senate Employees Child Care Center; to the Committee on Rules and Administration.

SENATE DAY CARE RECYCLING FUNDING SUPPORT ACT

• Mr. AKAKA. Mr. President. I am pleased to introduce legislation today that would enable the Senate Employees Child Care Center (SECCC) to receive the proceeds from Senate recycling or other waste prevention programs. Specifically, my bill would authorize the Architect of the Capitol to receive funds from Senate recycling programs and make those funds available for the activities and expenses of the SECCC, subject to the regular appropriations process. The effect of this measure will be to provide the SECCC with a potentially steady, if relatively small, source of income as well as create an additional incentive for the Senate to support recycling efforts.

Mr. President, the SECCC was established as a non-profit 501(c)(3) corporation in 1984 by parents who work for the Senate. Today, the center provides full and part-time care for about 50 children between the ages of 18 months and 5 years. The SECCC is open to the entire community, with priority enrollment reserved for children of Senate employees. The SECCC is accredited by the National Academy of Early Childhood Programs, a division of the National Association of Young Children. It first received such recognition in 1989, the first day care center in Washington, D.C., to be so distinguished.

The SECCC is governed by an independent board composed of the parents of children enrolled at the center. A cooperative relationship exists between the SECCC and the Senate. The parents, through the board, are responsible for oversight of SECCC operations; the Senate provides critical support, such as providing for the facility itself and utilities. The Senate is providing the funds for the construction of a new center, near the Daniel Webster Senate Page Residence, which is expected to be ready for occupancy within a few months.

The Senate currently does not appropriate annual funds for the operation of the SECCC. The SECCC's annual operating budget of approximately $535,000 is funded entirely through tuition payments and the center's fundraising efforts. These funds are used to defray costs associated with tuition assistance (scholarships), teacher salaries, curriculum materials, meals, general

office expenses, advertising and marketing, accounting and audit fees, professional development, and unemployment and liability insurance.

The recycling program for House and Senate buildings is operated by the Office Waste Recycling Program (OWRP), under the Architect of the Capitol. Through OWRP, the Architect is responsible for collecting and bundling recycled materials; a private contractor, under contract to the General Services Administration, serves as the recycling facility. However, the Architect does not have the authority to receive funds from recycling or other so-called "enterprise" activities; thus, all recycling funds from both the Senate and House are deposited in the General Fund of the U.S. Treasury.

The OWRP started as pilot project in 1990–91 and was expanded on a voluntary participation basis to all offices in the House and Senate office buildings in 1992. The program is based on the concept of source separation, an approach that includes the separation, collection, and removal of high and mixed grade paper as well as aluminum cans, glass, and certain types of plastic materials. The effectiveness of the program depends on the active participation of Congressional staff, who are needed to separate recyclables into designated receptacles, and the custodial and labor forces, who must ensure that materials remain segregated during the collection process.

The program has been a success in certain respects. For example, it has allowed Congress to avoid paying costs associated with hauling away and landfilling recycled materials, since these costs are borne by the recycling contractor. According to the OWRP, in FY97, the House Office Buildings recycled 2,247 tons of paper, cans, glass, and plastic, avoiding landfill/haulaway costs of $173,000. For the same year, the Senate Office Buildings collected 898 tons, for a savings of $69,146.

However, actual revenues generated by the program have been nominal. The Senate recycling program, for example, brought in a relatively paltry $2,694 in FY96 and $2,364 in FY97, the last full year for which we have data, while collecting an estimated 1,021 tons and 886 tons of paper waste. The reason for this seemingly low return is that the contractor is not required to pay for materials that are contaminated by a certain percentage. With respect to paper, which constitutes the bulk of Senate recyclables, contamination refers to mixing with other recyclable (e.g., newspapers with high grade paper) or with foreign matter such as food. Apparently, Senate and House recycled materials have relatively high contamination levels, a fact which may be attributed in part to an absence of incentives on the part of Congressional offices to recycle.

This is in sharp contrast to the situation with federal agencies, which beginning in 1991 have had the authority to retain recycling proceeds, either to defray the cost of maintaining recycling programs and/or direct them to programs that directly benefit employees, including day care activities. In my opinion, it is no accident that while the level of participation in recycling programs varies from agency to agency, overall the Executive Branch agencies' recycling programs are much more robust than Congress'.

Mr. President, my bill would authorize the Architect of the Capitol to receive Senate recycling funds and make them available for the payment of SECCC activities and expenses, through the annual appropriations process. This would achieve two mutually beneficial goals: first, to provide a small but important supplement to the day care center's operating budget; second, to improve the efficiency of the Senate recycling program by establishing an internal incentive to recycle.

Thank you, Mr. President. I urge my colleagues to support this legislation. I ask unanimous consent that a copy of my bill as well as a letter supporting the legislation from the SECCC's board of directors be printed in the RECORD.

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

S. 2368

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 "Senate Day Care Center Recycling Funding Support Act".

SEC. 2. RECYCLING FUNDING FOR THE SENATE DAY CARE CENTER.

(a) IN GENERAL.—The Architect of the Capitol shall receive all funds collected through Senate recycling or waste prevention programs and deposit those amounts in an account in the Treasury which shall be available for payment of the activities and expenses of the Senate Employees Child Care Center.

(b) SUBJECT TO APPROPRIATIONS.—Amounts deposited in the account referred to in subsection (a) shall be available to the extent provided in appropriations Acts.

SENATE EMPLOYEES'
CHILD CARE CENTER,
Washington, DC, July 27, 1998.

Hon. DANIEL K. AKAKA,
Hart Senate Building,
Washington, DC.

DEAR SENATOR AKAKA: The Board of Directors of the Senate Employees Child Care Center (SECCC) strongly supports legislation that would allow the SECCC to receive the proceeds from the Senate recycling and other waste prevention programs to support the operating and other expenses of the SECCC. This support was demonstrated in a recent unanimous vote during our board meeting on July 15, 1998.

We have been advised that the receipts from the Senate recycling program total several thousand dollars a year. Should the legislation pass, we anticipate applying the funds to our tuition assistance program, which helps families who may not be able to afford the full cost of enrollment at the center. The funds from the recycling program would represent a substantial portion of the tuition assistance budget and would provide an annual contribution, allowing us to maintain the tuition assistance program over the long-term.

Thank you for any assistance you could provide in authorizing the SECCC to receive Senate recycling funds.

Sincerely,

HEIDI BONNER,
President,
SECCC Board of Directors.●

By Mr. ROTH:

S. 2369. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

THE PERSONAL RETIREMENT ACCOUNTS ACT OF 1998

Mr. ROTH. Mr. President, I rise today to introduce the Personal Retirement Accounts Act of 1998. This legislation has a simple but powerful purpose—to establish personal retirement accounts for working Americans. In my view, these accounts promise to give working Americans not only a more secure retirement future but a new stake in the Nation's economic growth. And, as I will describe, these accounts may provide the model for future Social Security reform.

A few years ago personal retirement accounts were an exotic and even controversial concept. But no longer! In 1996, a majority of a Clinton Administration task force on Social Security reform endorsed the concept. Today, personal retirement accounts are a bipartisan, even mainstream, idea. In March, Senator MOYNIHAN, the ranking Democrat on the Finance Committee, and Senator KERREY introduced legislation that would create retirement accounts as part of an overhaul of Social Security.

And earlier this month, bipartisan, bicameral Social Security reform legislation that included personal retirement accounts was introduced by Senators GREGG and BREAUX in the Senate, and by Congressmen KOLBE and STENHOLM in the House. Their bill is based on the unanimous recommendations of a privately sponsored National Commission on Retirement Policy—comprised of 24 lawmakers, economists, pension experts, and businessmen.

Yesterday, at a Social Security town hall meeting in Albuquerque, NM, the President said he had an "open mind" on personal retirement accounts. And in testimony before the Senate Finance Committee last week, a top Clinton Administration official offered several guidelines for designing such accounts, including efficiency, such as low administrative costs, and protection of the progressive benefits. My bill meets these guidelines.

Mr. President, let me explain why retirement accounts find so much support—not only in Congress but among

the American people. With even conservative investment, such accounts have the potential to provide Americans with a substantial retirement nest egg, and an estate they can leave to their children and grandchildren.

Creating these accounts would also give the majority of Americans who do not own any investment assets a new stake in America's economic growth—because that growth will be returned directly to their benefit. More Americans will be the owners of capital—not just workers.

Creating these accounts may encourage Americans to save more. Today, Americans save less than people in almost every other country. But personal retirement accounts will demonstrate to all Americans the magic of compound interest as even small savings grow significantly over time.

Lastly, creating these accounts will help Americans to better prepare for retirement. According to the CRS, 60 percent of Americans are not actively participating in a retirement program other than Social Security. A recent survey by the Employee Benefits Research Institute found that only about 45 percent of working Americans have tried to calculate how much they will need for retirement. It is my belief that retirement accounts will prompt Americans—particularly baby boomers—to think more about retirement planning.

Mr. President, let me describe a few of the features of my bill. First, the program would run for 5 years, from 1999 to 2003, utilizing half the budget surplus projected by CBO earlier this month.

Each year, every working American who earned a minimum of 4 quarters of Social Security coverage—about $2,900 in 1999—would receive a deposit in his or her personal retirement account. About 127 million Americans would receive a deposit in 1999.

The formula for sharing the surplus among the accounts is progressive. Each eligible individual would receive a minimum amount of $250 per year, plus an additional amount based on how much they paid in payroll taxes.

Over the life of the program, a minimum wage earner—someone earning $12,400 this year—would receive about $1,720. That amount is equal to a 34-percent rebate of his or her payroll taxes.

An average wage earner—earning $27,600—would receive about $2,300—equal to a 20-percent rebate of payroll taxes. And an individual who paid the maximum Social Security tax would get $3,840, a 14-percent rebate of payroll taxes. These figures do not include any investment income or deductions for the costs of running the program.

Account holders would have three investment choices—prudent choices that balance risk and return. The three choices are a stock index fund—a mutual fund that reflects the overall performance of the stock market; a fund that invests in corporate bonds and other fixed income securities; and a fund that invests in U.S. Treasury bonds.

However, my legislation also provides for a study of additional investment options—of other types of investment funds and investment managers.

An account holder would become eligible for benefits when he or she signs up for Social Security. An individual could choose between an annuity or annual payments based on life expectancy.

The bill also provides a number of features to ensure the program is properly run. First, the program would be neither on budget nor off budget. Instead, the program would be outside the Federal budget. The money in the program could be used for no other purpose than retirement benefits and the program's operating expenses.

Second, the program would be supervised by a new, independent Personal Retirement Board, with members appointed by the President and Congressional leaders and subject to Senate confirmation. Board officials would be fiduciaries, and required by law to act only in the best financial interests of beneficiaries.

Lastly, the stock funds would be managed by private sector investment managers. To insulate companies represented in the stock funds from politics, no board official or other government employee would be eligible to vote company proxies—only the investment managers.

Mr. President, the design of this personal retirement accounts plan follows a proven model—the Federal Thrift Savings Plan. Back in 1983, when I was Chairman of the Governmental Affairs Committee, the retirement program for Federal employees needed to be revamped. One of the new elements we added was the Federal Thrift Savings Plan—a defined contribution employee benefit plan—that has been a great success.

Mr. President, many Americans will undoubtedly ask, "What size nest egg might grow in my personal retirement account?" According to an analysis done by Social Security's actuaries, someone earning the minimum wage would have an account worth about $2,150 in 2004, assuming a 7.5 percent interest rate. For the average wage earner, the account would be worth about $2,870, and for the individual paying the maximum Social Security tax, about $4,770.

Of course, over the long term, accounts can grow significantly. For the minimum wage person, after 40 years—in 2039—his or her account would be worth about $27,000; the average wage earner would have $36,000; and the person paying the maximum payroll tax, $60,000.

Mr. President, some might ask, "Why start with personal retirement accounts rather than proposing comprehensive Social Security reform?" Indeed, my bill will not affect the current Social Security program. Personal retirement accounts are an exciting concept, but still a big job, requiring careful work by the Finance Committee.

And unlike many other Social Security reform proposals, retirement accounts have broad support. So let's get these accounts up and running, proven and tested, while Congress considers carefully protecting and preserving Social Security for the long term.

Mr. President, in closing, let me add that personal retirement accounts have another big promise. Such accounts—if later made a part of Social Security—may help restore the confidence of the American people in Social Security. Polls show that Social Security is among the most popular of government programs, deservedly so. But many Americans—particularly young Americans—appear to have lost confidence in the program. They believe that there will be no benefits for them when they retire. Personal retirement accounts will provide the accountability and assurances that Americans are asking for.

I encourage my colleagues to take a careful look at my bill, and I invite members to co-sponsor it.

Mr. President, I ask for unanimous consent that a copy of this bill be printed into the RECORD.

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

S. 2369

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Personal Retirement Accounts Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Save Social Security First Trust Fund.
Sec. 4. Establishment of Personal Retirement Accounts Program.
"TITLE I—PERSONAL RETIREMENT ACCOUNTS PROGRAM
"Subtitle A—Management of the Personal Retirement Accounts Program
"Sec. 101. Personal Retirement Accounts Board.
"Sec. 102. Executive director.
"Subtitle B—Establishment of Personal Retirement Savings Fund; Personal Retirement Accounts
"Sec. 111. Appropriations; annual transfers to the Personal Retirement Savings Fund.
"Sec. 112. Personal Retirement Savings Fund.
"Sec. 113. Personal retirement accounts.
"Subtitle C—Investment and Administration of Personal Retirement Accounts
"Sec. 121. Investment of personal retirement accounts.

"Sec. 122. Accounting and information.
"Sec. 123. Distribution of benefits.
"Sec. 124. Annuities: methods of payment; election; purchase.
"Sec. 125. Protections for spouses and former spouses.
"Sec. 126. Designation of beneficiary; order of precedence.
"Sec. 127. Tax treatment of the Personal Retirement Savings Fund.
"Sec. 128. Administrative provisions.
"Subtitle D—Beneficiary Protections
"Sec. 131. Fiduciary responsibilities; liability and penalties.
"Sec. 132. Bonding.
"Sec. 133. Investigative authority.
"Sec. 134. Exculpatory provisions; insurance.
Sec. 5. Report and recommendations regarding investment options.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The social security program is the foundation of retirement income for most Americans, and solving the financial problems of the social security program is a vital national priority and essential for the retirement security of today's working Americans and their families.

(2) There is a growing bipartisan consensus that personal retirement accounts should be an important feature of social security reform.

(3) Personal retirement accounts can provide a substantial retirement nest egg and real personal wealth. For an individual 28 years old on the date of enactment of this Act, earning an average wage, and retiring at age 65 in 2035, just 1 percent of that individual's wages deposited each year in a personal retirement account and invested in securities consisting of the Standard & Poors 500 would grow to $132,000, and be worth approximately 20 percent of the benefits that would be provided to the individual under the current provisions of the social security program.

(4) Personal retirement accounts would give the majority of Americans who do not own any investment assets a new stake in the economic growth of America.

(5) Personal retirement accounts would demonstrate the value of savings and the magic of compound interest to all Americans. Today, Americans save less than people in almost every other country.

(6) Personal retirement accounts would help Americans to better prepare for retirement generally. According to the Congressional Research Service, 60 percent of Americans are not actively participating in a retirement plan other than social security, although social security was never intended to be the sole source of retirement income.

(7) The Federal budget will register a surplus of $583,000,000,000 over fiscal years 1998 through 2003, offering a unique opportunity to begin a permanent solution to social security's financing.

(8) Using the Federal budget surplus to fund personal retirement accounts would be an important first step in comprehensive social security reform and ensuring the delivery of promised retirement benefits.

SEC. 3. SAVE SOCIAL SECURITY FIRST TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Save Social Security First Trust Fund" (in this section referred to as the "Trust Fund"), consisting of such amounts as are appropriated or credited to the Trust Fund as provided in this section.

(b) APPROPRIATION TO TRUST FUND.—There is appropriated to the Trust Fund, out of any sums in the Treasury not otherwise appropriated, an amount equal to $31,500,000,000 for fiscal year 1998 and $40,000,000,000 for fiscal year 1999. The Secretary of the Treasury shall transfer such amounts to the Trust Fund not later than—

(1) September 30, 1998, in the case of the amount appropriated for fiscal year 1998; and

(2) September 30, 1999, in the case of the amount appropriated for fiscal year 1999.

(c) INVESTMENT OF TRUST FUND.—The Secretary of the Treasury shall invest the Trust Fund in public debt securities with suitable maturities and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Trust Fund.

(d) LIMITATION ON USE OF TRUST FUND.—Amounts in the Trust Fund shall not be appropriated or used for any purpose other than to be transferred to the Personal Retirement Savings Fund established under section 112 of the Social Security Act in accordance with section 111(b)(1) of such Act.

(e) DISSOLUTION OF TRUST FUND.—On the date of the transfer of all amounts in the Trust Fund to the Personal Retirement Savings Fund in accordance with section 111(b)(1) of the Social Security Act, the Trust Fund established under this section shall be dissolved.

SEC. 4. ESTABLISHMENT OF PERSONAL RETIREMENT ACCOUNTS PROGRAM.

The Social Security Act (42 U.S.C. 301 et seq.) is amended—

(1) by redesignating title I as title VI; and

(2) by inserting before title II the following:

"TITLE I—PERSONAL RETIREMENT ACCOUNTS PROGRAM

"Subtitle A—Management of the Personal Retirement Accounts Program

"SEC. 101. PERSONAL RETIREMENT ACCOUNTS BOARD.

"(a) ESTABLISHMENT.—There is established in the Executive Branch of the Government a Personal Retirement Accounts Board (in this title referred to as the 'Board').

"(b) COMPOSITION.—The Board shall be composed of—

"(1) 3 members appointed by the President, of whom 1 shall be designated by the President as Chairman; and

"(2) 2 members appointed by the President, of whom—

"(A) 1 shall be appointed by the President after taking into consideration the recommendation made by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives; and

"(B) 1 shall be appointed by the President after taking into consideration the recommendation made by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

"(c) ADVICE AND CONSENT.—Appointments under subsection (b) shall be made by and with the advice and consent of the Senate.

"(d) MEMBERSHIP REQUIREMENTS.—Members of the Board shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

"(e) LENGTH OF APPOINTMENTS.—

"(1) TERMS.—A member of the Board shall be appointed for a term of 4 years, except that of the members first appointed under subsection (b)—

"(A) the Chairman shall be appointed for a term of 4 years;

"(B) the members appointed under subsection (b)(2) shall be appointed for terms of 3 years; and

"(C) the remaining members shall be appointed for terms of 2 years.

"(2) VACANCIES.—

"(A) IN GENERAL.—A vacancy on the Board shall be filled in the manner in which the original appointment was made and shall be subject to any conditions that applied with respect to the original appointment.

"(B) COMPLETION OF TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(3) EXPIRATION.—The term of any member shall not expire before the date on which the member's successor takes office.

"(f) DUTIES.—The Board shall—

"(1) administer the program established under this title;

"(2) establish policies for the investment and management of the Personal Retirement Savings Fund, including policies applicable to the outside entities and qualified professional asset managers with responsibility for managing the investment options described in section 121(b), that shall provide for—

"(A) prudent investments suitable for accumulating funds for payment of retirement income; and

"(B) low administrative costs.

"(3) review the performance of investments made for the Personal Retirement Savings Fund;

"(4) review and approve the budget of the Board; and

"(5) comply with the provisions of subtitle D.

"(g) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—The Board may—

"(A) adopt, alter, and use a seal;

"(B) except as provided in paragraph (2), direct the Executive Director to take such action as the Board considers appropriate to carry out the provisions of this title and the policies of the Board;

"(C) upon the concurring votes of 4 members, remove the Executive Director from office for good cause shown; and

"(D) take such other actions as may be necessary to carry out the functions of the Board.

"(2) MEETINGS.—The Board shall meet—

"(A) not less than once during each month; and

"(B) at additional times at the call of the Chairman.

"(3) EXERCISE OF POWERS.—

"(A) IN GENERAL.—Except as provided in paragraph (1)(C) and section 102(a)(1), the Board shall perform the functions and exercise the powers of the Board on a majority vote of a quorum of the Board. Three members of the Board shall constitute a quorum for the transaction of business.

"(B) VACANCIES.—A vacancy on the Board shall not impair the authority of a quorum of the Board to perform the functions and exercise the powers of the Board.

"(4) LIMITATION ON INVESTMENTS.—Except in the case of investments required by section 121 to be invested in securities of the Government, the Board may not direct the Executive Director to invest or to cause to be invested any sums in the Personal Retirement Savings Fund in a specific asset or to dispose of or cause to be disposed of any specific asset of such Fund.

"(h) COMPENSATION.—

"(1) IN GENERAL.—Each member of the Board who is not an officer or employee of

the Federal Government shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such member is engaged in performing a function of the Board.

"(2) EXPENSES.—A member of the Board shall be paid travel, per diem, and other necessary expenses under subchapter I of chapter 57 of title 5, United States Code, while traveling away from such member's home or regular place of business in the performance of the duties of the Board.

"(3) SOURCE OF FUNDS.—Payments authorized under this subsection shall be paid from the Personal Retirement Savings Fund.

"(i) DISCHARGE OF RESPONSIBILITIES.—The members of the Board shall discharge their responsibilities solely in the interest of account holders and beneficiaries under this title.

"(j) ANNUAL INDEPENDENT AUDIT.—The Board shall annually engage an independent qualified public accountant to audit the activities of the Board.

"(k) SUBMISSION OF BUDGET TO CONGRESS.—The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall be included as a separate item in the budget required to be transmitted to Congress under section 1105 of title 31, United States Code.

"(l) SUBMISSION OF LEGISLATIVE RECOMMENDATIONS.—The Board may submit to the President, and, at the same time, shall submit to each House of Congress, any legislative recommendations of the Board relating to any of its functions under this title or any other provision of law.

"SEC. 102. EXECUTIVE DIRECTOR.

"(a) APPOINTMENT OF EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Board shall appoint, without regard to the provisions of law governing appointments in the competitive service, an Executive Director by action agreed to by a majority of the members of the Board.

"(2) REQUIREMENTS.—The Executive Director shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

"(b) DUTIES.—The Executive Director shall—

"(1) carry out the policies established by the Board;

"(2) invest and manage the Personal Retirement Savings Fund in accordance with the investment policies and other policies established by the Board;

"(3) purchase annuity contracts and provide for the payment of benefits under this title;

"(4) administer the provisions of this title; and

"(5) prescribe such regulations (other than regulations relating to fiduciary responsibilities) as may be necessary for the administration of this title.

"(c) ADMINISTRATIVE AUTHORITY.—The Executive Director may—

"(1) prescribe such regulations as may be necessary to carry out the responsibilities of the Executive Director under this section, other than regulations relating to fiduciary responsibilities;

"(2) appoint such personnel as may be necessary to carry out the provisions of this title;

"(3) subject to approval by the Board, procure the services of experts and consultants under section 3109 of title 5, United States Code;

"(4) secure directly from an Executive agency, the United States Postal Service, or the Postal Rate Commission any information necessary to carry out the provisions of this title and the policies of the Board;

"(5) make such payments out of sums in the Personal Retirement Savings Fund as the Executive Director determines are necessary to carry out the provisions of this title and the policies of the Board;

"(6) pay the compensation, per diem, and travel expenses of individuals appointed under paragraphs (2), (3), and (7) from the Personal Retirement Savings Fund;

"(7) accept and use the services of individuals employed intermittently in the Government service and reimburse such individuals for travel expenses, as authorized by section 5703 of title 5, United States Code, including per diem as authorized by section 5702 of such title;

"(8) except as otherwise expressly prohibited by law or the policies of the Board, delegate any of the Executive Director's functions to such employees under the Board as the Executive Director may designate and authorize such successive redelegations of such functions to such employees under the Board as the Executive Director may consider to be necessary or appropriate; and

"(9) take such other actions as are appropriate to carry out the functions of the Executive Director.

"Subtitle B—Establishment of Personal Retirement Savings Fund; Personal Retirement Accounts

"SEC. 111. APPROPRIATIONS; ANNUAL TRANSFERS TO THE PERSONAL RETIREMENT SAVINGS FUND.

"(a) APPROPRIATIONS.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for the purpose of making the transfers required under subsection (b)—

"(1) for fiscal year 2000, $40,000,000,000;

"(2) for fiscal year 2001, $43,000,000,000;

"(3) for fiscal year 2002, $70,000,000,000; and

"(4) for fiscal year 2003, $68,000,000,000.

"(b) TRANSFERS TO THE PERSONAL RETIREMENT SAVINGS FUND.—

"(1) TRANSFER OF AMOUNTS IN THE SAVE SOCIAL SECURITY FIRST TRUST FUND.—Not later than October 1, 1999, the Secretary of the Treasury shall transfer the obligations held by the Secretary for the Save Social Security First Trust Fund established under section 3 of the Personal Retirement Accounts Act of 1998, and the amount standing to the credit of such Trust Fund on the books of the Treasury on such date to the Personal Retirement Savings Fund established under section 112.

"(2) TRANSFER OF APPROPRIATED AMOUNTS.—With respect to a fiscal year for which an amount is appropriated under subsection (a), the Secretary of the Treasury shall transfer to the Personal Retirement Savings Fund established under section 112 the amount appropriated under subsection (a) for that fiscal year not later than—

"(A) September 30, 2000, in the case of the amount appropriated under such subsection for fiscal year 2000;

"(B) September 30, 2001, in the case of the amount appropriated under such subsection for fiscal year 2001;

"(C) September 30, 2002, in the case of the amount appropriated under such subsection for fiscal year 2002; and

"(D) September 30, 2003, in the case of the amount appropriated under such subsection for fiscal year 2003.

"SEC. 112. PERSONAL RETIREMENT SAVINGS FUND.

"(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a Personal Retirement Savings Fund, consisting of all amounts deposited by the Secretary of the Treasury in accordance with section 111(b), increased by the total net earnings from investments of sums in the Personal Retirement Savings Fund or reduced by the total net losses from investments of the Fund, and reduced by the total amount of payments made from the Fund (including payments for administrative expenses).

"(b) AVAILABILITY.—The sums in the Personal Retirement Savings Fund are appropriated and shall remain available without fiscal year limitation—

"(1) to invest under section 121;

"(2) to pay benefits or purchase annuity contracts under this title;

"(3) to pay the administrative expenses of the Board;

"(4) to make distributions in accordance with sections 123 and 124; and

"(5) to purchase insurance as provided in section 134(b)(2).

"(c) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—Sums in the Personal Retirement Savings Fund credited to the account of an individual may not be used for, or diverted to, purposes other than for the exclusive benefit of the account holder or the account holder's beneficiaries under this title.

"(2) ASSIGNMENTS.—Except as provided in paragraph (3), sums in the Personal Retirement Savings Fund may not be assigned or alienated and are not subject to execution, levy, attachment, garnishment, or other legal process.

"(3) SUPPORT OBLIGATIONS.—Moneys due or payable from the Personal Retirement Savings Fund to any account holder shall be subject to legal process for the enforcement of the account holder's legal obligations to provide child support or make alimony payments as provided in section 459 or for the enforcement of a court order or other similar process in the nature of a garnishment for the enforcement of a judgment rendered against the account holder for physically, sexually, or emotionally abusing a child.

"(d) PAYMENT OF ADMINISTRATIVE EXPENSES.—Administrative expenses incurred to carry out this title shall be paid out of net earnings in the Personal Retirement Savings Fund in conjunction with the allocation of investment earnings and losses under section 122(a)(2).

"(e) LIMITATION.—The sums in the Personal Retirement Savings Fund shall not be appropriated for any purpose other than the purposes specified in this section and may not be used for any other purpose.

"(f) FUNDS HELD IN TRUST.—All sums transferred to the Personal Retirement Savings Fund for the benefit of individuals eligible for personal retirement accounts, and all net earnings in such Fund attributable to investment of such sums, are held in such Fund in trust for such individuals.

"SEC. 113. PERSONAL RETIREMENT ACCOUNTS.

"(a) ESTABLISHMENT OF INDIVIDUAL ACCOUNTS.—

"(1) FISCAL YEAR 2000.—Not later than October 1, 1999, the Executive Director shall establish and maintain a personal retirement savings account for any individual who has worked 4 qualifying quarters of coverage, as determined under title II, in calendar year 1998.

"(2) SUBSEQUENT FISCAL YEARS.—Not later than October 1 of each fiscal year beginning

after fiscal year 2000, the Executive Director shall establish and maintain a personal retirement savings account for any individual who has worked 4 qualifying quarters of coverage, as determined under title II, in the calendar year ending on December 31 of the preceding fiscal year and for whom the Executive Director has not previously established an account.

"(b) ALLOCATION OF FUNDS TO ACCOUNTS.—Beginning on October 1, 1999, and annually thereafter, the Executive Director shall allocate to each personal retirement savings account maintained on such date for the benefit of an individual who has worked 4 qualifying quarters of coverage, as determined under title II, in the calendar year ending on December 31 of the preceding fiscal year the amount determined under subsection (c).

"(c) AMOUNT DETERMINED.—

"(1) IN GENERAL.—For any fiscal year, the amount determined under this subsection is equal to the sum of—

"(A) $250, plus

"(B) the amount determined under paragraph (2) (if any).

"(2) PRO RATA SHARE OF REMAINDER.—For any fiscal year, the amount determined under this paragraph with respect to the account of each individual maintained on October 1 of such fiscal year is equal to the product of—

"(A) the remainder of the Fund Balance for such fiscal year, determined after the application of paragraph (1)(A); and

"(B) the ratio determined under paragraph (3).

"(3) RATIO DETERMINED.—The ratio determined under this paragraph is the ratio, expressed as a percentage, of—

"(A) the excess of—

"(i) the sum of—

"(I) the total tax imposed on the individual's wages under section 3101(a) of the Internal Revenue Code of 1986 (relating to taxes on employees) for the taxable year ending in the preceding fiscal year, plus

"(II) 50 percent of the total tax imposed on the individual's self-employment income under section 1401(a) of such Code (relating to tax on self-employment income) for such taxable year, over

"(ii) $250; to

"(B) the total amount of such excess for all such individuals for such fiscal year.

"(4) DEFINITION OF FUND BALANCE.—In this subsection, the term 'Fund balance' means the net earnings and net losses from the investment of the sums transferred to the Personal Retirement Savings Fund in accordance with section 111(b), reduced by the appropriate share of the administrative expenses paid out of the net earnings under section 112(d), as determined by the Executive Director.

"Subtitle C—Investment and Administration of Personal Retirement Accounts

"SEC. 121. INVESTMENT OF PERSONAL RETIREMENT ACCOUNTS.

"(a) DEFINITIONS.—In this section—

"(1) the term 'Common Stock Index Investment Fund' means the Common Stock Index Investment Fund established under subsection (b)(1)(C);

"(2) the term 'equity capital' means common and preferred stock, surplus, undivided profits, contingency reserves, and other capital reserves;

"(3) the term 'Fixed Income Investment Fund' means the Fixed Income Investment Fund established under subsection (b)(1)(B);

"(4) the term 'Government Securities Investment Fund' means the Government Securities Investment Fund established under subsection (b)(1)(A);

"(5) the term 'net worth' means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves;

"(6) the term "plan" means an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3));

"(7) the term 'qualified professional asset manager' means—

"(A) a bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(2)) which—

"(i) has the power to manage, acquire, or dispose of assets of a plan; and

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital in excess of $1,000,000;

"(B) a savings and loan association, the accounts of which are insured by the Federal Deposit Insurance Corporation, which—

"(i) has applied for and been granted trust powers to manage, acquire, or dispose of assets of a plan by a State or Government authority having supervision over savings and loan associations; and

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital or net worth in excess of $1,000,000;

"(C) an insurance company which—

"(i) is qualified under the laws of more than 1 State to manage, acquire, or dispose of any assets of a plan;

"(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of $1,000,000; and

"(iii) is subject to supervision and examination by a State authority having supervision over insurance companies; or

"(D) an investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) if the investment adviser has, on the last day of its latest fiscal year ending before the date of a determination for the purpose of this subparagraph, total client assets under its management and control in excess of $50,000,000, and—

"(i) the investment adviser has, on such day, shareholder's or partner's equity in excess of $750,000; or

"(ii) payment of all of the investment adviser's liabilities, including any liabilities which may arise by reason of a breach or violation of a duty described in section 131, is unconditionally guaranteed by—

"(I) a person (as defined in paragraph (9)) who directly or indirectly, through 1 or more intermediaries, controls, is controlled by, or is under common control with the investment adviser and who has, on the last day of the person's latest fiscal year ending before the date of a determination for the purpose of this clause, shareholder's or partner's equity in an amount which, when added to the amount of the shareholder's or partner's equity of the investment adviser on such day, exceeds $750,000;

"(II) a qualified professional asset manager described in subparagraph (A), (B), or (C); or

"(III) a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) that has, on the last day of the broker's or dealer's latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of $750,000;

"(8) the term 'shareholder's or partner's equity', as used in paragraph (7)(D) with respect to an investment adviser or a person (as defined in paragraph (9)) who is affiliated with the investment adviser in a manner described in clause (ii)(I) of such paragraph, means the equity shown in the most recent balance sheet prepared for such investment adviser or affiliated person, in accordance with generally accepted accounting principles, within 2 years before the date on which the investment adviser's status as a qualified professional asset manager is determined for the purposes of this section; and

"(9) the term 'person' means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization.

"(b) ESTABLISHMENT OF INVESTMENT OPTIONS.—

"(1) INITIAL FUNDS.—The Board shall establish—

"(A) a Government Securities Investment Fund under which sums in the Personal Retirement Savings Fund are invested in securities of the United States Government issued as provided in subsection (e);

"(B) a Fixed Income Investment Fund under which sums in the Personal Retirement Savings Fund are invested in—

"(i) insurance contracts;

"(ii) certificates of deposits; or

"(iii) other instruments or obligations selected by qualified professional asset managers,

that return the amount invested and pay interest, at a specified rate or rates, on that amount during a specified period of time;

"(C) a Common Stock Index Investment Fund as provided in paragraph (3);

"(2) ADDITIONAL FUNDS.—The Board may approve diversified, indexed funds that are not described in paragraph (1) and that meet such other criteria as the Board may establish for inclusion among the investment choices offered to account holders under this title.

"(3) COMMON STOCK FUND REQUIREMENTS.—

"(A) SELECTION OF INDEX.—The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which is a reasonably complete representation of the United States equity markets.

"(B) INVESTMENT IN PORTFOLIO.—The Common Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index selected under subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Common Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

"(c) INVESTMENT OF FUND.—

"(1) IN GENERAL.—The Executive Director shall invest the sums available in the Personal Retirement Savings Fund for investment as provided in elections made under subsection (d).

"(2) INVESTMENT IF NO ELECTION.—If an election has not been made with respect to any sums in the Personal Retirement Savings Fund available for investment, the Executive Director shall invest such sums in the Government Securities Investment Fund.

"(d) ELECTION OF INVESTMENTS.—

"(1) TWICE YEARLY.—At least twice each year, an account holder may elect the investment funds referred to in subsection (b)

into which the sums in the Personal Retirement Savings Fund credited to such individual's account are to be invested or reinvested.

"(2) REGULATIONS.—An election may be made under paragraph (1) only in accordance with regulations prescribed by the Executive Director and within such period as the Executive Director shall provide in such regulations.

"(e) GOVERNMENT SECURITIES INVESTMENT FUND.—

"(1) AUTHORIZATION TO ISSUE CERTAIN OBLIGATIONS.—The Secretary of the Treasury is authorized to issue special interest-bearing obligations of the United States for purchase by the Personal Retirement Savings Fund for the Government Securities Investment Fund.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Obligations issued for the purpose of this subsection shall have maturities fixed with due regard to the needs of such Fund as determined by the Executive Director, and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue of such obligations) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable earlier than 4 years after the end of such calendar month.

"(B) ROUNDING.—Any average market yield computed under subparagraph (A) which is not a multiple of ⅛ of 1 percent, shall be rounded to the nearest multiple of ⅛ of 1 percent.

"(f) LIMITATION ON VOTING RIGHTS.—The Board, other Government agencies, the Executive Director, and an account holder may not exercise voting rights associated with the ownership of securities by the Personal Retirement Savings Fund.

"SEC. 122. ACCOUNTING AND INFORMATION.

"(a) BALANCE OF PERSONAL RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—The balance in an individual's account established under section 113 at any time is the excess of—

"(A) the sum of—

"(i) all allocations made to the account under section 113(b); and

"(ii) the total amount of the allocations made to and reductions made in the account pursuant to paragraph (2), over

"(B) the amounts paid out of the Personal Retirement Savings Fund with respect to such individual.

"(2) ALLOCATION OF INVESTMENT EARNINGS AND LOSSES.—Pursuant to regulations prescribed by the Executive Director, the Executive Director shall allocate to each account an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in the Personal Retirement Savings Fund attributable to sums credited to such account, reduced by an appropriate share of the administrative expenses paid out of the net earnings under section 112(d), as determined by the Executive Director.

"(b) ANNUAL, INDEPENDENT AUDITS.—

"(1) DEFINITION.—In this subsection, the term 'qualified public accountant' shall have the same meaning as provided in section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)).

"(2) INDEPENDENT ACCOUNTANT.—The Executive Director shall annually engage, on behalf of all account holders under this title, an independent qualified public accountant, who shall conduct an examination of all accounts and other books and records maintained in the administration of this title as the public accountant considers necessary to enable the public accountant to make the determination required by paragraph (3). The examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the accounts, books, and records as the public accountant considers necessary.

"(3) DETERMINATION REQUIRED.—The public accountant conducting an examination under paragraph (2) shall determine whether the accounts, books, and records referred to in such paragraph have been maintained in conformity with generally accepted accounting principles applied on a basis consistent with the manner in which such principles were applied during the examination conducted under such paragraph during the preceding year. The public accountant shall transmit to the Board a report on his examination, including his determination under this paragraph.

"(4) RELIANCE ON ACTUARIAL MATTER.—In making a determination under paragraph (3), a public accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary if the public accountant states his reliance in the report transmitted to the Board under such paragraph.

"(c) STATEMENTS.—

"(1) IN GENERAL.—The Board shall prescribe regulations under which each account holder under this title shall be furnished with—

"(A) a periodic statement relating to the individual's account; and

"(B) a summary description of the investment options under section 121 covering, and an evaluation of, each such option the 5-year period preceding the date as of which such evaluation is made.

"(2) TIMING.—Information under this subsection shall be provided at least 30 calendar days before the beginning of each election period under section 121(d), and in a manner designed to facilitate informed decision-making with respect to elections under section 121.

"(d) ACKNOWLEDGEMENT.—Each account holder who elects to invest in the Common Stock Index Investment Fund, the Fixed Income Investment Fund, or any other Fund designated by the Board shall sign an acknowledgement prescribed by the Executive Director which states that the account holder understands that an investment in such Fund is made at the account holder's risk, that the account holder is not protected by the Government against any loss on such investment, and that a return on such investment is not guaranteed by the Government.

"SEC. 123. DISTRIBUTION OF BENEFITS.

"(a) TIMING OF DISTRIBUTIONS.—Notwithstanding any other provision of law, distributions may only be made from a personal retirement savings account of an individual on or after the earlier of the date on which the individual begins receiving old-age benefits under title II or the date of the individual's death.

"(b) FORM OF DISTRIBUTION.—

"(1) IN GENERAL.—Subject to section 125, an individual is entitled and may elect to withdraw from the Personal Retirement Savings Fund the balance of the individual's personal retirement savings account as—

"(A) an annuity; or

"(B) substantially equal payments to be made over a period not greater than the life expectancy of the individual or the joint life expectancies of the individual and the individual's designated beneficiary.

"(2) LUMP-SUM REQUIRED FOR MINIMUM AMOUNTS.—Notwithstanding paragraph (1), if the balance in an individual's personal retirement savings account is below such minimum amount as the Board, by regulation, shall establish, the account shall be distributed in a single lump-sum payment.

"(c) CHANGE OF ELECTION OF DISTRIBUTION.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsections (a) and (c) of section 125, an account holder may change an election previously made under this section.

"(2) LIMITATION.—An account holder may not change an election under this section on or after the date on which a payment is made in accordance with such election or, in the case of an election to receive an annuity, the date on which an annuity contract is purchased to provide for the annuity elected by the account holder.

"(d) RULES IF NO ELECTION.—If an account holder dies without having made an election under this section or after having elected an annuity under this section but before making an election under section 124, an amount equal to the value of that individual's account (as of death) shall, subject to any decree, order, or agreement referred to in section 125(c)(2), be paid in a manner consistent with section 126(b).

"SEC. 124. ANNUITIES: METHODS OF PAYMENT; ELECTION; PURCHASE.

"(a) METHODS OF PAYMENT.—

"(1) IN GENERAL.—The Board shall prescribe methods of payment of annuities under this title.

"(2) REQUIREMENTS.—The methods of payment prescribed under paragraph (1) shall include—

"(A) a method that provides for the payment of a monthly annuity only to an annuitant during the life of the annuitant;

"(B) a method that provides for the payment of a monthly annuity to an annuitant for the joint lives of the annuitant and the spouse of the annuitant and an appropriate monthly annuity to the one of them who survives the other of them for the life of the survivor;

"(C) a method described in subparagraph (A) that provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any 1 year shall not be less than the amount payable in the previous year;

"(D) a method described in subparagraph (B) that provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any 1 year shall not be less than the amount payable in the previous year; and

"(E) a method which provides for the payment of a monthly annuity—

"(i) to the annuitant for the joint lives of the annuitant and an individual who is designated by the annuitant under regulations prescribed by the Executive Director and—

"(I) is a former spouse of the annuitant; or

"(II) has an insurable interest in the annuitant; and

"(ii) to the one of them who survives the other of them for the life of the survivor.

"(b) TIMING.—Subject to section 125(b), under such regulations as the Executive Director shall prescribe, an account holder who elects under section 123 to receive an annuity under this title shall elect, on or before the date on which an annuity contract is purchased to provide for that annuity, one of the methods of payment prescribed under subsection (a).

"(c) ELIMINATION OF METHODS.—Notwithstanding the elimination of a method of payment by the Board, an account holder may

elect the eliminated method if the elimination of such method becomes effective less than 5 years before the date on which that account holder's annuity commences.

"(d) PURCHASE REQUIREMENTS.—

"(1) TIMING.—Not earlier than 90 days (or such shorter period as the Executive Director may by regulation prescribe) before an annuity is to commence under this title, the Executive Director shall expend the balance in the annuitant's account to purchase an annuity contract from any entity which, in the normal course of its business, sells and provides annuities.

"(2) COMPLIANCE WITH PROGRAM REQUIREMENTS.—The Executive Director shall ensure, by contract entered into with each entity from which an annuity contract is purchased under paragraph (1), that the annuity shall be provided in accordance with the provisions of this title.

"(3) ADDITIONAL TERMS AND CONDITIONS.—An annuity contract purchased under paragraph (1) shall include such terms and conditions as the Executive Director requires for the protection of the annuitant.

"(4) BONDING REQUIREMENTS.—The Executive Director shall require, from each entity from which an annuity contract is purchased under paragraph (1), a bond or proof of financial responsibility sufficient to protect the annuitant.

"(e) NONAPPLICATION OF STATE TAX.—

"(1) IN GENERAL.—No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any amount paid to purchase an annuity contract under this section.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to exempt any company or other entity issuing an annuity contract under this section from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that entity from the sale of an annuity contract under this section if that tax, fee, or payment is applicable to a broad range of business activity.

"SEC. 125. PROTECTIONS FOR SPOUSES AND FORMER SPOUSES.

"(a) LIMITATION ON WITHDRAWALS.—

"(1) APPLICATION OF REQUIREMENTS.—

"(A) IN GENERAL.—A married account holder may withdraw all or part of a personal retirement savings account under section 123 or change a withdrawal election only if the account holder satisfies the requirements of subparagraph (B).

"(B) JOINT WRITTEN WAIVER.—An account holder may make an election or change referred to in subparagraph (A) if the account holder and the account holder's spouse jointly waive, by written election, any right that the spouse may have to a survivor annuity with respect to such account holder under section 124 or subsection (b).

"(2) EXCEPTION.—Paragraph (1) shall not apply to an election or change of election by an account holder who establishes to the satisfaction of the Executive Director (at the time of the election or change and in accordance with regulations prescribed by the Executive Director)—

"(A) that the spouse's whereabouts cannot be determined; or

"(B) that, due to exceptional circumstances, requiring the spouse's waiver would otherwise be inappropriate.

"(b) METHOD OF ANNUITY.—

"(1) SURVIVOR ANNUITIES.—Notwithstanding any election under section 124(b), the method described in section 124(a)(2)(B) (or, if more than one form of such method is available, the form that the Board determines to be the one that for a surviving spouse a survivor annuity most closely approximating the annuity of a surviving spouse under section 8442 of title 5, United States Code) shall be deemed the applicable method under section 124(b) in the case of an account holder who is married on the date on which an annuity contract is purchased to provide for the account holder's annuity under this title.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a joint waiver of such method is made, in writing, by the account holder and the spouse; or

"(B) the account holder waives such method, in writing, after establishing to the satisfaction of the Executive Director that circumstances described under subparagraph (A) or (B) of subsection (a)(2) make the requirement of a joint waiver inappropriate.

"(c) NONAPPLICATION OF ELECTION.—

"(1) IN GENERAL.—An election or change of election shall not be effective under this title to the extent that the election, change, or transfer conflicts with any court decree, order, or agreement described in paragraph (2).

"(2) COURT DECREE, ORDER, OR AGREEMENT DESCRIBED.—A court decree, order, or agreement described in this paragraph is, with respect to an account holder, a court decree of divorce, annulment, or legal separation issued in the case of such account holder and any former spouse of the account holder or any court order or court-approved property settlement agreement incident to such decree if—

"(A) the decree, order, or agreement expressly relates to any portion of the balance in the individual's personal retirement savings account; and

"(B) notice of the decree, order, or agreement was received by the Executive Director before—

"(i) the date on which payment is made, or

"(ii) in the case of an annuity, the date on which an annuity contract is purchased to provide for the annuity,

in accordance with the election, change, or contribution referred to in paragraph (1).

"(3) 2 OR MORE CASES.—The Executive Director shall prescribe regulations under which this subsection shall be applied in any case in which the Executive Director receives 2 or more decrees, orders, or agreements referred to in paragraph (1).

"(d) PROCEDURES FOR WAIVERS.—Waivers and notifications required by this section and waivers of the requirements for such waivers and notifications (as authorized by this section) may be made only in accordance with procedures prescribed by the Executive Director.

"(e) NONAPPLICATION.—None of the provisions of this section requiring notification to, or the consent or waiver of, a spouse or former spouse of an account holder shall apply in any case in which the account balance of the individual is equal to or less than such amount as the Board, by regulation, shall prescribe.

"SEC. 126. DESIGNATION OF BENEFICIARY; ORDER OF PRECEDENCE.

"(a) DESIGNATION OF BENEFICIARIES.—Under regulations prescribed by the Board, an account holder may designate 1 or more beneficiaries under this section.

"(b) PAYMENTS.—

"(1) IN GENERAL.—Benefits authorized to be paid to an account holder to individuals surviving the account holder and alive at the time of distribution shall be made according to the following:

"(A) First, to the beneficiary or beneficiaries designated by the account holder in a signed and witnessed writing received by the Executive Director before the death of such account holder. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

"(B) Second, if there is no designated beneficiary, to the widow or widower of the account holder.

"(C) Third, if none of the above, to the child or children of the account holder and descendants of deceased children by representation.

"(D) Fourth, if none of the above, to the parents of the account holder or the survivor of them.

"(E) Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the account holder.

"(F) Sixth, if none of the above, to such other next of kin of the account holder as the Board determines to be entitled under the laws of the domicile of the account holder at the date of death of the account holder.

"(2) BAR ON OTHER RECOVERIES.—A payment made in accordance with paragraph (1) shall bar any other recovery by—

"(A) the individual receiving the payment; and

"(B) any other individual.

"(3) DEFINITION OF CHILD.—In this section, the term 'child' includes a natural child and an adopted child, but does not include a stepchild.

"(c) TERMINATION OF AN ANNUITY.—Any annuity accrued and unpaid on the termination, except by death, of the annuity of an annuitant or survivor shall be paid to that individual. Annuity accrued and unpaid on the death of a survivor shall be paid in the following order of precedence, and the payment bars recovery by any other person:

"(1) First, to the duly appointed executor or administrator of the estate of the survivor.

"(2) Second, if there is no executor or administrator, payment may be made, after 30 days from the date of death of the survivor, to such next of kin of the survivor as the Board determines to be entitled under the laws of the domicile of the survivor at the date of death.

"SEC. 127. TAX TREATMENT OF THE PERSONAL RETIREMENT SAVINGS FUND.

"For purposes of the Internal Revenue Code of 1986—

"(1) the Personal Retirement Savings Fund shall be treated as a trust described in section 401(a) of such Code that is exempt from taxation under section 501(a) of such Code;

"(2) any contribution to, or distribution from, such Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

"(3) allocations made to an account holder's personal retirement savings account shall not be treated as distributed or made available to the account holder.

"SEC. 128. ADMINISTRATIVE PROVISIONS.

"(a) DUTY OF EXECUTIVE DIRECTOR.—The Executive Director shall make or provide for payments and transfers in accordance with an election of an account holder under section 123 or 124(b) or, if applicable, in accordance with section 125.

"(b) WRITTEN REQUIREMENTS.—Any election, change of election, or modification of a deferred annuity commencement date made under this title shall be in writing and shall

be filed with the Executive Director in accordance with regulations prescribed by the Executive Director.

"Subtitle D—Beneficiary Protections

"SEC. 131. FIDUCIARY RESPONSIBILITIES; LIABILITY AND PENALTIES.

"(a) DEFINITIONS.—For the purposes of this section—

"(1) the term 'account' is not limited to the personal retirement savings account established for an individual under section 113;

"(2) the term 'adequate consideration' means—

"(A) in the case of a security for which there is a generally recognized market—

"(i) the price of the security prevailing on a national securities exchange that is registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

"(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the Personal Retirement Savings Fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of any party in interest; and

"(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary of Labor;

"(3) the term 'fiduciary' means—

"(A) a member of the Board;

"(B) the Executive Director;

"(C) any person who has or exercises discretionary authority or discretionary control over the management or disposition of the assets of the Personal Retirement Savings Fund; and

"(D) any person who, with respect to the Personal Retirement Savings Fund, is described in section 3(21)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(21)(A)); and

"(4) the term 'party in interest' includes—

"(A) any fiduciary;

"(B) any counsel to a person who is a fiduciary, with respect to the actions of such person as a fiduciary;

"(C) any individual for which a personal retirement account is established under section 113;

"(D) any person providing services to the Board and, with respect to the actions of the Executive Director as a fiduciary, any person providing services to the Executive Director;

"(E) a spouse, sibling, ancestor, lineal descendant, or spouse of a lineal descendant of a person described in subparagraph (A), (B), or (D);

"(F) a corporation, partnership, or trust or estate of which, or in which, at least 50 percent of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation;

"(ii) the capital interest or profits interest of such partnership; or

"(iii) the beneficial interest of such trust or estate;

is owned directly or indirectly, or held by a person described in subparagraph (A), (B), or (D);

"(G) an official (including a director) of, or an individual employed by, a person described in subparagraph (A), (B), (D), or (F), or an individual having powers or responsibilities similar to those of such an official;

"(H) a holder (directly or indirectly) of at least 10 percent of the shares in a person described in any subparagraph referred to in subparagraph (G); and

"(I) a person who, directly or indirectly, is at least a 10 percent partner or joint venturer (measured in capital or profits) in a person described in any subparagraph referred to in subparagraph (G).

"(b) DISCHARGE OF RESPONSIBILITIES.—

"(1) IN GENERAL.—To the extent not inconsistent with the provisions of this title and the policies prescribed by the Board, a fiduciary shall discharge his or her responsibilities with respect to the Personal Retirement Savings Fund or any applicable portion thereof solely in the interest of the account holders and beneficiaries of such Fund and—

"(A) for the exclusive purpose of—

"(i) providing benefits to such account holders and beneficiaries; and

"(ii) defraying reasonable expenses of administering the Personal Retirement Savings Fund or applicable portions thereof;

"(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like objectives; and

"(C) to the extent permitted by section 121, by diversifying the investments of the Personal Retirement Savings Fund or applicable portions thereof so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

"(2) LIMITATION ON OWNERSHIP.—No fiduciary may maintain the indicia of ownership of any assets of the Personal Retirement Savings Fund outside the jurisdiction of the district courts of the United States.

"(c) LIMITATIONS ON TRANSACTIONS.—

"(1) PROHIBITED TRANSACTIONS.—A fiduciary shall not permit the Personal Retirement Savings Fund to engage in any of the following transactions, except in exchange for adequate consideration:

"(A) A transfer of any assets of the Personal Retirement Savings Fund to any person the fiduciary knows or should know to be a party in interest or the use of such assets by any such person.

"(B) An acquisition of any property from or sale of any property to the Personal Retirement Savings Fund by any person the fiduciary knows or should know to be a party in interest.

"(C) A transfer or exchange of services between the Personal Retirement Savings Fund and any person the fiduciary knows or should know to be a party in interest.

"(2) OTHER PROHIBITIONS.—Notwithstanding paragraph (1), a fiduciary with respect to the Personal Retirement Savings Fund shall not—

"(A) deal with any assets of the Personal Retirement Savings Fund in his or her own interest or for his or her own account;

"(B) act, in an individual capacity or any other capacity, in any transaction involving the Personal Retirement Savings Fund on behalf of a party, or representing a party, whose interests are adverse to the interests of the Personal Retirement Savings Fund or the interests of the account holders and beneficiaries of such Fund; or

"(C) receive any consideration for his or her own personal account from any party dealing with sums credited to the Personal Retirement Savings Fund in connection with a transaction involving assets of the Personal Retirement Savings Fund.

"(3) EXEMPTION BY THE SECRETARY OF LABOR.—

"(A) IN GENERAL.—The Secretary of Labor may, in accordance with procedures which the Secretary shall by regulation prescribe, grant a conditional or unconditional exemption of any fiduciary or transaction, or class of fiduciaries or transactions, from all or part of the restrictions imposed by paragraph (2).

"(B) NONAPPLICATION TO OTHER APPLICABLE PROVISIONS.—An exemption granted under this paragraph shall not relieve a fiduciary from any other applicable provision of this title.

"(C) REQUIREMENTS.—The Secretary of Labor may not grant an exemption under this paragraph unless the Secretary finds that such exemption is—

"(i) administratively feasible;

"(ii) in the interests of the Personal Retirement Savings Fund and of the account holders and beneficiaries of such Fund; and

"(iii) protective of the rights of such account holders and beneficiaries.

"(D) NOTICE.—An exemption under this paragraph may not be granted unless—

"(i) notice of the proposed exemption is published in the Federal Register;

"(ii) interested persons are given an opportunity to present views; and

"(iii) the Secretary of Labor affords an opportunity for a hearing and makes a determination on the record with respect to the respective requirements of clauses (i), (ii), and (iii) of subparagraph (C).

"(E) ERISA EXEMPTIONS.—Notwithstanding subparagraph (D), the Secretary of Labor may determine that an exemption granted for any class of fiduciaries or transactions under section 408(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(a)) shall, upon publication of notice in the Federal Register under this subparagraph, constitute an exemption for purposes of the provisions of paragraph (2).

"(d) BENEFITS AND COMPENSATION.—This section does not prohibit any fiduciary from—

"(1) receiving any benefit that the fiduciary is entitled to receive under this title as a beneficiary of the Personal Retirement Savings Fund;

"(2) receiving any reasonable compensation authorized by this title for services rendered, or for reimbursement of expenses properly and actually incurred, in the performance of the fiduciary's duties under this title; or

"(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

"(e) BREACH OF DUTIES.—

"(1) PERSONAL LIABILITY.—

"(A) IN GENERAL.—Any fiduciary that breaches the responsibilities, duties, and obligations set out in subsection (b) or violates subsection (c) shall be personally liable to the Personal Retirement Savings Fund for any losses to such Fund resulting from each such breach or violation and to restore to such Fund any profits made by the fiduciary through use of assets of such Fund by the fiduciary, and shall be subject to such other equitable or remedial relief as a court considers appropriate, except as provided in paragraphs (3) and (4). A fiduciary may be removed for a breach referred to in the preceding sentence.

"(B) CIVIL PENALTIES.—The Secretary of Labor may assess a civil penalty against a party in interest with respect to each transaction that is engaged in by the party in interest and is prohibited by subsection (c). The amount of such penalty shall be equal to 5 percent of the amount involved in each such transaction (as defined in section 4975(f)(4) of the Internal Revenue Code of

1986) for each year or part thereof during which the prohibited transaction continues, except that, if the transaction is not corrected (in such manner as the Secretary of Labor shall prescribe by regulation consistent with section 4975(f)(5) of such Code) within 90 days after the date the Secretary of Labor transmits notice to the party in interest (or such longer period as the Secretary of Labor may permit), such penalty may be in an amount not more than 100 percent of the amount involved.

"(C) ACTS COMMITTED PRIOR TO OR AFTER SERVICE.—A fiduciary shall not be liable under subparagraph (A) with respect to a breach of fiduciary duty under subsection (b) committed before becoming a fiduciary or after ceasing to be a fiduciary.

"(D) JOINT AND SEVERAL LIABILITY.—A fiduciary shall be jointly and severally liable under subparagraph (A) for a breach of fiduciary duty under subsection (b) by another fiduciary only if—

"(i) the fiduciary participates knowingly in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is such a breach;

"(ii) by the fiduciary's failure to comply with subsection (b) in the administration of the fiduciary's specific responsibilities that give rise to the fiduciary status, the fiduciary has enabled such other fiduciary to commit such a breach; or

"(iii) the fiduciary has knowledge of a breach by such other fiduciary, unless the fiduciary makes reasonable efforts under the circumstances to remedy the breach.

"(E) REGULATIONS.—The Secretary of Labor shall prescribe, in regulations, procedures for allocating fiduciary responsibilities among fiduciaries, including investment managers. Any fiduciary who, pursuant to such procedures, allocates to a person or persons any fiduciary responsibility shall not be liable for an act or omission of such person or persons unless—

"(i) such fiduciary violated subsection (b) with respect to the allocation, with respect to the implementation of the procedures prescribed by the Secretary of Labor (or the Board), or in continuing such allocation; or

"(ii) such fiduciary would otherwise be liable in accordance with subparagraph (D).

"(2) REQUIREMENTS FOR CIVIL ACTIONS.—

"(A) IN GENERAL.—No civil action may be maintained against any fiduciary with respect to the responsibilities, liabilities, and penalties authorized or provided for in this section except in accordance with subparagraphs (B) and (C).

"(B) JURISDICTION.—A civil action may be brought in the district courts of the United States—

"(i) by the Secretary of Labor against any fiduciary other than a Member of the Board or the Executive Director of the Board—

"(I) to determine and enforce a liability under paragraph (1)(A);

"(II) to collect any civil penalty under paragraph (1)(B);

"(III) to enjoin any act or practice that violates any provision of subsection (b) or (c);

"(IV) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(V) to enjoin any act or practice that violates subsection (g)(3) or (i) of section 101;

"(ii) by any beneficiary or fiduciary against any fiduciary—

"(I) to enjoin any act or practice that violates any provision of subsection (b) or (c);

"(II) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(III) to enjoin any act or practice that violates subsection (g)(3) or (i) of section 101; or

"(iii) by any beneficiary or fiduciary—

"(I) to recover benefits of the beneficiary under the provisions of this title, to enforce any right of the beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

"(II) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, United States Code, provided that the remedy against the United States provided by sections 1346(b) and 2672 of such title for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment shall be exclusive of any other civil action or proceeding by the beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

"(C) LEGAL REPRESENTATION.—

"(i) DEPARTMENT OF LABOR.—In all civil actions under subparagraph (B)(i), attorneys appointed by the Secretary of Labor may represent the Secretary (except as provided in section 518(a) of title 28, United States Code), however all such litigation shall be subject to the direction and control of the Attorney General.

"(ii) DEPARTMENT OF JUSTICE.—The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in subparagraph (B)(iii)(II) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Executive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

"(iii) REMOVAL.—Upon certification by the Attorney General that a fiduciary described in subparagraph (B)(iii)(II) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

"(I) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

"(II) deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto.

"(iv) SETTLEMENT.—The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect. To the extent section 2672 of such title provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsection (b) or (c).

"(v) NONAPPLICATION OF PROVISION.—For the purposes of subparagraph (B)(iii)(II), the provisions of section 2680(h) of title 28, United States Code, shall not apply to any claim based upon an alleged violation of subsection (b) or (c).

"(vi) PAYMENT.—Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, United States Code, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Personal Retirement Savings Fund, or where there is no such appropriate account, to the beneficiary bringing the claim.

"(vii) LIMITATION ON DEFINITION OF FIDUCIARY.—For purposes of subparagraph (B)(iii)(II), fiduciary includes only the members of the Board and the Board's Executive Director.

"(D) LIMITATION ON RECOVERY.—Any relief awarded against a member of the Board or the Executive Director of the Board in a civil action authorized by subparagraph (B) may not include any monetary damages or any other recovery of money.

"(E) LIMITATION ON COMMENCEMENT OF ACTIONS.—An action may not be commenced under subparagraph (B) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(i) 6 years after—

"(I) the date of the last action that constituted a part of the breach or violation; or

"(II) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(ii) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.

"(F) EXCLUSIVE JURISDICTION.—

"(i) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction of civil actions under this subsection.

"(ii) VENUE.—An action under this subsection may be brought in the District Court of the United States for the District of Columbia or a district court of the United States in the district where the breach alleged in the complaint or petition filed in the action took place or in the district where a defendant resides or may be found. Process may be served in any other district where a defendant resides or may be found.

"(G) FILING OF COMPLAINT.—

"(i) SERVICE.—A copy of the complaint or petition filed in any action brought under this subsection (other than by the Secretary of Labor) shall be served on the Executive Director, the Secretary of Labor, and the Secretary of the Treasury by certified mail.

"(ii) INTERVENTION.—Any officer referred to in clause (i) of this subparagraph shall have the right in his or her discretion to intervene in any action. If the Secretary of Labor brings an action under this paragraph on behalf of a beneficiary, the officer shall notify the Executive Director and the Secretary of the Treasury.

"(f) REGULATIONS.—The Secretary of Labor may prescribe regulations to carry out this section.

"(g) AUDITS.—

"(1) IN GENERAL.—The Secretary of Labor shall establish a program to carry out audits to determine the level of compliance with

the requirements of this section relating to fiduciary responsibilities and prohibited activities of fiduciaries.

"(2) CONDUCT.—An audit under this subsection may be conducted by the Secretary of Labor, by contract with a qualified nongovernmental organization, or in cooperation with the Comptroller General of the United States, as the Secretary considers appropriate.

"SEC. 132. BONDING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each fiduciary and each person who handles funds or property of the Personal Retirement Savings Fund shall be bonded as provided in this section.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Bond shall not be required of a fiduciary (or of any officer or employee of such fiduciary) if such fiduciary—

"(i) is a corporation organized and doing business under the laws of the United States or of any State;

"(ii) is authorized under such laws to exercise trust powers or to conduct an insurance business;

"(iii) is subject to supervision or examination by Federal or State authority; and

"(iv) has at all times a combined capital and surplus in excess of such minimum amount (not less than $1,000,000) as the Secretary of Labor prescribes in regulations.

"(B) BANKS OR OTHER FINANCIAL INSTITUTIONS.—If—

"(i) a bank or other financial institution would, but for this subparagraph, not be required to be bonded under this section by reason of the application of the exception provided in subparagraph (A);

"(ii) the bank or financial institution is authorized to exercise trust powers; and

"(iii) the deposits of the bank or financial institution are not insured by the Federal Deposit Insurance Corporation,

such exception shall apply to such bank or financial institution only if the bank or institution meets bonding requirements under State law which the Secretary of Labor determines are at least equivalent to those imposed on banks by Federal law.

"(b) AMOUNT OF BOND.—

"(1) MINIMUM REQUIREMENTS.—The Secretary of Labor shall prescribe the amount of a bond under this section at the beginning of each fiscal year. Except as otherwise provided in this paragraph, such amount shall not be less than 10 percent of the amount of funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Secretary of Labor, after due notice and opportunity for hearing to all interested parties, and other consideration of the record, may prescribe an amount in excess of $500,000.

"(2) DETERMINATION OF AMOUNT OF FUNDS.—For the purpose of prescribing the amount of a bond under paragraph (1), the amount of funds handled shall be determined by reference to the amount of the funds handled by the person, group, or class to be covered by such bond or by their predecessor or predecessors, if any, during the preceding fiscal year, or to the amount of funds to be handled during the current fiscal year by such person, group, or class, estimated as provided in regulations prescribed by the Secretary of Labor.

"(c) OTHER REQUIREMENTS.—A bond required by subsection (a)—

"(1) shall include such terms and conditions as the Secretary of Labor considers necessary to protect the Personal Retirement Savings Fund against loss by reason of acts of fraud or dishonesty on the part of the bonded person directly or through connivance with others;

"(2) shall have as surety thereon a corporate surety company that is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 9304 through 9308 of title 31, United States Code; and

"(3) shall be in a form or of a type approved by the Secretary of Labor, including individual bonds or schedule or blanket forms of bonds that cover a group or class.

"(d) PROHIBITIONS.—

"(1) BOND REQUIRED.—It shall be unlawful for any person to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Personal Retirement Savings Fund without being bonded as required by this section.

"(2) MEET ALL REQUIREMENTS.—It shall be unlawful for any fiduciary, or any other person having authority to direct the performance of functions described in paragraph (1), to permit any such function to be performed by any person to whom subsection (a) applies unless such person has met the requirements of such subsection.

"(e) NONAPPLICATION OF OTHER LAWS.—Notwithstanding any other provision of law, any person who is required to be bonded as provided in subsection (a) shall be exempt from any other provision of law that, but for this subsection, would require such person to be bonded for the handling of the funds or other property of the Personal Retirement Savings Fund.

"(f) REGULATIONS.—The Secretary of Labor shall prescribe such regulations as may be necessary to carry out the provisions of this section, including exempting a person or class of persons from the requirements of this section.

"SEC. 133. INVESTIGATIVE AUTHORITY.

Any authority available to the Secretary of Labor under section 504 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1134) is hereby made available to the Secretary of Labor, and any officer designated by the Secretary of Labor, to determine whether any person has violated, or is about to violate, any provision of section 131 or 132.

"SEC. 134. EXCULPATORY PROVISIONS; INSURANCE.

"(a) NONAPPLICATION OF EXCULPATORY PROVISIONS.—Any provision in an agreement or instrument that purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this title shall be void.

"(b) LIABILITY INSURANCE.—Sums credited to the Personal Retirement Savings Fund may be used at the discretion of the Executive Director to purchase insurance to cover the potential liability of persons who serve in a fiduciary capacity with respect to the Personal Retirement Savings Fund, without regard to whether a policy of insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation.".

SEC. 5. REPORT AND RECOMMENDATIONS REGARDING INVESTMENT OPTIONS.

Not later than 36 months after the date of enactment of this Act, the Personal Retirement Accounts Board established under section 101 of the Social Security Act (as amended by section 4 of this Act) shall submit to the appropriate committees of Congress a report regarding recommendations for additional investment options for individuals with personal retirement accounts established under title I of the Social Security Act (as so amended). The report shall include recommendations regarding—

(1) whether the Board should make available to such account holders investment funds managed by qualified professional asset managers (as defined in section 121(a)(7) of the Social Security Act (as amended by section 4 of this Act));

(2) whether such account holders should be permitted to transfer all or a portion of the balance in their personal retirement accounts to a new form of individual retirement account that would be managed by qualified professional asset managers (as so defined);

(3) whether the Board should provide an alternative for the investment of a personal retirement account for which no investment election is made to investment in the Government Securities Investment Fund provided for under section 121(c)(2) of the Social Security Act (as so amended); and

(4) whether the Board should offer diversified investment selections for such account holders that takes into consideration the age of the individual.

By Mr. CLELAND:

S. 2370. A bill to designate the facility of the United States Postal Service located at Tall Timbers Village Square, Untied States Highway 19 South, in Thomasville, Georgia, as the "Lieutenant Henry O. Flipper Station"; to the Committee on Governmental Affairs.

LIEUTENANT HENRY O. FLIPPER STATION

Mr. CLELAND. Mr. President, today I am introducing a bill in honor of an American patriot, Lieutenant Henry Ossian Flipper, on whose behalf I offer this legislation for the designation of the Lieutenant Henry O. Flipper Station, a postal station being constructed in Thomasville, Georgia.

It is an honor for me to highlight the contributions of this courageous American. Born in 1856, in Thomasville, Georgia, Lieutenant Flipper was the first African-American to graduate from the United States Military Academy at West Point in 1877.

Lieutenant Flipper had a distinguished career as an Army officer. His first assignment to frontier duty was with the Tenth Cavalry at Fort Sill, Oklahoma. The Tenth, along with its sister unit, the Ninth Cavalry unit, were responsible for facilitating the movement of pioneers wishing to settle in the Western frontier. The African-American members of these two units became known as "Buffalo Soldiers." During his tenure at Fort Sill, Lieutenant Flipper ingeniously engineered a drainage system to eliminate stagnant malarial ponds and swamps created during the rainy season. This effort made a significant contribution to improving the health of the Post, and the ditch, christened "Flipper's Ditch," is now a historic landmark.

Lieutenant Flipper was instrumental in the successful 1880 campaign against Mescalero Apache Chief Victorio, an escapee from the military authorities in New Mexico. Facing a judicial sentence for murder in 1879, Victorio was

able to escape, gather his forces and begin a rampage throughout New Mexico and Texas. Through tough terrain and logistical challenges, the soldiers of the Ninth and Tenth Cavalry were able to push Victorio into Mexico where he was killed by the Mexican Army.

It is very timely that we commemorate Lieutenant Flipper since this year is the fiftieth anniversary of the racial integration of the military. This action marked a historic change which has led to significant progress in eliminating racial barriers. Lieutenant Flipper's legacy is that of a pioneer in confronting the challenges of racial strife who paved the way for this evolution. Although Lieutenant Flipper left the military in 1882, he was able to prove to America that African-Americans possessed the quality of military leadership.

After the end of his military service in 1882, Lieutenant Flipper continued a very distinguished career, applying his surveying and engineering skills as a civil and mining engineer on the frontiers of the Southwest and Mexico. He became the first African-American to gain prominence in the engineering profession.

Historical accounts depict the solid perseverance of Lieutenant Flipper. He confronted racial bias demonstrating unflinchingly strong character and intellect. In a book entitled "An Officer and a Gentlemen," historian Steve Wilson is credited with compiling a list of "firsts" for an African-American which were achieved by Lieutenant Flipper: Military Academy graduate, cavalry officer, surveyor, cartographer, civil and mining engineer, translator, interpreter, inventor, editor, author, special agent for the Justice Department, personal confident and advisor to a Senator, and pioneer in the oil industry.

In a ceremony in 1977, Lieutenant General Sidney B. Berry, the United States Military Academy's Superintendent, praised Lieutenant Flipper's memory, stating that, "there was a strength and gentleness that transcended any bad treatment Flipper received. He was a strong and gentle man." Lieutenant Flipper was a pioneer for civil rights in the military and in the civilian community. Although he had a very successful civilian life, Lieutenant Flipper always considered himself first and foremost an Army officer.

I join the residents of Thomasville in this quest of the post office designation in honor of Lieutenant Flipper. Not only is this hero one of Georgia's own, Lieutenant Flipper has earned the respect of a grateful Nation. The measure I am submitting today will give him this well-deserved recognition.

Mr. President, I request unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2370

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

SECTION 1. DESIGNATION OF LIEUTENANT HENRY O. FLIPPER STATION.

(a) IN GENERAL.—The facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, shall be known and designated as the "Lieutenant Henry O. Flipper Station".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility of the United States Postal Service referred to in subsection (a) shall be deemed to be a reference to the "Lieutenant Henry O. Flipper Station".

ADDITIONAL COSPONSORS

S. 230

At the request of Mr. THURMOND, the name of the Senator from Idaho (Mr. KEMPTHORNE) was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 778

At the request of Mr. LUGAR, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 852

At the request of Mr. LOTT, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 981

At the request of Mr. LEVIN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1480

At the request of Ms. SNOWE, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. AKAKA), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1480, a bill to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins.

S. 1675

At the request of Mr. SHELBY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1675, a bill to establish a Congressional Office of Regulatory Analysis.

S. 1759

At the request of Mr. HATCH, the names of the Senator from Idaho [Mr. CRAIG], the Senator from South Carolina [Mr. THURMOND], the Senator from Kentucky [Mr. FORD], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Michigan [Mr. LEVIN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma [Mr. INHOFE] 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. 1960

At the request of Mr. WARNER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1960, a bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield, as previously authorized by law, by purchase or exchange as well as by donation.

S. 2130

At the request of Mr. GRAMS, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Florida [Mr. MACK], the Senator from South Dakota [Mr. JOHNSON], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Colorado [Mr. ALLARD], the Senator from Virginia [Mr. ROBB], the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. BENNETT], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2217

At the request of Mr. FRIST, the names of the Senator from California [Mrs. BOXER], the Senator from Ohio [Mr. DEWINE], the Senator from Maine [Ms. SNOWE], the Senator from California [Mrs. FEINSTEIN], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2344

At the request of Mr. COVERDELL, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 2344, a bill to amend the Agricultural Market Transition Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts.

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 2344, supra.

S. 2352

At the request of Mr. LEAHY], the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. CRAIG], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 2352, a bill to protect the privacy rights of patients.

S. 2354

At the request of Mr. BOND, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 2354, a bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

S. 2358

At the request of Mr. ROCKEFELLER, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

SENATE RESOLUTION 95

At the request of Mr. THURMOND, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Resolution 95, a resolution designating August 16, 1997, as "National Airborne Day."

SENATE RESOLUTION 189

At the request of Mr. TORRICELLI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Resolution 189, a resolution honoring the 150th anniversary of the United States Women's Rights Movement that was initiated by the 1848 Women's Rights Convention held in Seneca Falls, New York, and calling for a national celebration of women's rights in 1998.

AMENDMENT NO. 3354

At the request of Mr. DEWINE the names of the Senator from Alabama [Mr. SESSIONS], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of amendment No. 3354 proposed to S. 2312, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

AMENDMENT NO. 3357

At the request of Mr. THOMPSON the names of the Senator from Mississippi [Mr. LOTT], the Senator from Louisiana [Mr. BREAUX], the Senator from Alabama [Mr. SHELBY], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of amendment No. 3357 proposed to S. 2312, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

SENATE RESOLUTION 259—DESIGNATING "NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK"

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 259

Whereas there are 104 historically black colleges and universities in the United States;

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 20, 1998, as "National Historically Black Colleges and Universities Week"; and

(2) requests that the President of the United States issue a proclamation calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

• Mr. THURMOND. Mr. President, I am pleased to submit today a Senate Resolution which authorizes and requests the President to designate the week beginning September 20, 1998, as "National Historically Black Colleges and Universities Week."

It is my privilege to sponsor this legislation for the thirteenth time honoring the Historically Black Colleges of our Country.

Eight of the 104 Historically Black Colleges, namely Allen University, Benedict College, Claflin College, South Carolina State University, Morris College, Voorhees College, Denmark Technical College, and Clinton Junior College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with the opportunity to obtain a college education.

Mr. President, thousands of young Americans have received quality educations at these 104 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically

Black Colleges offer our citizens a variety of curricula and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Mr. President, through passage of this Senate Resolution, Congress can reaffirm its support for Historically Black Colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy passage of this Resolution.●

AMENDMENT SUBMITTED

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

BROWNBACK (AND OTHERS) AMENDMENT NO. 3359

Mr. BROWNBACK (for himself, Mr. ASHCROFT, Mr. INHOFE, Mr. GRAMS, Mr. SMITH of New Hampshire, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. ABRAHAM, Mr. LOTT, Mr. CAMPBELL, Mr. HELMS, Mr. SMITH of Oregon, and Mr. HUTCHINSON) proposed an amendment to the bill (S. 2312) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. ___. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

"(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

"(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

"(b) DETERMINATION OF TAXABLE INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the taxable income for each spouse shall be one-half of the taxable income computed as if the spouses were filing a joint return.

"(2) NONITEMIZERS.—For purposes of paragraph (1), if an election is made not to itemize deductions for any taxable year, the basic standard deduction shall be equal to the amount which is twice the basic standard deduction under section 63(c)(2)(C) for the taxable year.

"(c) TREATMENT OF CREDITS.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

"(d) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section."

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 of such Code as precedes the table is amended to read as follows:

"(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6013 the following:

"Sec. 6013A. Combined return with separate rates."

(d) BUDGET DIRECTIVE.—The members of the conference on the congressional budget resolution for fiscal year 1999 shall provide in the conference report sufficient spending reductions to offset the reduced revenues received by the United States Treasury resulting from the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

FAIRCLOTH (AND FEINSTEIN) AMENDMENT NO. 3360

(Ordered to lie on the table.)

Mr. FAIRCLOTH (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by them to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. .SENSE OF THE SENATE REGARDING THE TAX DEDUCTIBILITY OF BREAST CANCER POSTAGE STAMP.

(a) FINDINGS.—The Senate finds that—

(1) There are 1.8 million women in America today with breast cancer;

(2) Another one million women do not know they have it;

(3) Breast cancer kills 46,000 women a year, and is one of the leading causes of death in women of all ages, and the second leading cause of cancer death in all women, claiming a life every 12 minutes in the United States;

(4) On August 13, 1997, the "Stamp Out Breast Cancer Act," Public Law 105-41, was signed into law, directing the United States Postal Service to establish a special first-class postage stamp, or semi-postal, at a cost not to exceed 25 percent above the regular first-class rate of postage;

(5) Amounts raised by the special breast cancer semi-postal above the regular first-class rate are to be available for breast cancer research, 70 percent of such funds the Postal Service shall pay to the National Institutes of Health and the remainder the Postal Service shall pay to Department of Defense.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Service should promulgate such rules and regulations as may be necessary concerning the differential amount above the regular first-class postage rate which is dedicated for breast cancer research, to ensure that purchasers of the breast cancer semi-postal postage stamp may deduct said amounts as a charitable contribution, as defined in Title 26 of the Internal Revenue Code, Section 170.

FAIRCLOTH AMENDMENT NO. 3361

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill, S. 2312, supra; as follows:

At the approriate place, insert the following:

SEC. . RESTRICTION ON THE USE OF THE EXCHANGE STABILIZATION FUND

(a) SHORT TITLE.—This Act may be cited as the "Accountability for International Bailouts Act of 1997".

(b) CONGRESSIONAL APPROVAL.—Section 5302 of tile 31, United States Code, is amended by adding at the end the following:

'(e) CONGRESSIONAL APPROVAL.—Notwithstanding any other provision of this section, the Secretary of the Treasury may not make any expenditure or loan, incur any other obligation, or make any guarantee in excess of $250,000,000 through the stabilization fund, for the purpose of engaging in a coordinated international rescue plan for any foreign entity or any government of a foreign country, without the approval of Congress.'.

ABRAHAM (AND OTHERS) AMENDMENT NO. 3362

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FAIRCLOTH, Mr. SESSIONS, Mr. HUTCHINSON, Mr. DEWINE, Mr. MCCAIN, Mr. BROWNBACK, Mr. ENZI, Mr. HELMS, Mr. COVERDELL, and Mr. ASHCROFT) submitted an amendment intended to be proposed by them to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES.

(a) PURPOSES.—The purposes of this section are to—

(1) require agencies to assess the impact of proposed agency actions on family well-being; and

(2) improve the management of executive branch agencies.

(b) DEFINITIONS.—In this section—

(1) the term "agency" has the meaning given the term "Executive agency" by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and

(2) the term "family" means—

(A) a group of individuals related by blood, marriage, or adoption who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.

(c) FAMILY POLICYMAKING ASSESSMENT.—Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether—

(1) the action strengthens or erodes the stability of the family and, particularly, the marital commitment;

(2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;

(3) the action helps the family perform its functions, or substitutes governmental activity for the function;

(4) the action increases or decreases disposable family income;

(5) the proposed benefits of the action justify the financial impact on the family;

(6) the action may be carried out by State or local government or by the family; and

(7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

(d) GOVERNMENTWIDE FAMILY POLICY COORDINATION AND REVIEW.—

(1) CERTIFICATION AND RATIONALE.—With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall—

(A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and

(B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.

(2) OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and

(B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).

(3) OFFICE OF POLICY DEVELOPMENT.—The Office of Policy Development shall—

(A) assess proposed policies and regulations in accordance with this section;

(B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and

(C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.

(e) ASSESSMENTS UPON REQUEST BY MEMBERS OF CONGRESS.—Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).

(f) JUDICIAL REVIEW.—This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

MACK (AND GRAHAM) AMENDMENT NO. 3363

Mr. CAMPBELL (for Mr. MACK for himself and Mr. GRAHAM) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in title IV, insert:

SEC. ___. LAND CONVEYANCE, UNITED STATES NAVAL OBSERVATORY/ALTERNATE TIME SERVICE LABORATORY, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—If the Secretary of the Navy reports to the Administrator of General Services that the property described in subsection (b) is excess property of the Department of the Navy under section 202(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)), and if the Administrator of General Services determines that such property is surplus property under that Act, then the Administrator may convey to the University of Miami, by negotiated sale or negotiated land exchange within one year after the date of the determination by the Administrator, all right, title, and interest of the United States in and to the property.

(b) COVERED PROPERTY.—The property referred to in subsection (a) is real property in Miami-Dade County, Florida, including improvements thereon, comprising the Federal facility known as the United States Naval Observatory/Alternate Time Service Laboratory, consisting of approximately 76 acres. The exact acreage and legal description of the property shall be determined by a survey that is satisfactory to the Administrator.

(c) CONDITION REGARDING USE.—Any conveyance under subsection (a) shall be subject to the condition that during the 10-year period beginning on the date of the conveyance, the University shall use the property, or provide for use of the property, only for—

(1) a research, education, and training facility complementary to longstanding national research missions, subject to such incidental exceptions as may be approved by the Administrator;

(2) research-related purposes other than the use specified in paragraph (1), under an agreement entered into by the Administrator and the University; or

(3) a combination of uses described in paragraph (1) and paragraph (2), respectively.

(d) REVERSION.—If the Administrator determines at any time that the property conveyed under subsection (a) is not being used in accordance with this section, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

JEFFORDS (AND OTHERS) AMENDMENT NO. 3364

Mr. CAMPBELL (for Mr. JEFFORDS, for himself, Ms. LANDRIEU, Mr. DODD, Mr. KOHL, and Mr. JOHNSON) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

TITLE ___—CHILD CARE IN FEDERAL FACILITIES

SEC. ___1. SHORT TITLE.

This title may be cited as "Quality Child Care for Federal Employees".

SEC. ___2. PROVIDING QUALITY CHILD CARE IN FEDERAL FACILITIES.

(a) DEFINITION.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(2) CHILD CARE ACCREDITATION ENTITY.—The term "child care accreditation entity" means a nonprofit private organization or public agency that—

(A) is recognized by a State agency or by a national organization that serves as a peer review panel on the standards and procedures of public and private child care or school accrediting bodies; and

(B) accredits a facility to provide child care on the basis of—

(i) an accreditation or credentialing instrument based on peer-validated research;

(ii) compliance with applicable State or local licensing requirements, as appropriate, for the facility;

(iii) outside monitoring of the facility; and

(iv) criteria that provide assurances of—

(I) use of developmentally appropriate health and safety standards at the facility;

(II) use of developmentally appropriate educational activities, as an integral part of the child care program carried out at the facility; and

(III) use of ongoing staff development or training activities for the staff of the facility, including related skills-based testing.

(3) ENTITY SPONSORING A CHILD CARE FACILITY.—The term "entity sponsoring a child care facility" means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care facility primarily for the use of Federal employees.

(4) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense and the Coast Guard; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (5)(B).

(5) EXECUTIVE FACILITY.—The term "executive facility"—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(6) FEDERAL AGENCY.—The term "Federal agency" means an Executive agency or a legislative office.

(7) JUDICIAL OFFICE.—The term "judicial office" means an entity of the judicial branch of the Federal Government.

(8) LEGISLATIVE FACILITY.—The term "legislative facility" means a facility that is owned or leased by a legislative office.

(9) LEGISLATIVE OFFICE.—The term "legislative office" means an entity of the legislative branch of the Federal Government.

(10) STATE.—The term "State" has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).

(b) EXECUTIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS.—

(A) IN GENERAL.—Any entity sponsoring a child care facility in an executive facility shall—

(i) comply with child care standards described in paragraph (2) that, at a minimum, include applicable State or local licensing requirements, as appropriate, related to the provision of child care in the State or locality involved; or

(ii) obtain the applicable State or local licenses, as appropriate, for the facility.

(B) COMPLIANCE.—Not later than 6 months after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with subparagraph (A); and

(ii) any contract or licensing agreement used by an Executive agency for the provision of child care services in such child care facility shall include a condition that the

child care be provided by an entity that complies with the standards described in subparagraph (A)(i) or obtains the licenses described in subparagraph (A)(ii).

(2) HEALTH, SAFETY, AND FACILITY STANDARDS.—The Administrator shall by regulation establish standards relating to health, safety, facilities, facility design, and other aspects of child care that the Administrator determines to be appropriate for child care in executive facilities, and require child care services in executive facilities to comply with the standards. Such standards shall include requirements that child care facilities be inspected for, and be free of, lead hazards.

(3) ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Administrator shall issue regulations requiring, to the maximum extent possible, any entity sponsoring an eligible child care facility (as defined by the Administrator) in an executive facility to comply with standards of a child care accreditation entity.

(B) COMPLIANCE.—The regulations shall require that, not later than 5 years after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with the standards; and

(ii) any contract or licensing agreement used by an Executive agency for the provision of child care services in such child care facility shall include a condition that the child care be provided by an entity that complies with the standards.

(4) EVALUATION AND COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall evaluate the compliance, with the requirements of paragraph (1) and the regulations issued pursuant to paragraphs (2) and (3), as appropriate, of child care facilities, and entities sponsoring child care facilities, in executive facilities. The Administrator may conduct the evaluation of such a child care facility or entity directly, or through an agreement with another Federal agency or private entity, other than the Federal agency for which the child care facility is providing services. If the Administrator determines, on the basis of such an evaluation, that the child care facility or entity is not in compliance with the requirements, the Administrator shall notify the Executive agency.

(B) EFFECT OF NONCOMPLIANCE.—On receipt of the notification of noncompliance issued by the Administrator, the head of the Executive agency shall—

(i) if the entity operating the child care facility is the agency—

(I) not later than 2 business days after the date of receipt of the notification, correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) develop and provide to the Administrator a plan to correct any other deficiencies in the operation of the facility and bring the facility and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) provide the parents of the children receiving child care services at the child care facility and employees of the facility with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies, and post a copy of the notification in a conspicuous place in the facility for 5 working days or until the deficiencies are corrected, whichever is later;

(IV) bring the child care facility and entity into compliance with the requirements and certify to the Administrator that the facility and entity are in compliance, based on an onsite evaluation of the facility conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the child care facility, or the affected portion of the facility, until such deficiencies are corrected and notify the Administrator of such closure; and

(ii) if the entity operating the child care facility is a contractor or licensee of the Executive agency—

(I) require the contractor or licensee, not later than 2 business days after the date of receipt of the notification, to correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) require the contractor or licensee to develop and provide to the head of the agency a plan to correct any other deficiencies in the operation of the child care facility and bring the facility and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) require the contractor or licensee to provide the parents of the children receiving child care services at the child care facility and employees of the facility with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies, and to post a copy of the notification in a conspicuous place in the facility for 5 working days or until the deficiencies are corrected, whichever is later;

(IV) require the contractor or licensee to bring the child care facility and entity into compliance with the requirements and certify to the head of the agency that the facility and entity are in compliance, based on an onsite evaluation of the facility conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the child care facility, or the affected portion of the facility, until such deficiencies are corrected and notify the Administrator of such closure, which closure may be grounds for the immediate termination or suspension of the contract or license of the contractor or licensee.

(C) COST REIMBURSEMENT.—The Executive agency shall reimburse the Administrator for the costs of carrying out subparagraph (A) for child care facilities located in an executive facility other than an executive facility of the General Services Administration. If an entity is sponsoring a child care facility for 2 or more Executive agencies, the Administrator shall allocate the costs of providing such reimbursement with respect to the entity among the agencies in a fair and equitable manner, based on the extent to which each agency is eligible to place children in the facility.

(5) DISCLOSURE OF PRIOR VIOLATIONS TO PARENTS AND FACILITY EMPLOYEES.—The Administrator shall issue regulations that require that each entity sponsoring a child care facility in an Executive facility, upon receipt by the child care facility or the entity (as applicable) of a request by any individual who is a parent of any child enrolled at the facility, a parent of a child for whom an application has been submitted to enroll at the facility, or an employee of the facility, shall provide to the individual—

(A) copies of all notifications of deficiencies that have been provided in the past with respect to the facility under clause (i)(III) or (ii)(III), as applicable, of paragraph (4)(B); and

(B) a description of the actions that were taken to correct the deficiencies.

(c) LEGISLATIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Chief Administrative Officer of the House of Representatives shall issue regulations, approved by the Committee on House Oversight of the House of Representatives, governing the operation of the House of Representatives Child Care Center. The Librarian of Congress shall issue regulations, approved by the appropriate House and Senate committees with jurisdiction over the Library of Congress, governing the operation of the child care center located at the Library of Congress. Subject to paragraph (3), the head of a designated entity in the Senate shall issue regulations, approved by the Committee on Rules and Administration of the Senate, governing the operation of the Senate Employees' Child Care Center.

(B) STRINGENCY.—The regulations described in subparagraph (A) shall be no less stringent in content and effect than the requirements of subsection (b)(1) and the regulations issued by the Administrator under paragraphs (2) and (3) of subsection (b), except to the extent that appropriate administrative officers, with the approval of the appropriate House or Senate committees with oversight responsibility for the centers, may jointly or independently determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), and (3) of subsection (b) for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities.

(2) EVALUATION AND COMPLIANCE.—

(A) ADMINISTRATION.—Subject to paragraph (3), the Chief Administrative Officer of the House of Representatives, the head of the designated Senate entity, and the Librarian of Congress, shall have the same authorities and duties—

(i) with respect to the evaluation of, compliance of, and cost reimbursement for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities as the Administrator has under subsection (b)(4) with respect to the evaluation of, compliance of, and cost reimbursement for such facilities and entities sponsoring such facilities, in executive facilities; and

(ii) with respect to issuing regulations requiring the entities sponsoring child care facilities in the corresponding legislative facilities to provide notifications of deficiencies and descriptions of corrective actions as the Administration has under subsection (b)(5) with respect to issuing regulations requiring the entities sponsoring child care facilities in executive facilities to provide notifications of deficiencies and descriptions of corrective actions.

(B) ENFORCEMENT.—Subject to paragraph (3), the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate,

as appropriate, shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care facilities, and entities sponsoring child care facilities, in the corresponding legislative facilities as the head of an Executive agency has under subsection (b)(4) with respect to the compliance of and cost reimbursement for such facilities and entities sponsoring such facilities, in executive facilities.

(3) INTERIM STATUS.—Until such time as the Committee on Rules and Administration of the Senate establishes, or the head of the designated Senate entity establishes, standards described in paragraphs (1), (2), and (3) of subsection (b) governing the operation of the Senate Employees' Child Care Center, such facility shall maintain current accreditation status.

(d) APPLICATION.—Notwithstanding any other provision of this section, if 8 or more child care facilities are sponsored in facilities owned or leased by an Executive agency, the Administrator shall delegate to the head of the agency the evaluation and compliance responsibilities assigned to the Administrator under subsection (b)(4)(A).

(e) TECHNICAL ASSISTANCE, STUDIES, AND REVIEWS.—The Administrator may provide technical assistance, and conduct and provide the results of studies and reviews, for Executive agencies, and entities sponsoring child care facilities in executive facilities, on a reimbursable basis, in order to assist the entities in complying with this section. The Chief Administrative Officer of the House of Representatives, the Librarian of Congress, and the head of the designated Senate entity described in subsection (c), may provide technical assistance, and conduct and provide the results of studies and reviews, or request that the Administrator provide technical assistance, and conduct and provide the results of studies and reviews, for the corresponding legislative offices, and entities operating child care facilities in the corresponding legislative facilities, on a reimbursable basis, in order to assist the entities in complying with this section.

(f) COUNCIL.—The Administrator shall establish an interagency council, comprised of representatives of all Executive agencies described in subsection (d), a representative of the Chief Administrative Officer of the House of Representatives, a representative of the designated Senate entity described in subsection (c), and a representative of the Librarian of Congress, to facilitate cooperation and sharing of best practices, and to develop and coordinate policy, regarding the provision of child care, including the provision of areas for nursing mothers and other lactation support facilities and services, in the Federal Government.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $900,000 for fiscal year 1999 and such sums as may be necessary for each subsequent fiscal year.

SEC. ___3. CHILD CARE SERVICES FOR FEDERAL EMPLOYEES.

(a) IN GENERAL.—An Executive agency that provides or proposes to provide child care services for Federal employees may use agency funds to provide the child care services, in a facility that is owned or leased by an Executive agency, or through a contractor, for civilian employees of such agency.

(b) AFFORDABILITY.—Funds so used with respect to any such facility or contractor shall be applied to improve the affordability of child care for lower income Federal employees using or seeking to use the child care services offered by such facility or contractor.

(c) REGULATIONS.—The Director of the Office of Personnel Management shall, within 180 days after the date of enactment of this Act, issue regulations necessary to carry out this section.

(d) DEFINITION.—For purposes of this section, the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code, but does not include the General Accounting Office.

SEC. ___4. MISCELLANEOUS PROVISIONS RELATING TO CHILD CARE PROVIDED BY FEDERAL AGENCIES.

(a) AVAILABILITY OF FEDERAL CHILD CARE CENTERS FOR ONSITE CONTRACTORS; PERCENTAGE GOAL.—Section 616(a) of the Act of December 22, 1987 (40 U.S.C. 490b), is amended—

(1) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:

"(2) such officer or agency determines that such space will be used to provide child care and related services to—

"(A) children of Federal employees or onsite Federal contractors; or

"(B) dependent children who live with Federal employees or onsite Federal contractors; and

"(3) such officer or agency determines that such individual or entity will give priority for available child care and related services in such space to Federal employees and onsite Federal contractors."; and

(2) by adding at the end the following:

"(e)(1)(A) The Administrator of General Services shall confirm that at least 50 percent of aggregate enrollment in Federal child care centers governmentwide are children of Federal employees or onsite Federal contractors, or dependent children who live with Federal employees or onsite Federal contractors.

"(B) Each provider of child care services at an individual Federal child care center shall maintain 50 percent of the enrollment at the center of children described under subparagraph (A) as a goal for enrollment at the center.

"(C) If enrollment at a center does not meet the percentage goal under subparagraph (B), the provider shall develop and implement a business plan with the sponsoring Federal agency to achieve the goal within a reasonable timeframe. Such plan shall be approved by the Administrator of General Services based on—

"(i) compliance of the plan with standards established by the Administrator; and

"(ii) the effect of the plan on achieving the aggregate Federal enrollment percentage goal.

"(2) The Administrator of General Services Administration may enter into public-private partnerships or contracts with nongovernmental entities to increase the capacity, quality, affordability, or range of child care and related services and may, on a demonstration basis, waive subsection (a)(3) and paragraph (1) of this subsection.".

(b) PAYMENT OF COSTS OF TRAINING PROGRAMS.—Section 616(b)(3) of such Act (40 U.S.C. 490(b)(3)) is amended to read as follows:

"(3) If an agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency or the General Services Administration may pay accreditation fees, including renewal fees, for that center to be accredited. Any agency, department, or instrumentality of the United States that provides or proposes to provide child care services for children referred to in subsection (a)(2), may reimburse any Federal employee or any person employed to provide such services for the costs of training programs, conferences, and meetings and related travel, transportation, and subsistence expenses incurred in connection with those activities. Any per diem allowance made under this section shall not exceed the rate specified in regulations prescribed under section 5707 of title 5, United States Code.".

(c) PROVISION OF CHILD CARE BY PRIVATE ENTITIES.—Section 616(d) of such Act (40 U.S.C. 490b(d)) is amended to read as follows:

"(d)(1) If a Federal agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency, the child care center board of directors, or the General Services Administration may enter into an agreement with 1 or more private entities under which such private entities would assist in defraying the general operating expenses of the child care providers including salaries and tuition assistance programs at the facility.

"(2)(A) Notwithstanding any other provision of law, if a Federal agency does not have a child care program, or if the Administrator of General Services has identified a need for child care for Federal employees at an agency providing child care services that do not meet the requirements of subsection (a), the agency or the Administrator may enter into an agreement with a non-Federal, licensed, and accredited child care facility, or a planned child care facility that will become licensed and accredited, for the provision of child care services for children of Federal employees.

"(B) Before entering into an agreement, the head of the Federal agency shall determine that child care services to be provided through the agreement are more cost effectively provided through such arrangement than through establishment of a Federal child care facility.

"(C) The agency may provide any of the services described in subsection (b)(3) if, in exchange for such services, the facility reserves child care spaces for children referred to in subsection (a)(2), as agreed to by the parties. The cost of any such services provided by an agency to a child care facility on behalf of another agency shall be reimbursed by the receiving agency.

"(3) This subsection does not apply to residential child care programs.".

(d) PILOT PROJECTS.—Section 616 of such Act (40 U.S.C. 490b) is further amended by adding at the end the following:

"(f)(1) Upon approval of the agency head, an agency may conduct a pilot project not otherwise authorized by law for no more than 2 years to test innovative approaches to providing alternative forms of quality child care assistance for Federal employees. An agency head may extend a pilot project for an additional 2-year period. Before any pilot project may be implemented, a determination shall be made by the agency head that initiating the pilot project would be more cost-effective than establishing a new child care facility. Costs of any pilot project shall be borne solely by the agency conducting the pilot project.

"(2) The Administrator of General Services shall serve as an information clearinghouse for pilot projects initiated by other agencies to disseminate information concerning the pilot projects to the other agencies.

"(3) Within 6 months after completion of the initial 2-year pilot project period, an

agency conducting a pilot project under this subsection shall provide for an evaluation of the impact of the project on the delivery of child care services to Federal employees, and shall submit the results of the evaluation to the Administrator of General Services. The Administrator shall share the results with other Federal agencies.".

(e) BACKGROUND CHECK.—Section 616 of such Act (40 U.S.C. 490b) is further amended by adding at the end the following:

"(g) Each child care center located in a federally owned or leased facility shall ensure that each employee of such center (including any employee whose employment began before the date of enactment of this subsection) shall undergo a criminal history background check consistent with section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).".

SEC. ___5. REQUIREMENT TO PROVIDE LACTATION SUPPORT IN NEW FEDERAL CHILD CARE FACILITIES.

(a) DEFINITIONS.—In this section, the terms "Federal agency", "executive facility", and "legislative facility" have the meanings given the terms in section ___2.

(b) LACTATION SUPPORT.—The head of each Federal agency shall require that each child care facility in an executive facility or a legislative facility that is first operated after the 1-year period beginning on the date of enactment of this Act by the Federal agency, or under a contract or licensing agreement with the Federal agency, shall provide reasonable accommodations for the needs of breast-fed infants and their mothers, including providing a lactation area or a room for nursing mothers in part of the operating plan for the facility.

DASCHLE AMENDMENT NO. 3365

Mr. DASCHLE proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the qualified earned income of the spouse with the lower qualified earned income for the taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means 20 percent, reduced by 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income for the taxable year exceeds $50,000.

"(2) TRANSITION RULE FOR 1999 AND 2000.—In the case of taxable years beginning in 1999 and 2000, paragraph (1) shall be applied by substituting '10 percent' for '20 percent' and '1 percentage point' for '2 percentage points'.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2002' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.

"(c) QUALIFIED EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), and (15) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws."

"(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of net profits of such trade or business'."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. ___. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1998.

SEC. ___. LIMITATION ON REQUIRED ACCRUAL OF AMOUNTS RECEIVED FOR PERFORMANCE OF CERTAIN PERSONAL SERVICES.

(a) IN GENERAL.—Paragraph (5) of section 448(d) of the Internal Revenue Code of 1986 (relating to special rule for services) is amended by inserting "in fields referred to in paragraph (2)(A)" after "services by such person".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.

(c) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(1) such change shall be treated as initiated by the taxpayer;

(2) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(3) the period for taking into account the adjustments under section 481 by reason of such change shall be 3 years.

SEC. ___. EXCISE TAX ON PURCHASE OF STRUCTURED SETTLEMENT AGREEMENTS.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding at the end the following:

"CHAPTER 48—STRUCTURED SETTLEMENT AGREEMENTS

"Sec. 5000A. Tax on purchases of structured settlement agreements.

"SEC. 5000A. TAX ON PURCHASES OF STRUCTURED SETTLEMENT AGREEMENTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who purchases the right to receive payments under a structured settlement agreement a tax equal to 10 percent of the amount of the purchase price.

"(b) EXCEPTION FOR COURT-ORDERED PURCHASES.—Subsection (a) shall not apply to any purchase which is pursuant to a court order which finds that such purchase is necessary because of the extraordinary and unanticipated needs of the individual with the personal injuries or sickness giving rise to the structured settlement agreement.

"(c) STRUCTURED SETTLEMENT AGREEMENT.—For purposes of this section, the term 'structured settlement agreement' means—

"(1) any right to receive (whether by suit or agreement) periodic payments as damages on account of personal injuries or sickness, or

"(2) any right to receive periodic payments as compensation for personal injuries or sickness under any workmen's compensation act.

"(d) PURCHASE.—For purposes of this section, the term 'purchase' has the meaning given such term by section 179(d)(2)."

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"CHAPTER 48. Structured settlement agreements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases after December 31, 1998.

SEC. ___. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—

(1) IN GENERAL.—Section 357 of such Code is amended by adding at the end the following new subsections:

"(d) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—

"(1) IN GENERAL.—For purposes of this section, section 358(d), section 362(d), section 368(a)(1)(C), and section 368(a)(2)(B), except as provided in regulations—

"(A) a recourse liability (or portion thereof) shall be treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy such liability (or portion), whether or not the transferor has been relieved of such liability; and

"(B) a nonrecourse liability shall be treated as having been assumed by the transferee of any asset subject to such liability.

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 362(d). The Secretary may also prescribe regulations which provide that the manner in which a liability is treated as assumed under this subsection is applied, where appropriate, elsewhere in this title.".

(2) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—Section 362 of such Code is amended by adding at the end the following new subsection:

"(d) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—

"(1) IN GENERAL.—In no event shall the basis of any property be increased under subsection (a) or (b) above fair market value (determined without regard to section 7701(g)) by reason of any gain recognized to the transferor as a result of the assumption of a liability.

"(2) TREATMENT OF GAIN NOT SUBJECT TO TAX.—Except as provided in regulations, if—

"(A) gain is recognized to the transferor as a result of an assumption of a nonrecourse liability by a transferee which is also secured by assets not transferred to such transferee; and

"(B) no person is subject to tax under this title on such gain,

then, for purposes of determining basis under subsections (a) and (b), the amount of gain recognized by the transferor as a result of the assumption of the liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all of the assets subject to such liability.".

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) of such Code is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A); and

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.".

(2) SECTION 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(d)) a liability of the taxpayer"; and

(B) by striking "or acquisition (in the amount of the liability)".

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) of such Code is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 of such Code is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code is amended by striking "or acquired".

(4) Section 357(c)(1) of such Code is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) of such Code is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) of such Code is amended by striking "or acquisition (in the amount of the liability)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1998.

SEC. ___. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN DEEMED INCORRECT IF INFORMATION ON RETURN DIFFERS WITH AGENCY RECORDS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN."

(b) EXPANSION OF MATHEMATICAL ERROR PROCEDURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL NOT ELIGIBLE FOR TAX CREDIT.—Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of the subparagraph (K) and inserting ", and", and by adding at the end the following new subparagraph:

"(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

"(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

"(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. ___. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 1998, and before January 1, 2009."

(2) EXCISE TAXES.—Section 4611(e) of such Code is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 1998, and before October 1, 2008."

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1998.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on January 1, 1999.

SEC. ___. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.".

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking "subsection (a)" and inserting "this section".

(2) Paragraph (1) of section 334(b) of such Code is amended by striking "section 332(a)" and inserting "section 332".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2002.

INHOFE AMENDMENT NO. 3366

Mr. INHOFE proposed an amendment to the bill, S. 2312, supra; as follows:

On page 82, line 16, after the end period insert: "This subsection shall not apply unless the Joint Chiefs of Staff and the unified combatant commanders certify in writing to the Committee on Armed Services of the Senate and the Committee on National Security of

the House of Representatives that the signing of the Convention is consistent with the combat requirements and safety of the armed forces of the United States.".

HATCH (AND BIDEN) AMENDMENT NO. 3367

Mr. HATCH (for himself and Mr. BIDEN) proposed an amendment to the bill, S. 2312, supra; as follows:

At the end of the bill, add the following:

TITLE VII—OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Office of National Drug Control Policy Reauthorization Act of 1998".

SEC. 702. DEFINITIONS.

In this title:

(1) DEMAND REDUCTION.—The term "demand reduction" means any activity conducted by a National Drug Control Program agency, other than an enforcement activity, that is intended to reduce the use of drugs, including—

(A) drug abuse education;

(B) drug abuse prevention;

(C) drug abuse treatment;

(D) drug abuse research;

(E) drug abuse rehabilitation;

(F) drug-free workplace programs; and

(G) drug testing.

(2) DIRECTOR.—The term "Director" means the Director of National Drug Control Policy.

(3) DRUG.—The term "drug" has the meaning given the term "controlled substance" in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(4) DRUG CONTROL.—The term "drug control" means any activity conducted by a National Drug Control Program agency involving supply reduction or demand reduction, including any activity to reduce the use of tobacco or alcoholic beverages by underage individuals.

(5) FUND.—The term "Fund" means the fund established under section 703(d).

(6) NATIONAL DRUG CONTROL PROGRAM.—The term "National Drug Control Program" means programs, policies, and activities undertaken by National Drug Control Program agencies pursuant to the responsibilities of such agencies under the National Drug Control Strategy.

(7) NATIONAL DRUG CONTROL PROGRAM AGENCY.—The term "National Drug Control Program agency" means any department or agency of the Federal Government and all dedicated units thereof, with responsibilities under the National Drug Control Strategy, as designated by the President, or jointly by the Director and the head of the department or agency.

(8) NATIONAL DRUG CONTROL STRATEGY.—The term "National Drug Control Strategy" means the strategy developed and submitted to Congress under section 706.

(9) OFFICE.—Unless the context clearly implicates otherwise, the term "Office" means the Office of National Drug Control Policy established under section 703(a).

(10) STATE AND LOCAL AFFAIRS.—The term "State and local affairs" means domestic activities conducted by a National Drug Control Program agency that are intended to reduce the availability and use of drugs, including—

(A) coordination and facilitation of Federal, State, and local law enforcement drug control efforts;

(B) promotion of coordination and cooperation among the drug supply reduction and demand reduction agencies of the various States, territories, and units of local government; and

(C) such other cooperative governmental activities which promote a comprehensive approach to drug control at the national, State, territory, and local levels.

(11) SUPPLY REDUCTION.—The term "supply reduction" means any activity of a program conducted by a National Drug Control Program agency that is intended to reduce the availability or use of drugs in the United States and abroad, including—

(A) international drug control;

(B) foreign and domestic drug intelligence;

(C) interdiction; and

(D) domestic drug law enforcement, including law enforcement directed at drug users.

SEC. 703. OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President an Office of National Drug Control Policy, which shall—

(1) develop national drug control policy;

(2) coordinate and oversee the implementation of that national drug control policy;

(3) assess and certify the adequacy of national drug control programs and the budget for those programs; and

(4) evaluate the effectiveness of the national drug control programs.

(b) DIRECTOR AND DEPUTY DIRECTORS.—

(1) DIRECTOR.—There shall be at the head of the Office a Director of National Drug Control Policy.

(2) DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—There shall be in the Office a Deputy Director of National Drug Control Policy, who shall assist the Director in carrying out the responsibilities of the Director under this title.

(3) OTHER DEPUTY DIRECTORS.—There shall be in the Office—

(A) a Deputy Director for Demand Reduction, who shall be responsible for the activities described in subparagraphs (A) through (G) of section 702(1);

(B) a Deputy Director for Supply Reduction, who shall be responsible for the activities described in subparagraphs (A) through (C) of section 702(11); and

(C) a Deputy Director for State and Local Affairs, who shall be responsible for the activities described in subparagraphs (A) through (C) of section 702(10).

(c) ACCESS BY CONGRESS.—The location of the Office in the Executive Office of the President shall not be construed as affecting access by Congress, or any committee of the House of Representatives or the Senate, to any—

(1) information, document, or study in the possession of, or conducted by or at the direction of the Director; or

(2) personnel of the Office.

(d) OFFICE OF NATIONAL DRUG CONTROL POLICY GIFT FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund for the receipt of gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office under section 704(c).

(2) CONTRIBUTIONS.—The Office may accept, hold, and administer contributions to the Fund.

(3) USE OF AMOUNTS DEPOSITED.—Amounts deposited in the Fund are authorized to be appropriated, to remain available until expended for authorized purposes at the discretion of the Director.

SEC. 704. APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS.

(a) APPOINTMENT.—

(1) IN GENERAL.—The Director, the Deputy Director of National Drug Control Policy, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State and Local Affairs, shall each be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In appointing the Deputy Director for Demand Reduction under this paragraph, the President shall take into consideration the scientific, educational or professional background of the individual, and whether the individual has experience in the fields of substance abuse prevention, education, or treatment.

(2) DUTIES OF DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—The Deputy Director of National Drug Control Policy shall—

(A) carry out the duties and powers prescribed by the Director; and

(B) serve as the Director in the absence of the Director or during any period in which the office of the Director is vacant.

(3) DESIGNATION OF OTHER OFFICERS.—In the absence of the Deputy Director, or if the office of the Deputy Director is vacant, the Director shall designate such other permanent employee of the Office to serve as the Director, if the Director is absent or unable to serve.

(4) PROHIBITION.—No person shall serve as Director or a Deputy Director while serving in any other position in the Federal Government.

(5) PROHIBITION ON POLITICAL CAMPAIGNING.—Any officer or employee of the Office who is appointed to that position by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such official is not prohibited by this paragraph from making contributions to individual candidates.

(b) RESPONSIBILITIES.—The Director shall—

(1) assist the President in the establishment of policies, goals, objectives, and priorities for the National Drug Control Program;

(2) promulgate the National Drug Control Strategy and each report under section 706(b) in accordance with section 706;

(3) coordinate and oversee the implementation by the National Drug Control Program agencies of the policies, goals, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities of such agencies under the National Drug Control Strategy;

(4) make such recommendations to the President as the Director determines are appropriate regarding changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement, and changes in the allocation of personnel to and within those departments and agencies, to implement the policies, goals, priorities, and objectives established under paragraph (1) and the National Drug Control Strategy;

(5) consult with and assist State and local governments with respect to the formulation and implementation of National Drug Control Policy and their relations with the National Drug Control Program agencies;

(6) appear before duly constituted committees and subcommittees of the House of Representatives and of the Senate to represent the drug policies of the executive branch;

(7) notify any National Drug Control Program agency if its policies are not in compliance with the responsibilities of the agency under the National Drug Control Strategy, transmit a copy of each such notification to

the President, and maintain a copy of each such notification;

(8) provide, by July 1 of each year, budget recommendations, including requests for specific initiatives that are consistent with the priorities of the President under the National Drug Control Strategy, to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall—

(A) apply to next budget year scheduled for formulation under the Budget and Accounting Act of 1921, and each of the 4 subsequent fiscal years; and

(B) address funding priorities developed in the National Drug Control Strategy;

(9) serve as the representative of the President in appearing before Congress on all issues relating to the National Drug Control Program;

(10) in any matter affecting national security interests, work in conjunction with the Assistant to the President for National Security Affairs; and

(11) serve as primary spokesperson of the Administration on drug issues.

(c) NATIONAL DRUG CONTROL PROGRAM BUDGET.—

(1) RESPONSIBILITIES OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) IN GENERAL.—For each fiscal year, the head of each department, agency, or program of the Federal Government with responsibilities under the National Drug Control Program Strategy shall transmit to the Director a copy of the proposed drug control budget request of the department, agency, or program at the same time as that budget request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

(B) SUBMISSION OF DRUG CONTROL BUDGET REQUESTS.—The head of each National Drug Control Program agency shall ensure timely development and submission to the Director of each proposed drug control budget request transmitted pursuant to this paragraph, in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget.

(2) NATIONAL DRUG CONTROL PROGRAM BUDGET PROPOSAL.—For each fiscal year, following the transmission of proposed drug control budget requests to the Director under paragraph (1), the Director shall, in consultation with the head of each National Drug Control Program agency—

(A) develop a consolidated National Drug Control Program budget proposal designed to implement the National Drug Control Strategy;

(B) submit the consolidated budget proposal to the President; and

(C) after submission under subparagraph (B), submit the consolidated budget proposal to Congress.

(3) REVIEW AND CERTIFICATION OF BUDGET REQUESTS AND BUDGET SUBMISSIONS OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) IN GENERAL.—The Director shall review each drug control budget request submitted to the Director under paragraph (1).

(B) REVIEW OF BUDGET REQUESTS.—

(i) INADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under paragraph (1) is inadequate, in whole or in part, to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written description of funding levels and specific initiatives that would, in the determination of the Director, make the request adequate to implement those objectives.

(ii) ADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under paragraph (1) is adequate to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written statement confirming the adequacy of the request.

(iii) RECORD.—The Director shall maintain a record of each description submitted under clause (i) and each statement submitted under clause (ii).

(C) AGENCY RESPONSE.—

(i) IN GENERAL.—The head of a National Drug Control Program agency that receives a description under subparagraph (B)(i) shall include the funding levels and initiatives described by the Director in the budget submission for that agency to the Office of Management and Budget.

(ii) IMPACT STATEMENT.—The head of a National Drug Control Program agency that has altered its budget submission under this subparagraph shall include as an appendix to the budget submission for that agency to the Office of Management and Budget an impact statement that summarizes—

(I) the changes made to the budget under this subparagraph; and

(II) the impact of those changes on the ability of that agency to perform its other responsibilities, including any impact on specific missions or programs of the agency.

(iii) CONGRESSIONAL NOTIFICATION.—The head of a National Drug Control Program agency shall submit a copy of any impact statement under clause (ii) to the Senate and the House of Representatives at the time the budget for that agency is submitted to Congress under section 1105(a) of title 31, United States Code.

(D) CERTIFICATION OF BUDGET SUBMISSIONS.—

(i) IN GENERAL.—At the time a National Drug Control Program agency submits its budget request to the Office of Management and Budget, the head of the National Drug Control Program agency shall submit a copy of the budget request to the Director.

(ii) CERTIFICATION.—The Director—

(I) shall review each budget submission submitted under clause (i); and

(II) based on the review under subclause (I), if the Director concludes that the budget submission of a National Drug Control Program agency does not include the funding levels and initiatives described under subparagraph (B)—

(aa) may issue a written decertification of that agency's budget; and

(bb) in the case of a decertification issued under item (aa), shall submit to the Senate and the House of Representatives a copy of the—

(aaa) decertification issued under item (aa);

(bbb) the description made under subparagraph (B); and

(ccc) the budget recommendations made under subsection (b)(8).

(4) REPROGRAMMING AND TRANSFER REQUESTS.—

(A) IN GENERAL.—No National Drug Control Program agency shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding $5,000,000 that is included in the National Drug Control Program budget unless the request has been approved by the Director.

(B) APPEAL.—The head of any National Drug Control Program agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request under this paragraph.

(d) POWERS OF THE DIRECTOR.—In carrying out subsection (b), the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees of the Office as may be necessary to carry out the functions of the Office under this title;

(2) subject to subsection (e)(3), request the head of a department or agency, or program of the Federal Government to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department, agency, or program in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable under level IV of the Executive Schedule under section 5311 of title 5, United States Code;

(5) accept and use gifts and donations of property from Federal, State, and local government agencies, and from the private sector, as authorized in section 703(d);

(6) use the mails in the same manner as any other department or agency of the executive branch;

(7) monitor implementation of the National Drug Control Program, including—

(A) conducting program and performance audits and evaluations;

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations; and

(C) commissioning studies and reports by a National Drug Control Program agency, with the concurrence of the head of the affected agency;

(8) transfer funds made available to a National Drug Control Program agency for National Drug Control Strategy programs and activities to another account within such agency or to another National Drug Control Program agency for National Drug Control Strategy programs and activities, except that—

(A) the authority under this paragraph may be limited in an annual appropriations Act or other provision of Federal law;

(B) the Director may exercise the authority under this paragraph only with the concurrence of the head of each affected agency;

(C) in the case of an interagency transfer, the total amount of transfers under this paragraph may not exceed 2 percent of the total amount of funds made available for National Drug Control Strategy programs and activities to the agency from which those funds are to be transferred;

(D) funds transferred to an agency under this paragraph may only be used to increase the funding for programs or activities that—

(i) have a higher priority than the programs or activities from which funds are transferred; and

(ii) have been authorized by Congress; and

(E) the Director shall—

(i) submit to Congress, including to the Committees on Appropriations of the Senate and the House of Representatives and other applicable committees of jurisdiction, a reprogramming or transfer request in advance of any transfer under this paragraph in accordance with the regulations of the affected agency or agencies; and

(ii) annually submit to Congress a report describing the effect of all transfers of funds made pursuant to this paragraph or subsection (c)(4) during the 12-month period preceding the date on which the report is submitted;

(9) issue to the head of a National Drug Control Program agency a fund control notice described in subsection (f) to ensure compliance with the National Drug Control Program Strategy; and

(10) participate in the drug certification process pursuant to section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j).

(e) PERSONNEL DETAILED TO OFFICE.—

(1) EVALUATIONS.—Notwithstanding any provision of chapter 43 of title 5, United States Code, the Director shall perform the evaluation of the performance of any employee detailed to the Office for purposes of the applicable performance appraisal system established under such chapter for any rating period, or part thereof, that such employee is detailed to such office.

(2) COMPENSATION.—

(A) BONUS PAYMENTS.—Notwithstanding any other provision of law, the Director may provide periodic bonus payments to any employee detailed to the Office.

(B) RESTRICTIONS.—An amount paid under this paragraph to an employee for any period—

(i) shall not be greater than 20 percent of the basic pay paid or payable to such employee for such period; and

(ii) shall be in addition to the basic pay of such employee.

(C) AGGREGATE AMOUNT.—The aggregate amount paid during any fiscal year to an employee detailed to the Office as basic pay, awards, bonuses, and other compensation shall not exceed the annual rate payable at the end of such fiscal year for positions at level III of the Executive Schedule.

(3) MAXIMUM NUMBER OF DETAILEES.—The maximum number of personnel who may be detailed to another department or agency (including the Office) under subsection (d)(2) during any fiscal year is—

(A) for the Department of Defense, 50; and

(B) for any other department or agency, 10.

SEC. 705. COORDINATION WITH NATIONAL DRUG CONTROL PROGRAM AGENCIES IN DEMAND REDUCTION, SUPPLY REDUCTION, AND STATE AND LOCAL AFFAIRS.

(a) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Upon the request of the Director, the head of any National Drug Control Program agency shall cooperate with and provide to the Director any statistics, studies, reports, and other information prepared or collected by the agency concerning the responsibilities of the agency under the National Drug Control Strategy that relate to—

(A) drug abuse control; or

(B) the manner in which amounts made available to that agency for drug control are being used by that agency.

(2) PROTECTION OF INTELLIGENCE INFORMATION.—

(A) IN GENERAL.—The authorities conferred on the Office and the Director by this title shall be exercised in a manner consistent with provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.). The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect information provided pursuant to this title regarding intelligence sources and methods.

(B) DUTIES OF DIRECTOR.—The Director of Central Intelligence shall, to the maximum extent practicable in accordance with subparagraph (A), render full assistance and support to the Office and the Director.

(3) ILLEGAL DRUG CULTIVATION.—The Secretary of Agriculture shall annually submit to the Director an assessment of the acreage of illegal drug cultivation in the United States.

(b) CERTIFICATION OF POLICY CHANGES TO DIRECTOR.—

(1) IN GENERAL.—Subject to paragraph (2), the head of a National Drug Control Program agency shall, unless exigent circumstances require otherwise, notify the Director in writing regarding any proposed change in policies relating to the activities of that agency under the National Drug Control Program prior to implementation of such change. The Director shall promptly review such proposed change and certify to the head of that agency in writing whether such change is consistent with the National Drug Control Strategy.

(2) EXCEPTION.—If prior notice of a proposed change under paragraph (1) is not practicable—

(A) the head of the National Drug Control Program agency shall notify the Director of the proposed change as soon as practicable; and

(B) upon such notification, the Director shall review the change and certify to the head of that agency in writing whether the change is consistent with the National Drug Control Program.

(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director, in a reimbursable basis, such administrative support services as the Director may request.

SEC. 706. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

(a) TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

(1) TIMING.—Not later than February 1, 1998, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive plan, covering a period of not more than 10 years, for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs.

(2) CONTENTS.—

(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include—

(i) comprehensive, research-based, long-range, quantifiable, goals for reducing drug abuse and the consequences of drug abuse in the United States;

(ii) annual, quantifiable, and measurable objectives to accomplish long-term quantifiable goals that the Director determines may be realistically achieved during each year of the period beginning on the date on which the National Drug Control Strategy is submitted;

(iii) 5-year projections for program and budget priorities; and

(iv) a review of State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the National Drug Control Strategy.

(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—

(A) CONSULTATION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

(i) shall consult with—

(I) the heads of the National Drug Control Program agencies;

(II) Congress;

(III) State and local officials;

(IV) private citizens and organizations with experience and expertise in demand reduction; and

(V) private citizens and organizations with experience and expertise in supply reduction; and

(ii) may require the National Drug Intelligence Center and the El Paso Intelligence Center to undertake specific tasks or projects to implement the National Drug Control Strategy.

(B) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection, and each report submitted under subsection (b), shall include a list of each entity consulted under subparagraph (A)(i).

(4) MODIFICATION AND RESUBMITTAL.—Notwithstanding any other provision of law, the President may modify a National Drug Control Strategy submitted under paragraph (1) at any time.

(b) ANNUAL STRATEGY REPORT.—

(1) IN GENERAL.—Not later than February 1, 1999, and on February 1 of each year thereafter, the President shall submit to Congress a report on the progress in implementing the Strategy under subsection (a), which shall include—

(A) an assessment of the Federal effectiveness in achieving the National Drug Control Strategy goals and objectives using the performance measurement system described in subsection (c), including—

(i) an assessment of drug use and availability in the United States; and

(ii) an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect during the preceding year, or in effect as of the date on which the report is submitted;

(B) any modifications of the National Drug Control Strategy or the performance measurement system described in subsection (c);

(C) an assessment of the manner in which the budget proposal submitted under section 704(c) is intended to implement the National Drug Control Strategy and whether the funding levels contained in such proposal are sufficient to implement such Strategy;

(D) beginning on February 1, 1999, and annually thereafter, measurable data evaluating the success or failure in achieving the annual measurable objectives described in subsection (a)(2)(A)(ii);

(E) an assessment of current drug use (including inhalants) and availability, impact of drug use, and treatment availability, which assessment shall include—

(i) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

(I) casual and chronic drug use;

(II) high-risk populations, including school dropouts, the homeless and transient,

arrestees, parolees, probationers, and juvenile delinquents; and

(III) drug use in the workplace and the productivity lost by such use;

(ii) an assessment of the reduction of drug availability against an ascertained baseline, as measured by—

(I) the quantities of cocaine, heroin, marijuana, methamphetamine, and other drugs available for consumption in the United States;

(II) the amount of marijuana, cocaine, and heroin entering the United States;

(III) the number of hectares of marijuana, poppy, and coca cultivated and destroyed;

(IV) the number of metric tons of marijuana, heroin, and cocaine seized;

(V) the number of cocaine and methamphetamine processing laboratories destroyed;

(VI) changes in the price and purity of heroin and cocaine;

(VII) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

(VIII) the effectiveness of Federal technology programs at improving drug detection capabilities in interdiction, and at United States ports of entry;

(iii) an assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

(I) the burden drug users placed on hospital emergency departments in the United States, such as the quantity of drug-related services provided;

(II) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other infectious diseases as a result of drug use;

(III) the extent of drug-related crime and criminal activity; and

(IV) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States;

(iv) a determination of the status of drug treatment in the United States, by assessing—

(I) public and private treatment capacity within each State, including information on the treatment capacity available in relation to the capacity actually used;

(II) the extent, within each State, to which treatment is available;

(III) the number of drug users the Director estimates could benefit from treatment; and

(IV) the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals; and

(v) a review of the research agenda of the Counter-Drug Technology Assessment Center to reduce the availability and abuse of drugs; and

(F) an assessment of private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control.

(2) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

(A) at any time, upon a determination by the President, in consultation with the Director, that the National Drug Control Strategy in effect is not sufficiently effective; and

(B) if a new President or Director takes office.

(c) PERFORMANCE MEASUREMENT SYSTEM.—

(1) IN GENERAL.—Not later than February 1, 1998, the Director shall submit to Congress a description of the national drug control performance measurement system, designed in consultation with affected National Drug Control Program agencies, that—

(A) develops performance objectives, measures, and targets for each National Drug Control Strategy goal and objective;

(B) revises performance objectives, measures, and targets, to conform with National Drug Control Program Agency budgets;

(C) identifies major programs and activities of the National Drug Control Program agencies that support the goals and objectives of the National Drug Control Strategy;

(D) evaluates implementation of major program activities supporting the National Drug Control Strategy;

(E) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that drug control agency goals and budgets support and are fully consistent with the National Drug Control Strategy; and

(F) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

(i) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

(ii) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups that are at risk for drug use; and

(iii) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of subsection (b)(4).

(2) MODIFICATIONS.—

(A) IN GENERAL.—A description of any modifications made during the preceding year to the national drug control performance measurement system described in paragraph (1) shall be included in each report submitted under subsection (b).

(B) ANNUAL PERFORMANCE OBJECTIVES, MEASURES, AND TARGETS.—Not later than February 1, 1999, the Director shall submit to Congress a modified performance measurement system that—

(i) develops annual performance objectives, measures, and targets for each National Drug Control Strategy goal and objective; and

(ii) revises the annual performance objectives, measures, and targets to conform with the National Drug Control Program agency budgets.

SEC. 707. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.

(a) ESTABLISHMENT.—There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program.

(b) DESIGNATION.—The Director, upon consultation with the Attorney General, the Secretary of the Treasury, heads of the National Drug Control Program agencies, and the Governor of each State, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may—

(1) obligate such sums as appropriated for the High Intensity Drug Trafficking Areas Program;

(2) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

(3) take any other action authorized under section 704 to provide increased Federal assistance to those areas;

(4) coordinate activities under this subsection (specifically administrative, recordkeeping, and funds management activities) with State and local officials.

(c) FACTORS FOR CONSIDERATION.—In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

(1) the area is a center of illegal drug production, manufacturing, importation, or distribution;

(2) State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(3) drug-related activities in the area are having a harmful impact in other areas of the country; and

(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

SEC. 708. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) ESTABLISHMENT.—There is established within the Office the Counter-Drug Technology Assessment Center (referred to in this section as the "Center"). The Center shall operate under the authority of the Director of National Drug Control Policy and shall serve as the central counter-drug technology research and development organization of the United States Government.

(b) DIRECTOR OF TECHNOLOGY.—There shall be at the head of the Center the Director of Technology, who shall be appointed by the Director of National Drug Control Policy from among individuals qualified and distinguished in the area of science, medicine, engineering, or technology.

(c) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—

(1) IN GENERAL.—The Director, acting through the Director of Technology shall—

(A) identify and define the short-, medium-, and long-term scientific and technological needs of Federal, State, and local drug supply reduction agencies, including—

(i) advanced surveillance, tracking, and radar imaging;

(ii) electronic support measures;

(iii) communications;

(iv) data fusion, advanced computer systems, and artificial intelligence; and

(v) chemical, biological, radiological (including neutron, electron, and graviton), and other means of detection;

(B) identify demand reduction basic and applied research needs and initiatives, in consultation with affected National Drug Control Program agencies, including—

(i) improving treatment through neuroscientific advances;

(ii) improving the transfer of biomedical research to the clinical setting; and

(iii) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examining addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;

(C) make a priority ranking of such needs identified in subparagraphs (A) and (B) according to fiscal and technological feasibility, as part of a National Counter-Drug

Enforcement Research and Development Program;

(D) oversee and coordinate counter-drug technology initiatives with related activities of other Federal civilian and military departments;

(E) provide support to the development and implementation of the national drug control performance measurement system; and

(F) pursuant to the authority of the Director of National Drug Control Policy under section 704, submit requests to Congress for the reprogramming or transfer of funds appropriated for counter-drug technology research and development.

(2) LIMITATION ON AUTHORITY.—The authority granted to the Director under this subsection shall not extend to the award of contracts, management of individual projects, or other operational activities.

(d) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Secretary of Defense and the Secretary of Health and Human Services shall, to the maximum extent practicable, render assistance and support to the Office and to the Director in the conduct of counter-drug technology assessment.

SEC. 709. PRESIDENT'S COUNCIL ON COUNTER-NARCOTICS.

(a) ESTABLISHMENT.—There is established a council to be known as the President's Council on Counter-Narcotics (referred to in this section as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—Subject to paragraph (2), the Council shall be composed of 18 members, of whom—

(A) 1 shall be the President, who shall serve as Chairman of the Council;

(B) 1 shall be the Vice President;

(C) 1 shall be the Secretary of State;

(D) 1 shall be the Secretary of the Treasury;

(E) 1 shall be the Secretary of Defense;

(F) 1 shall be the Attorney General;

(G) 1 shall be the Secretary of Transportation;

(H) 1 shall be the Secretary of Health and Human Services;

(I) 1 shall be the Secretary of Education;

(J) 1 shall be the Representative of the United States of America to the United Nations;

(K) 1 shall be the Director of the Office of Management and Budget;

(L) 1 shall be the Chief of Staff to the President;

(M) 1 shall be the Director of the Office, who shall serve as the Executive Director of the Council;

(N) 1 shall be the Director of Central Intelligence;

(O) 1 shall be the Assistant to the President for National Security Affairs;

(P) 1 shall be the Counsel to the President;

(Q) 1 shall be the Chairman of the Joint Chiefs of Staff; and

(R) 1 shall be the National Security Adviser to the Vice President.

(2) ADDITIONAL MEMBERS.—The President may, in the discretion of the President, appoint additional members to the Council.

(c) FUNCTIONS.—The Council shall advise and assist the President in—

(1) providing direction and oversight for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and

(2) ensuring coordination among departments and agencies of the Federal Government concerning implementation of the National Drug Control Strategy.

(d) ADMINISTRATION.—

(1) IN GENERAL.—The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director (or a representative of the Director) in carrying out the functions of the Council under this section.

(2) STAFF.—The staff of the Office, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

(3) COOPERATION FROM OTHER AGENCIES.—Each department and agency of the executive branch shall—

(A) cooperate with the Council in carrying out the functions of the Council under this section; and

(B) provide such assistance, information, and advice as the Council may request, to the extent permitted by law.

SEC. 710. PARENTS ADVISORY COUNCIL ON YOUTH DRUG ABUSE.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established a Council to be known as the Parents Advisory Council on Youth Drug Abuse (referred to in this section as the "Council").

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Council shall be composed of 16 members, of whom—

(i) 4 shall be appointed by the President, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(ii) 4 shall be appointed by the Majority Leader of the Senate, 3 of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(iii) 2 shall be appointed by the Minority Leader of the Senate, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(iv) 4 shall be appointed by the Speaker of the House of Representatives, 3 of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made; and

(v) 2 shall be appointed by the Minority Leader of the House of Representatives, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made.

(B) REQUIREMENTS.—

(i) IN GENERAL.—Each member of the Council shall be an individual from the private sector with a demonstrated interest and expertise in research, education, treatment, or prevention activities related to youth drug abuse.

(ii) REPRESENTATIVES OF NONPROFIT ORGANIZATIONS.—Not less than 1 member appointed under each of clauses (i) through (v) of paragraph (1)(A) shall be a representative of a nonprofit organization focused on involving parents in antidrug education and prevention.

(C) DATE.—The appointments of the initial members of the Council shall be made not later than 60 days after the date of enactment of this section.

(D) DIRECTOR.—The Director may, in the discretion of the Director, serve as an adviser to the Council and attend such meetings and hearings of the Council as the Director considers to be appropriate.

(3) PERIOD OF APPOINTMENT; VACANCIES.—

(A) PERIOD OF APPOINTMENT.—Each member of the Council shall be appointed for a term of 3 years, except that, of the initial members of the Council—

(i) 1 member appointed under each of clauses (i) through (v) of paragraph (1)(A) shall be appointed for a term of 1 year; and

(ii) 1 member appointed under each of clauses (i) through (v) of paragraph (1)(A) shall be appointed for a term of 2 years.

(B) VACANCIES.—Any vacancy in the Council shall not affect its powers, provided that a quorum is present, but shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(C) APPOINTMENT OF SUCCESSOR.—To the extent necessary to prevent a vacancy in the membership of the Council, a member of the Council may serve for not more than 6 months after the expiration of the term of that member, if the successor of that member has not been appointed.

(4) INITIAL MEETING.—Not later than 120 days after the date on which all initial members of the Council have been appointed, the Council shall hold its first meeting.

(5) MEETINGS.—The Council shall meet at the call of the Chairperson.

(6) QUORUM.—Nine members of the Council shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) IN GENERAL.—The members of the Council shall select a Chairperson and Vice Chairperson from among the members of the Council.

(B) DUTIES OF CHAIRPERSON.—The Chairperson of the Council shall—

(i) serve as the executive director of the Council;

(ii) direct the administration of the Council;

(iii) assign officer and committee duties relating to the Council; and

(iv) issue the reports, policy positions, and statements of the Council.

(C) DUTIES OF VICE CHAIRPERSON.—If the Chairperson of the Council is unable to serve, the Vice Chairperson shall serve as the Chairperson.

(b) DUTIES OF THE COUNCIL.—

(1) IN GENERAL.—The Council—

(A) shall advise the President and the Members of the Cabinet, including the Director, on drug prevention, education, and treatment; and

(B) may issue reports and recommendations on drug prevention, education, and treatment, in addition to the annual report detailed in paragraph (2), as the Council considers appropriate.

(2) SUBMISSION TO CONGRESS.—Any report or recommendation issued by the Council shall be submitted to Congress.

(3) ADVICE ON THE NATIONAL DRUG CONTROL STRATEGY.—Not later than December 1, 1998, and on December 1 of each year thereafter, the Council shall submit to the Director an annual report containing drug control strategy recommendations on drug prevention, education, and treatment. Each report submitted to the Director under this paragraph shall be included as an appendix to the report submitted by the Director under section 706(b).

(c) POWERS OF THE COUNCIL.—

(1) HEARINGS.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Council may secure directly from any department or agency of the Federal Government such information as the Council considers to be necessary to carry out this section. Upon request of the Chairperson of the Council, the head of that department or agency shall furnish such information to the Council, unless the head of that department or agency determines that furnishing the information to the Council would threaten the national security of the United States, the health, safety, or privacy of any individual, or the integrity of an ongoing investigation.

(3) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Council may solicit, accept, use, and dispose of gifts or donations of services or property in connection with performing the duties of the Council under this section.

(d) EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary carry out this section.

SEC. 711. DRUG INTERDICTION.

(a) DEFINITION.—In this section, the term "Federal drug control agency" means—

(1) the Office of National Drug Control Policy;

(2) the Department of Defense;

(3) the Drug Enforcement Administration;

(4) the Federal Bureau of Investigation;

(5) the Immigration and Naturalization Service;

(6) the United States Coast Guard;

(7) the United States Customs Service; and

(8) any other department or agency of the Federal Government that the Director determines to be relevant.

(b) REPORT.—In order to assist Congress in determining the personnel, equipment, funding, and other resources that would be required by Federal drug control agencies in order to achieve a level of interdiction success at or above the highest level achieved before the date of enactment of this title, not later than 90 days after the date of enactment of this Act, the Director shall submit to Congress and to each Federal drug control program agency a report, which shall include—

(1) with respect to the southern and western border regions of the United States (including the Pacific coast, the border with Mexico, the Gulf of Mexico coast, and other ports of entry) and in overall totals, data relating to—

(A) the amount of marijuana, heroin, methamphetamine, and cocaine—

(i) seized during the year of highest recorded seizures for each drug in each region and during the year of highest recorded overall seizures; and

(ii) disrupted during the year of highest recorded disruptions for each drug in each region and during the year of highest recorded overall seizures; and

(B) the number of persons arrested for violations of section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) and related offenses during the year of the highest number of arrests on record for each region and during the year of highest recorded overall arrests;

(2) the price of cocaine, heroin, methamphetamine, and marijuana during the year of highest price on record during the preceding 10-year period, adjusted for purity where possible; and

(3) a description of the personnel, equipment, funding, and other resources of the Federal drug control agency devoted to drug interdiction and securing the borders of the United States against drug trafficking for each of the years identified in paragraphs (1) and (2) for each Federal drug control agency.

(b) BUDGET PROCESS.—

(1) INFORMATION TO DIRECTOR.—Based on the report submitted under subsection (b), each Federal drug control agency shall submit to the Director, as part of each annual drug control budget request submitted by the Federal drug control agency to the Director under section 704(c)(2), a description of the specific personnel, equipment, funding, and other resources that would be required for the Federal drug control agency to meet or exceed the highest level of interdiction success for that agency identified in the report submitted under subsection (b).

(2) INFORMATION TO CONGRESS.—The Director shall include each submission under paragraph (1) in each annual consolidated National Drug Control Program budget proposal submitted by the Director to Congress under section 704(c), which submission shall be accompanied by a description of any additional resources that would be required by the Federal drug control agencies to meet the highest level of interdiction success identified in the report submitted under subsection (b).

SEC. 712. REPORT ON AN ALLIANCE AGAINST NARCOTICS TRAFFICKING IN THE WESTERN HEMISPHERE.

(a) SENSE OF CONGRESS ON DISCUSSIONS FOR ALLIANCE.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President should discuss with the democratically elected governments of the Western Hemisphere the prospect of forming a multilateral alliance to address problems relating to international drug trafficking in the Western Hemisphere.

(2) CONSULTATIONS.—In the consultations on the prospect of forming an alliance described in paragraph (1), the President should seek the input of such governments on the possibility of forming 1 or more structures within the alliance—

(A) to develop a regional, multilateral strategy to address the threat posed to nations in the Western Hemisphere by drug trafficking; and

(B) to establish a new mechanism for improving multilateral coordination of drug interdiction and drug-related law enforcement activities in the Western Hemisphere.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the proposal discussed under subsection (a), which shall include—

(A) an analysis of the reactions of the governments concerned to the proposal;

(B) an assessment of the proposal, including an evaluation of the feasibility and advisability of forming the alliance;

(C) a determination in light of the analysis and assessment whether or not the formation of the alliance is in the national interests of the United States;

(D) if the President determines that the formation of the alliance is in the national interests of the United States, a plan for encouraging and facilitating the formation of the alliance; and

(E) if the President determines that the formation of the alliance is not in the national interests of the United States, an alternative proposal to improve significantly efforts against the threats posed by narcotics trafficking in the Western Hemisphere, including an explanation of the manner in which the alternative proposal will—

(i) improve upon current cooperation and coordination of counter-drug efforts among nations in the Western Hemisphere;

(ii) provide for the allocation of the resources required to make significant progress in disrupting and disbanding the criminal organizations responsible for the trafficking of illegal drugs in the Western Hemisphere; and

(iii) differ from and improve upon past strategies adopted by the United States Government which have failed to make sufficient progress against the trafficking of illegal drugs in the Western Hemisphere.

(2) UNCLASSIFIED FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

SEC. 713. ESTABLISHMENT OF SPECIAL FORFEITURE FUND.

Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended—

(1) in subsection (b)—

(A) by striking "section 524(c)(9)" and inserting "section 524(c)(8)"; and

(B) by striking "section 9307(g)" and inserting "section 9703(g)"; and

(2) in subsection (e), by striking "strategy" and inserting "Strategy".

SEC. 714. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 5, UNITED STATES CODE.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5312, by adding at the end the following:

"Director of National Drug Control Policy.";

(2) in section 5313, by adding at the end the following:

"Deputy Director of National Drug Control Policy."; and

(3) in section 5314, by adding at the end the following:

"Deputy Director for Demand Reduction, Office of National Drug Control Policy.

"Deputy Director for Supply Reduction, Office of National Drug Control Policy.

"Deputy Director for State and Local Affairs, Office of National Drug Control Policy.".

(b) NATIONAL SECURITY ACT OF 1947.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following:

"(f) The Director of National Drug Control Policy may, in the role of the Director as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

(c) SUBMISSION OF NATIONAL DRUG CONTROL PROGRAM BUDGET WITH ANNUAL BUDGET REQUEST OF PRESIDENT.—Section 1105(a) of title 31, United States Code, is amended by inserting after paragraph (25) the following:

"(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.".

SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, to remain available until expended, such sums as may be necessary for each of fiscal years 1998 through 2002.

SEC. 716. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) IN GENERAL.—Except as provided in subsection (b), effective on September 30, 2002, this title and the amendments made by this title are repealed.

(b) EXCEPTION.—Subsection (a) does not apply to section 713 or the amendments made by that section.

GRAHAM (AND OTHERS) AMENDMENT NO. 3368

Mr. CAMPBELL (for Mr. GRAHAM for himself, Mr. MACK, Mr. KENNEDY, Mr. MOYNIHAN, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. KERRY, and Mr. DURBIN) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in the bill, insert the following:

TITLE ___—HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998

SEC. ___01. SHORT TITLE.

This title may be cited as the "Haitian Refugee Immigration Fairness Act of 1998".

SEC. ___02. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

(A) filed for asylum before December 31, 1995,

(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,

(ii) became orphaned subsequent to arrival in the United States, or

(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that he or she has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed;

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(i) ADJUSTMENT OF STATUS HAS NO EFFECT ON ELIGIBILITY FOR WELFARE AND PUBLIC BENEFITS.—No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act may, solely on the basis of such adjusted status, be considered to be a qualified alien under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 598), for purposes of determining the alien's eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

(j) PERIOD OF APPLICABILITY.—Subsection (i) shall not apply after October 1, 2003.

SEC. ___03. COLLECTION OF DATA ON DETAINED ASYLUM SEEKERS.

(a) IN GENERAL.—The Attorney General shall regularly collect data on a nation-wide basis with respect to asylum seekers in detention in the United States, including the following information:

(1) The number of detainees.

(2) An identification of the countries of origin of the detainees.

(3) The percentage of each gender within the total number of detainees.

(4) The number of detainees listed by each year of age of the detainees.

(5) The location of each detainee by detention facility.

(6) With respect to each facility where detainees are held, whether the facility is also used to detain criminals and whether any of the detainees are held in the same cells as criminals.

(7) The number and frequency of the transfers of detainees between detention facilities.

(8) The average length of detention and the number of detainees by category of the length of detention.

(9) The rate of release from detention of detainees for each district of the Immigration and Naturalization Service.

(10) A description of the disposition of cases.

(b) ANNUAL REPORTS.—Beginning October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsection (a) for the fiscal year ending September 30 of that year.

(c) AVAILABILITY TO PUBLIC.—Copies of the data collected under subsection (a) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

SEC. ___04. COLLECTION OF DATA ON OTHER DETAINED ALIENS.

(a) IN GENERAL.—The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section ___03, including the following information:

(1) The number of detainees who are criminal aliens and the number of detainees who are noncriminal aliens who are not seeking asylum.

(2) An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).

(3) The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.

(b) LENGTH OF DETENTION, TRANSFERS, AND DISPOSITIONS.—With respect to detainees who are criminal aliens and detainees who are noncriminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

(1) the number and frequency of transfers between detention facilities for each category of detainee;

(2) the average length of detention of each category of detainee;

(3) for each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;

(4) for each category of detainee, the rate of release from detention for each district of the Immigration and Naturalization Service; and

(5) for each category of detainee, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.

(c) CRIMINAL ALIENS.—With respect to criminal aliens, the Attorney General shall also collect data concerning—

(1) the number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General; and

(2) a list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.

(d) ANNUAL REPORTS.—Beginning on October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsections (a), (b), and (c) for the fiscal year ending September 30 of that year.

(e) AVAILABILITY TO PUBLIC.—Copies of the data collected under subsections (a), (b), and (c) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

LAUTENBERG AMENDMENT NO. 3369

Mr. CAMPBELL (for Mr. LAUTENBERG) proposed an amendment to the bill, 2312, supra; as follows:

At the appropriate place, add the following:

Since during the Nazi occupation of Poland, Oskar Schindler personally risked his life and that of his wife to provide food and medical care and saved the lives of over 1,000 Jews from death, many of whom later made their homes in the United States;

Since Oskar Schindler also rescued about 100 Jewish men and women from the Golezow concentration camp, who lay trapped and partly frozen in 2 sealed train cars stranded near Brunnlitz;

Since millions of Americans have been made aware of the story of Schindler's bravery;

Since on April 28, 1962, Oskar Schindler was named a 'Righteous Gentile' by Yad Vashem; and

Since Oskar Schindler is a true hero and humanitarian deserving of honor by the United States Government;

It is the sense of the Congress that the Postal Service should issue a stamp honoring the life of Oskar Schindler.

SNOWE (AND OTHERS) AMENDMENT NO. 3370

Mr. REID (for Ms. SNOWE for herself, Mr. REID, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, and Mr. SMITH of Oregon) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ____. (a) None of the funds appropriated by this Act may be expended by the Office of Personnel Management to enter into or renew any contract under section 8902 of title 5, United States Code, for a health benefits plan—

(1) which provides coverage for prescription drugs, unless such plan also provides equivalent coverage for all prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration; or

(2) which provides benefits for outpatient services provided by a health care professional, unless such plan also provides equivalent benefits for outpatient contraceptive services.

(b) Nothing in this section shall apply to a contract with any of the following religious plans:

(1) SelectCare.

(2) PersonalCare's HMO.

(3) Care Choices.

(4) OSF Health Plans, Inc.

(5) Yellowstone Community Health Plan.

(6) And any other existing or future religious based plan whose religious tenets are in conflict with the requirements in this Act.

(c) For purposes of this section—

(1) the term "contraceptive drug or device" means a drug or device intended for preventing pregnancy; and

(2) the term "outpatient contraceptive services" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent pregnancy.

REID AMENDMENT NO. 3371

Mr. REID proposed an amendment to amendment No. 3370 proposed by Ms. SNOWE to the bill, S. 2312, supra; as follows:

At the end of the amendment, add the following new subsection:

(c) Nothing in this section shall be construed to require coverage of abortion or abortion related services.

DORGAN AMENDMENT NO. 3372

Mr. DORGAN proposed an amendment to the bill, S. 2312, supra; as follows:

SEC. . IMPORTATION OF CERTAIN GRAINS.

(a) FINDINGS.—The Congress finds that—

(1) importation of grains into the United States at less than the cost to produce those grains is causing injury to the United States producers of those grains;

(2) importation of grains into the United States at less than the fair value of those grains is causing injury to the United States producers of those grains;

(3) the Canadian government and the Canadian Wheat Board have refused to disclose pricing and cost information necessary to determine whether grains are being exported to the United States at prices in violation of United States trade laws or agreements.

(b) REQUIREMENTS.—

(1) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall conduct a study of the efficiency and effectiveness of requiring that all spring wheat, durum or barley imported into the United States be imported into the United States through a single port of entry.

(2) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall determine whether such spring wheat, durum and barley could be imported into the United States through a single port of entry until either the Canadian Wheat Board or the Canadian Government discloses all information necessary to determine the cost and price for all such grains being exported to the United States from Canada and whether such cost or price violates any law of the United States, or violates, is inconsistent with, or denies benefits to the United States under, any trade agreement.

(3) The Customs Service shall report to the Committees on Appropriations and Finance not later than ninety days after the effective date of this act on the results of the study required by subsections (1) and (2), above.

WELLSTONE AMENDMENT NO. 3373

Mr. WELLSTONE proposed an amendment to amendment No. 3362

submitted by Mr. FAIRCLOTH to the bill, S. 2312, supra; as follows:

At the end of the amendment insert the following:

SEC. . FAMILY WELL-BEING AND CHILDREN'S IMPACT STATEMENT.

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on family well-being and on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

HARKIN AMENDMENT NO. 3374

Mr. HARKIN proposed an amendment to amendment No. 3353 proposed by Mr. THOMPSON to the bill, S. 2132, supra; as follows:

Strike out all after "SEC. 642." and insert in lieu thereof the following:

PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR.

(a) PROHIBITION.—The head of an executive agency may not acquire an item that appears on a list published under subsection (b) unless the source of the item certifies to the head of the executive agency that forced or indentured child labor was not used to mine, produce, or manufacture the item.

(b) PUBLICATION OF LIST OF PROHIBITED ITEMS.—(1) The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of State, shall publish in the Federal Register every other year a list of items that such officials have identified that have been mined, produced, or manufactured by forced or indentured child labor.

(2) The first list shall be published under paragraph (1) not later than 120 days after the date of the enactment of this Act.

(c) REQUIRED CONTRACT CLAUSES.—(1) The head of an executive agency shall include in each solicitation of offers for a contract for the procurement of an item included on a list published under subsection (b) the following clauses:

(A) A clause that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor.

(B) A clause that obligates the contractor to cooperate fully to provide access for the head of the executive agency or the inspector general of the executive agency to the contractor's records, documents, persons, or premises if requested by the official for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract.

(2) This subsection applies with respect to acquisitions for a total amount in excess of the micro-purchase threshold (as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)), including acquisitions of commercial items for such an amount notwithstanding section 34 of the Office of Federal Procurement Act (41 U.S.C. 430).

(d) INVESTIGATIONS.—Whenever a contracting officer of an executive agency has reason to believe that a contractor has submitted a false certification under subsection (a) or (c)(1)(A) or has failed to provide cooperation in accordance with the obligation imposed pursuant to subsection (c)(1)(B), the head of the executive agency shall refer the matter, for investigation, to the Inspector General of the executive agency and, as the head of the executive agency determines appropriate, to the Attorney General and the Secretary of the Treasury.

(e) REMEDIES.—(1) The head of an executive agency may impose remedies as provided in this subsection in the case of a contractor under a contract of the executive agency if the head of the executive agency finds that the contractor—

(A) has furnished under the contract items that have been mined, produced, or manufactured by forced or indentured child labor or uses forced or indentured child labor in mining, production, or manufacturing operations of the contractor;

(B) has submitted a false certification under subparagraph (A) of subsection (c)(1); or

(C) has failed to provide cooperation in accordance with the obligation imposed pursuant to subparagraph (B) of such subsection.

(2) The head of the executive agency, in the sole discretion of the head of the executive agency, may terminate a contract on the basis of any finding described in paragraph (1).

(3) The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has engaged in an act described in paragraph (1)(A). The period of the debarment or suspension may not exceed three years.

(4) The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (maintained by the Administrator as described in the Federal Acquisition Regulation) each person that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency or the Comptroller General on the basis that the person uses forced or indentured child labor to mine, produce, or manufacture any item.

(5) This subsection shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a finding described in paragraph (1).

(f) REPORT.—Each year, the Administrator of General Services, with the assistance of the heads of other executive agencies, shall review the actions taken under this section and submit to Congress a report on those actions.

(g) IMPLEMENTATION IN THE FEDERAL ACQUISITION REGULATION.—(1) The Federal Acquisition Regulation shall be revised within 180 days after the date of enactment of this Act—

(A) to provide for the implementation of this section; and

(B) to include the use of forced or indentured child labor in mining, production, or manufacturing as a cause on the lists of causes for debarment and suspension from contracting with executive agencies that are set forth in the regulation.

(2) The revisions of the Federal Acquisition Regulation shall be published in the Federal Register promptly after the final revisions are issued.

(h) EXCEPTION.—(1) This section does not apply to a contract that is for the procurement of any product, or any article, material, or supply contained in a product, that is mined, produced, or manufactured in any foreign country or instrumentality, if—

(A) the foreign country or instrumentality is—

(i) a party to the Agreement on Government Procurement annexed to the WTO Agreement; or

(ii) a party to the North American Free Trade Agreement; and

(B) the contract is of a value that is equal to or greater than the United States threshold specified in the Agreement on Government Procurement annexed to the WTO Agreement or the North American Free Trade Agreement, whichever is applicable.

(2) For purposes of this subsection, the term "WTO Agreement" means the Agreement Establishing the World Trade Organization, entered into on April 15, 1994.

(i) APPLICABILITY.—(1) Except as provided in subsection (c)(2), the requirements of this section apply on and after the date determined under subsection (2) to any solicitation that is issued, any unsolicited proposal that is received, and any contract that is entered into by an executive agency pursuant to such a solicitation or proposal on or after this date.

(2) The date referred to is paragraph (1) is the date that is 30 days after the date of the publication of the revisions of the Federal Acquisition Regulation under subsection (g)(2).

BINGAMAN AMENDMENT NO. 3375

Mr. BINGAMAN proposed an amendment to the bill, S. 2132; supra; as follows:

On page 99, between lines 17 and 18, insert the following:

SEC. 8104. Of the amounts appropriated under title IV for the Army, the Navy, and the Air Force, $59,606,000 shall be available for the applied research element within the Dual Use Applications Program, as follows:

(1) Of the amount appropriated for the Army, $20,000,000.

(2) Of the amount appropriated for the Navy, $20,000,000.

(3) Of the amount appropriated for the Air Force, $19,606,000.

BINGAMAN (AND OTHERS) AMENDMENT NO. 3376

Mr. BINGAMAN (for himself, Mr. MURKOWSKI, Mr. TORRICELLI, Mr. BREAUX, Mr. DOMENICI, and Ms. LANDRIEU) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in the bill, add the following:

"ADDITIONAL PURCHASES OF OIL FOR THE STRATEGIC PETROLEUM RESERVE

"In response to historically low prices for oil produced domestically and to build national capacity for response to future energy supply emergencies, the Secretary of Energy shall purchase and transport an additional $420,000,000 of oil for the Strategic Petroleum Reserve upon a determination by the President that current market conditions are imperiling domestic oil production from marginal and small producers: *Provided*, That an official budget request for the purchase of oil for the Strategic Petroleum Reserve and including a designation of the entire request as an emergency requirement as defined in the

Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount in the preceding proviso is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.".

DURBIN (AND OTHERS) AMENDMENT NO. 3377

Mr. CAMPBELL (for Mr. DURBIN, for himself, Mr. KENNEDY, Mr. DODD, Mr. MCCAIN, and Mr. MACK) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert:

The Senate Find

Find of these 44 million, many are descended from the nearly two million Irish immigrants who were forced to flee Ireland during the "Great Hunger" of 1845–1850;

Find those immigrants dedicated themselves to the development of our nation and contributed immensely to it by helping to build our railroads, our canals, our cities and our schools;

Find 1998 marks the 150th anniversary of the mass immigration of Irish immigrants to America during the Irish Potato Famine;

Find commemorating this tragic but defining episode in the history of American immigration would be deserving of honor by the United States Government:

It is the sense of Congress that the United States Postal Service should issue a stamp honoring the 150th anniversary of Irish immigration to the United States during the Irish Famine of 1845–1850.

BAUCUS (AND OTHERS) AMENDMENT NO. 3378

Mr. BAUCUS (for himself, Mr. JEFFORDS, Mr. ALLARD, Mr. CONRAD, Mr. LEAHY, Mr. DORGAN, Mr. ENZI, Mr. REID, and Mr. BRYAN) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, add the following:

SEC. ___. POST OFFICE RELOCATIONS, CLOSINGS, AND CONSOLIDATIONS.

(a) SHORT TITLE.—This section may be cited as the "Community and Postal Participation Act of 1998".

(b) GUIDELINES FOR RELOCATION, CLOSING, OR CONSOLIDATION OF POST OFFICES.—Section 404 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Before making a determination under subsection (a)(3) as to the necessity for the relocation, closing, or consolidation of any post office, the Postal Service shall provide adequate notice to persons served by that post office of the intention of the Postal Service to relocate, close, or consolidate that post office not later than 60 days before the proposed date of that relocation, closing, or consolidation.

"(2)(A) The notification under paragraph (1) shall be [in writing, hand delivered or delivered by mail to persons served by that post office, and] published in 1 or more newspapers of general circulation within the zip codes served by that post office.

"(B) The notification under paragraph (1) shall include—

"(i) an identification of the relocation, closing, or consolidation of the post office involved;

"(ii) a summary of the reasons for the relocation, closing, or consolidation; and

"(iii) the proposed date for the relocation, closing, or consolidation.

"(3) Any person served by the post office that is the subject of a notification under paragraph (1) may offer an alternative relocation, consolidation, or closing proposal during the 60-day period beginning on the date on which the notice is provided under paragraph (1).

"(4)(A) At the end of the period specified in paragraph (3), the Postal Service shall make a determination under subsection (a)(3). Before making a final determination, the Postal Service shall conduct a hearing at the request of the community served. Persons served by the post office that is the subject of a notice under paragraph (1) may present oral or written testimony with respect to the relocation, closing, or consolidation of the post office.

"(B) In making a determination as to whether or not to relocate, close, or consolidate a post office, the Postal Service shall consider—

"(i) the extent to which the post office is part of a core downtown business area;

"(ii) any potential effect of the relocation, closing, or consolidation on the community served by the post office;

"(iii) whether the community served by the post office opposes a relocation, closing, or consolidation;

"(iv) any potential effect of the relocation, closing, or consolidation on employees of the Postal Service employed at the post office;

"(v) whether the relocation, closing, or consolidation of the post office is consistent with the policy of the Government under section 101(b) that requires the Postal Service to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns in which post offices are not self-sustaining;

"(vi) the quantified long-term economic saving to the Postal Service resulting from the relocation, closing, or consolidation;

"(vii) whether postal officials engaged in negotiations with persons served by the post office concerning the proposed relocation, closing, or consolidation;

"(viii) whether management of the post office contributed to a desire to relocate;

"(ix)(I) the adequacy of the existing post office; and

"(II) whether all reasonable alternatives to relocation, closing, or consolidation have been explored; and

"(x) any other factor that the Postal Service determines to be necessary for making a determination whether to relocate, close, or consolidate that post office.

"(5)(A) Any determination of the Postal Service to relocate, close, or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (4).

"(B) The Postal Service shall respond to all of the alternative proposals described in paragraph (3) in a consolidated report that includes—

"(i) the determination and findings under subparagraph (A); and

"(ii) each alternative proposal and a response by the Postal Service.

"(C) The Postal Service shall make available to the public a copy of the report prepared under subparagraph (B) at the post office that is the subject of the report.

"(6)(A) The Postal Service shall take no action to relocate, close, or consolidate a post office until the applicable date described in subparagraph (B).

"(B) The applicable date specified in this subparagraph is—

"(i) if no appeal is made under paragraph (7), the end of the 60-day period specified in that paragraph; or

"(ii) if an appeal is made under paragraph (7), the date on which a determination is made by the Commission under paragraph (7)(A), but not later than 120 days after the date on which the appeal is made.

"(7)(A) A determination of the Postal Service to relocate, close, or consolidate any post office may be appealed by any person served by that post office to the Postal Rate Commission during the 60-day period beginning on the date on which the report is made available under paragraph (5). The Commission shall review the determination on the basis of the record before the Postal Service in the making of the determination. The Commission shall make a determination based on that review not later than 120 days after appeal is made under this paragraph.

"(B) The Commission shall set aside any determination, findings, and conclusions of the Postal Service that the Commission finds to be—

"(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(ii) without observance of procedure required by law; or

"(iii) unsupported by substantial evidence on the record.

"(C) The Commission may affirm the determination of the Postal Service that is the subject of an appeal under subparagraph (A) or order that the entire matter that is the subject of that appeal be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

"(D) The provisions of sections 556 and 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

"(E) A determination made by the Commission shall not be subject to judicial review.

"(8) In any case in which a community has in effect procedures to address the relocation, closing, or consolidation of buildings in the community, and the public participation requirements of those procedures are more stringent than those provided in this subsection, the Postal Service shall apply those procedures to the relocation, consolidation, or closing of a post office in that community in lieu of applying the procedures established in this subsection.

"(9) In making a determination to relocate, close, or consolidate any post office, the Postal Service shall comply with any applicable zoning, planning, or land use laws (including building codes and other related laws of State or local public entities, including any zoning authority with jurisdiction over the area in which the post office is located).

"(10) The relocation, closing, or consolidation of any post office under this subsection shall be conducted in accordance with section 110 of the National Historic Preservation Act (16 U.S.C. 470h–2).".

(c) POLICY STATEMENT.—Section 101(g) of title 39, United States Code, is amended by adding at the end the following: "In addition to taking into consideration the matters referred to in the preceding sentence, with respect to the creation of any new postal facility, the Postal Service shall consider the potential effects of that facility on the community to be served by that facility and the

service provided by any facility in operation at the time that a determination is made whether to plan or build that facility.".

McCONNELL (AND OTHERS) AMENDMENT NO. 3379

Mr. McCONNELL (for himself, Mr. McCAIN, Mr. BENNETT, and Mr. WARNER) proposed an amendment to the bill, S. 2312, supra; as follows:

At the end of title V, add the following section:

SEC. ___. PROVISIONS FOR STAFF DIRECTOR AND GENERAL COUNSEL OF THE FEDERAL ELECTION COMMISSION.

(a) APPOINTMENT AND TERM OF SERVICE.—

(1) IN GENERAL.—The first sentence of section 306(f)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)(1)) is amended by striking "by the Commission" and inserting "by an affirmative vote of not less than 4 members of the Commission for a term of 4 years".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to any individual serving as the staff director or general counsel of the Federal Election Commission on or after January 1, 1999, without regard to whether or not the individual served as staff director or general counsel prior to such date.

(b) TREATMENT OF INDIVIDUALS FILLING VACANCIES; TERMINATION OF AUTHORITY UPON EXPIRATION OF TERM.—Section 306(f)(1) of such Act (2 U.S.C. 437c(f)(1)) is amended by inserting after the first sentence the following: "An individual appointed as a staff director or general counsel to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the individual whose term is being filled. An individual serving as staff director or general counsel may not serve in such position after the expiration of the individual's term unless reappointed in accordance with this paragraph.".

(c) RULE OF CONSTRUCTION REGARDING AUTHORITY OF ACTING GENERAL COUNSEL.—Section 306(f) of such Act (2 U.S.C. 437c(f)) is amended by adding at the end the following:

"(5) Nothing in this Act shall be construed to prohibit any individual serving as an acting general counsel of the Commission from performing any functions of the general counsel of the Commission.".

GLENN (AND OTHERS) AMENDMENT NO. 3380

Mr. GLENN (for himself, Mr. JEFFORDS, Mr. KOHL, Mr. LEVIN, Mr. FEINGOLD, and Mr. DODD) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 44, line 13, insert after "$33,700,000" the following: "(increased by $2,800,000 to be used for enforcement activities)".

On page 46, line 18, strike "$5,665,585,000" and insert "$5,662,785,000".

On page 56, line 20, strike "$5,665,585,000" and insert "$5,662,785,000".

GRAHAM (AND MACK) AMENDMENT NO. 3381

Mr. GRAHAM (for himself and Mr. MACK) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 20, line 16, strike $3,164,399,000" and insert "$3,162,399,000.

On page 39, line 10, strike "$171,007,000" and insert "$173,007,000".

On page 40, line 3, strike ": *Provided*, That funding" and insert the following: ", and of which $3,000,000 shall be used to continue the recently created Central Florida High Intensity Drug Trafficking Area: *Provided*, That except with respect to the Central Florida High Intensity Drug Trafficking Area, funding".

WELLSTONE AMENDMENT NO. 3382

Mr. CAMPBELL (for Mr. WELLSTONE) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 104, between lines 21 and 22, insert the following:

SEC. 6___. DESIGNATION OF EUGENE J. MCCARTHY POST OFFICE BUILDING.

(a) IN GENERAL.—The building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, shall be known and designated as the "Eugene J. McCarthy Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Eugene J. McCarthy Post Office Building".

DOMENICI (AND COVERDELL) AMENDMENT NO. 3383

Mr. DOMENICI (for himself and Mr. COVERDELL) proposed an amendment to the bill, S. 2312, supra; as follows:

On page 8, line 11, strike "$66,251,000" and insert "$71,923,000".

On page 10, line 12, strike "and related expenses, $15,360,000" and insert "new construction, and related expenses, $42,620,000".

On page 46, line 18, strike "$5,665,585,000" and insert "$5,632,552,000".

On page 50, line 20, strike "$668,031,000" and insert "$634,998,000".

On page 50, line 23, strike "$323,800,000" and insert "$309,499,000".

On page 52, line 13, strike "$344,236,000" and insert "$311,203,000".

On page 56, line 20, strike "$5,665,585,000" and insert "$5,632,552,000".

On page 45, line 21, strike "$508,752,000" and insert "S475,719,000".

DOMENICI (AND OTHERS) AMENDMENT NO. 3384

Mr. DOMENICI (for himself, Mr. COVERDELL, Mr. BINGAMAN, and Mr. CLELAND) proposed an amendment to the bill, S. 2312, supra; as follows:

At the end of the bill add the following new section:

"SEC. . Within the amounts appropriated in this Act, up to $20.3 million may be transferred to the Acquisition, Construction, Improvements, and Related Expenses account of the Federal Law Enforcement Training Center for new construction."

STEVENS AMENDMENT NO. 3385

Mr. STEVENS proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. AVERAGE PAY DETERMINATION OF CERTAIN FEDERAL OFFICERS AND EMPLOYEES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended by inserting after section 8339 the following:

"§ 8339a. Average pay determination in certain years

"(a) For purposes of this section the term 'covered position' means—

"(1) any position for which pay is adjusted by statute whenever an adjustment takes effect under section 5303 (or any statute relating to cost-of-living adjustments in statutory pay systems in effect before the effective date of section 101 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509; 104 Stat. 1429)); or

"(2) any position for which pay is adjusted by rule, practice, or order based on an adjustment in the pay of a position described under paragraph (1).

"(b) Subject to subsection (d), for purposes of determining the average pay of an employee or Member, the basic pay of the employee or Member during a year described under subsection (c) shall be deemed to be the basic pay paid at the actual rate of pay adjusted by the same percentage as any cost-of-living adjustment of annuities under section 8340 which took effect during such year, on the date such cost-of-living adjustment took effect.

"(c) Subsection (b) refers to any year in which—

"(1) any cost-of-living adjustment of annuities under section 8340 took effect; and

"(2) the applicable employee or Member serving in a covered position did not receive an adjustment in pay described under subsection (a) (1) or (2) because a statute provided that such adjustment would not take effect with respect to a covered position described under subsection (a) (1).

"(d) Average pay shall be determined under this section, if the applicable employee or Member, or the survivor of such employee or Member, deposits to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the employee or Member during the period of service in a covered position and the amount which would have been deducted during such period if the rate of basic pay had been adjusted as provided under subsections (b) and (c), plus interest as computed under section 8334(e).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8339 the following:

"8339a. Average pay determination in certain years.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 84 of title 5, United States Code, is amended by inserting after section 8415 the following:

"§ 8415a. Average pay determination in certain years

"(a) For purposes of this section the term 'covered position' means—

"(1) any position for which pay is adjusted by statute whenever an adjustment takes effect under section 5303 (or any statute relating to cost-of-living adjustments in statutory pay systems in effect before the effective date of section 101 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509; 104 Stat. 1429)); or

"(2) any position for which pay is adjusted by rule, practice, or order based on an adjustment in the pay of a position described under paragraph (1).

"(b) Subject to subsection (d), for purposes of determining the average pay of an employee or Member, the basic pay of the employee or Member during a year described under subsection (c) shall be deemed to be the basic pay paid at the actual rate of pay adjusted by the same percentage as any cost-of-living adjustment of annuities under section 8462 which took effect during such year, on the date such cost-of-living adjustment took effect.

"(c) Subsection (b) refers to any year in which—

"(1) any cost-of-living adjustment of annuities under section 8462 took effect; and

"(2) the applicable employee or Member serving in a covered position did not receive an adjustment in pay described under subsection (a) (1) or (2) because a statute provided that such adjustment would not take effect with respect to a covered position described under subsection (a) (1).

"(d) Average pay shall be determined under this section, if the applicable employee or Member, or the survivor of such employee or Member, deposits to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the employee or Member during the period of service in a covered position and the amount which would have been deducted during such period if the rate of basic pay had been adjusted as provided under subsections (b) and (c), plus interest as computed under section 8334(e).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8415 the following:

"8415a. Average pay determination in certain years."

(c) EFFECTIVE DATE.—This section shall take effect on January 2, 1999, and shall apply only to any annuity commencing on or after such date.

GRASSLEY (AND OTHERS) AMENDMENT NO. 3386

Mr. CAMPBELL (for Mr. GRASSLEY for himself, Mr. D'AMATO, Mr. SESSIONS, Mr. STEVENS, and Mr. GRAMS) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) DEFINITIONS.—In this section—

(1) the term "crime of violence" has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term "law enforcement officer" means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes reasonable action, including the use of force, to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence.

HARKIN (AND MURRAY) AMENDMENT NO. 3387

Mr. HARKIN (for himself and Mrs. MURRAY) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place in the bill and the following:

On page 39, strike lines 10 through 12 and insert in lieu thereof the following: "Area Program, $179,007,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which $8,000,000 shall be used for methamphetamine programs above the sums allocated in fiscal year 1998 and otherwise provided for in this legislation with no less than half of the $8,000,000 going to areas solely dedicated to fighting methamphetamine usage, and in addition no less than $1,000,000 of the $8,000,000 shall be allocated to the Cascade High Intensity Drug Trafficking Area, of which".

Amend page 50, line 20 by reducing the dollar figure by $8,000,000.

Amend page 52, line 13 by reducing the dollar figure by $8,000,000.

CAMPBELL (AND KOHL) AMENDMENT NO. 3388

Mr. CAMPBELL (for himself and Mr. KOHL) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place, strike and insert the following:

On page 10, line 14, strike through page 10, line 20.

On page 17, line 7, strike "98,488,000," and insert in lieu thereof "113,488,000,".

On page 17, line 20, strike "1999." and insert in lieu thereof "1999: *Provided further*, That of the amount provided, $15,000,000 shall be made available for drug interdiction activities in South Florida and the Caribean.".

On page 39, line 10 strike "171,007,000" and insert in lieu thereof "183,977,000".

On page 39, line 19 after "criteria," insert "and of which $3,000,000 shall be used to continue the recently created Central Florida High Intensity Drug Trafficking Area, and of which $1,970,000 shall be used for the addition of North Dakota into the Midwest High Intensity Drug Trafficking Area, and of which $7,000,000 shall be used for methamphetamine programs otherwise provided for in this legislation with not less than half of the $7,000,000 shall expand the Midwest High Intensity Drug Trafficking Area, and of which $1,000,000 shall be used to expand the Cascade High Intensity Drug Trafficking Area, and of which $1,500,000 shall be provided to the Southwest Border High Intensity Drug Trafficking Area,".

KERREY AMENDMENT NO. 3389

Mr. KOHL (for Mr. KERREY) proposed an amendment to the bill, S. 2312, supra; as follows:

At the appropriate place insert the following:

SECTION 1. SENSE OF THE SENATE REGARDING THE REDUCTION OF PAYROLL TAXES.

(a) FINDINGS.—The Senate finds the following:

(1) The payroll tax under the Federal Insurance Contributions Act (FICA) is the biggest, most regressive tax paid by working families.

(2) The payroll tax constitutes a 15.3 percent tax burden on the wages and self-employment income of each American, with 12.4 percent of the payroll tax used to pay social security benefits to current beneficiaries and 2.9 percent used to pay the medicare benefits of current beneficiaries.

(3) The amount of wages and self-employment income subject to the social security portion of the payroll tax is capped at $68,400. Therefore, the lower a family's income, the more they pay in payroll tax as a percentage of income. The Congressional Budget Office has estimated that for those families who pay payroll taxes, 80 percent pay more in payroll taxes than in income taxes.

(4) In 1996, the median household income was $35,492, and a family earning that amount and taking standard deductions and exemptions paid $2,719 in Federal income tax, but lost $5,430 in income to the payroll tax.

(5) Ownership of wealth is essential for everyone to have a shot at the American dream, but the payroll tax is the principal burden to savings and wealth creation for working families.

(6) Since 1983, the payroll tax has been higher than necessary to pay current benefits.

(7) Since most of the payroll tax receipts are deposited in the social security trust funds, which masks the real amount of Government borrowing, those whom the payroll tax hits hardest, working families, have shouldered a disproportionate share of the Federal budget deficit reduction and, therefore, a disproportionate share of the creation of the Federal budget surplus.

(8) Over the next 10 years, the Federal Government will generate a budget surplus of $1,550,000,000,000, and all but $32,000,000,000 of that surplus will be generated by excess payroll taxes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) if Congress decides to use the Federal budget surplus to provide tax relief the payroll tax should be reduced first; and

(2) Congress and the President should work to reduce this tax which burdens American families.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, July 29, 1998. The purpose of this meeting will be to examine USDA downsizing and consolidated efforts.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet in executive session during the session of the Senate on Wednesday, July 29, 1998, to conduct a mark-up of S. 1405, the "Financial Regulatory Relief and Economic Efficiency Act of 1997".

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 29, 1998, at 9:30 a.m. on pending committee business.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to conduct a Business Meeting during the session of the Senate on Wednesday, July 29 in Room SD–366.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 29 for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Wednesday, July 29, at 9:30 a.m., Hearing Room (SD–406).

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

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 9:30 a.m. to conduct a business meeting to consider the following pending business of the Committee: S. 1905, A bill to Compensate the Cheyenne River Sioux Tribe, and for Other Purposes; S. 391, To Provide for the Distribution of Certain Judgment Funds to the Mississippi Sioux Tribe of Indians, and for Other Purposes; and S. 1770, To Elevate the Position of the Director of the Indian Health Service to Assistant Secretary for Health and Human Services. The Business Meeting will be held in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate Committe on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 2:00 p.m. to conduct a business meeting to consider the following pending business of the Committee: S. 1905, A Bill to Compensate the Cheyenne River Sioux Tribe, and for Other Purposes; H.R. 3069, A Bill to Extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council; S. 1770, To Elevate the Position of the Director of the Indian Health Service to Assistant Secretary for Health and Human Services; S. 391, To Provide for the Distribution of Certain Judgment Funds to the Mississippi Sioux Tribe of Indians, and for Other Purposes; and S. 1419, A Bill to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park, and for other purposes.

The Business Meeting will be held in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 9:30 a.m. in room 226 of the Senate Hart Office Building to hold a hearing on: "S. 1554, Fairness in Punitive Damages Awards Act."

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, July 29, 1998, at 9:30 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 9:30 a.m. to hold a hearing on S. 2288, the Wendell H. Ford Government Publication Reform Act of 1998.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 10 a.m. and 2:30 p.m. to hold a closed hearing on Intelligence matters.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Judiciary Committee be authorized to meet during the session of the Senate on Wednesday, July 29, 1998 at 2 p.m. to hold a hearing in room 226, Senate Dirksen Building, on "INS Reform: The Enforcement Side."

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

SUBCOMMITTEE ON INTERNATIONAL SECURITY

Mr. CAMPBELL. Mr. President, I ask unanimous consent on behalf of the Government Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Wednesday, July 29, 1998 at 2 p.m. for a hearing on "An Industry View of the Satellite Export Licensing Process."

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

SUBCOMMITTEE ON SOCIAL SECURITY

Mr. CAMPBELL. Mr. President, the Finance Committee on Social Security and Family Policy requests unanimous consent to conduct a hearing on Wednesday, July 29, 1998 beginning at 2 p.m. in room 215 Dirksen.

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

ADDITIONAL STATEMENTS

CONGRATULATIONS TO MILLIE BEEM CELEBRATING HER 80th BIRTHDAY

• Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Ms. Millie Beem of Springfield, Missouri, who will celebrate her 80th birthday on August 2, 1998. Millie is truly a remarkable individual. She has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of Millie's life has meant much more, however, to the many relatives and friends whose lives she has touched over the last eighty years.

Millie's celebration of eighty years of life is a testament to me and all Missourians. Her achievements are significant and deserve to be recognized. I would like to join Millie's many friends and relatives in wishing her health and happiness in the future.•

250th ANNIVERSARY OF FREDERICK COUNTY, MARYLAND

• Mr. SARBANES. Mr. President, I rise today to commemorate the 250th anniversary of Frederick County, Maryland. Throughout Maryland's glorious history, Frederick County and her sons and daughters have played a critical role in our State's quest for freedom and progress. From the very founding of our nation, Frederick Countians have proudly and resolutely upheld the principles and beliefs which are the basis of our democratic system of self government.

This strong commitment to freedom was evident among the English and German immigrants who first settled in Frederick County. They were extremely appreciative of the freedoms they found in this "New World" and zealous in their dedication to protecting them. One such individual was Francis Scott Key, the lawyer and poet who, watching the bombardment of Ft. McHenry from a British cartel ship off Sparrow's Point in Baltimore's harbor, penned the words that subsequently became memorialized as our National Anthem.

What many may not know is that the eloquent author of the Star Spangled Banner was born in Frederick City, which celebrated its own 250th birthday in 1995. Francis Scott Key was detained on the British ship in 1814 while attempting to secure the release of Dr. William Beanes of Upper Marlboro who had been arrested. In the early morning of September 14, 1814, during the Battle of Baltimore, Key, overcome with pride from his unique vantage point, wrote the words that captured the essence of our national struggle for independence.

Frederick County is also the seat of some of our State's most tumultuous historic incidents. When the British passed the Stamp Act in 1785 requiring colonists to purchase stamps for all legal and commercial documents, twelve Frederick County judges resolved to reject the Stamp Act, and approved the use of unstamped documents. This bold maneuver is believed to be the first recorded act of rebellion in the colonies.

It was in Frederick County that the Maryland legislature held the momentous vote on secession. The vote was held in this venue in response to a personal request from President Lincoln in the hope that Marylanders from the southern part of the State would not be able to attend, therefore guaranteeing that Maryland remain in the Union. Although the strategy was successful, the narrow vote sent reverberations throughout the State and there were skirmishes at towns along the Potomac. While the resulting Confederate occupation of parts of Frederick County was relatively peaceful, this event was the immediate precursor to the Battle of Antietam, the bloodiest day of fighting in any American war.

A local anecdote, which serves as a testament to the tremendous dedication of these citizens, claims that on the day that General Jackson's troops were marching out of Frederick to Antietam, a Union flag was seen hanging from the home of Barbara Fritchie, a 95 year old widow known for her spirited nature, who risked injury and death by hanging from her window after shots were fired, flag in hand, shouting, "Shoot, if you must, this old gray head, but spare your country's flag."

Another significant event has its beginnings here, as it was from the City of Frederick that Lewis and Clark launched their exploration of the American West. In July, 1803, these two explorers set out from the Hessian Barracks in Frederick Town into uncharted territories. These events further illustrate Frederick County's position at the symbolic crossroads of history, and it is here that we find Maryland's true roots firmly in place. Frederick County is at a literal crossroads as well due to the construction of the B&O Railroad in the early 1800's and the location of the C&O canal. These two modes of transportation opened up major corridors from and to the east, laying the groundwork for a tradition of jobs, industry and trade.

From this lasting spirit of community interdependence and unity comes many of Frederick's modern landmarks. Frederick County is home to Ft. Detrick, crucial to the creation of new jobs and economic development in the region, and to the National Fallen Firefighters memorial in Emmitsburg. In recent years, Frederick County has been a leader in developing new economic growth and opportunities for our State and has attracted innovative technology companies to its pleasant surroundings.

The City of Frederick, the County Seat, is the second largest city in Maryland, yet it maintains its small town charm and sense of community that reflects the civil congeniality that has always defined Frederick, both in its rich history and its contemporary success. The contribution of Francis Scott Key to our nation has been complemented over the decades by other distinguished citizens of this county. Most recently, many of us in the Senate were privileged to count as a colleague the extremely distinguished Senator from Maryland and native son of Frederick, Charles Mac Mathias. The intellectual and personal integrity which Senator Mathias brought to this body in service to the nation is exemplary of the spirit of his fellow Frederick Countians.

The activities that have been planned in celebration of this auspicious anniversary exemplify the deep devotion of Frederick residents to their county. I join these citizens in sharing their pride in Frederick's past and their optimism for continued achievement. I urge my colleagues to visit this lovely location in the heart of Maryland and explore this renowned resource.●

TRIBUTE TO LOUIS TAYLOR

● Mr. BOND. Mr. President, I rise today to pay tribute to Louis Taylor who has provided great service to the Committee on Small Business, the U.S. Senate and to me personally. Louis Taylor is stepping down this week as Chief Counsel and Staff Director of the Senate Committee on Small Business. When I became chairman of the Committee on Small Business in January 1995, one of my first actions was to hire Louis. For the past 3½ years, Louis has provided outstanding leadership to the staff on the Committee on Small Business and he has been instrumental in support of my efforts to transform the committee so that it is the eyes, ears, and voice in the U.S. Senate for small businesses.

In his tenure on the Committee on Small Business, Louis Taylor played a significant role in crafting important pieces of legislation to help small businesses. Two such legislative accomplishments stand out among the numerous bills that originated from the Committee on Small Business and were enacted into law—the HUBZone Act of 1997 and the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Red-Tape Reduction Act. The HUBZone program expands the opportunity for small businesses in economically distressed areas to compete for Federal contracts, bringing jobs and new investments to inner cities and poor rural areas. The Red-Tape Reduction Act established safeguards to improve the Government's regulatory fairness to small businesses and established an independent ombudsman and regional citizen review boards to give small businesses a voice in evaluating Federal agency actions. Without Louis Taylor's contributions, the ultimate enactment of these important statutes would surely have been much more difficult.

In addition to these impressive legislative achievements, Louis Taylor played an integral role in ensuring that the Committee on Small Business capitalized on its expansive oversight jurisdiction to be a strong advocate for small business in the U.S. Senate. On those issues where the committee did not have legislative jurisdiction, Louis Taylor helped me guide the committee in its efforts to call attention to the impact such issues have on small business. For example, using its oversight jurisdiction, the committee was successful in including a number of small business provisions in the IRS Restructuring and Reform Act of 1998, which was signed into law last week. These changes to the structure of the IRS and improved taxpayer rights will help small business owners to resolve tax problems more efficiently while providing them with the service and respect that they deserve from the agency. The committee has also been extremely active in ensuring regulatory fairness for small businesses and women-owned businesses, in particular. Perhaps the provision that will have the broadest impact, however, is the provision of 100 percent deductibility for health insurance for the self-employed and their families. This measure ultimately will make health insurance more affordable for 5 million Americans who do not carry it now.

In conclusion, the entire committee and I certainly will miss Louis Taylor as he moves on to other endeavors, but the contributions that he has made and the leadership he has given to the Committee on Small Business are greatly appreciated and will not be soon forgotten.•

150TH PHINEAS GAGE ANNIVERSARY CELEBRATION, CAVENDISH, VERMONT

• Mr. LEAHY. Mr. President, on September 13, 1998, the town of Cavendish, Vermont will be holding a very special event to commemorate the remarkable life of Phineas Gage. Phineas Gage was the victim of a freak head injury that occurred in Cavendish, and the effect his injury had on his personality resulted in a breakthrough in the understanding of brain function.

To commemorate the 150th anniversary of Phineas Gage's accident, the town of Cavendish has planned a two-day celebration. A beautiful town in southern Vermont, lying on the original tracks of the Rutland-Burlington railroad, Cavendish has initiated and organized the Gage celebration. At the heart of the commemoration events will be a historic festival in the Cavendish town center. The festival will include tours along the historic railway, artifact displays, including the first public display of Gage's skull and tamping rod, and Vermont artisan and craft demonstrations.

The residents of Cavendish citizens are to be commended for their leadership and hard work in planning these events.

To more fully explain the events of September 13, 1848, and the importance of this day for medical history, at the conclusion of my remarks and those of my colleague from Vermont, I ask that the story of Phineas Gage provided by the town of Cavendish be printed in the RECORD.

Mr. JEFFORDS. Mr. President, I join my colleague from Vermont in recognizing September 13th as the 150th Anniversary of Phineas Gage's accident in Cavendish, VT. Gage was clearing away boulders for a new rail line in the town of Cavendish, population 1300, when an explosion sent his tamping rod passing through his skull and landing 30 yards away. It initially appeared that Gage had survived the accident without long term effects. However, soon after the accident, it became apparent that his emotional stability and good attitude had changed forever offering insight into the effects of the frontal lobe brain damage on mental function.

Earlier this year, Vermont Governor Howard Dean signed a proclamation declaring September 13, 1998 as Phineas Gage 150th Anniversary Commemoration Day. On this day, accompanying the historic festival, Cavendish will host the John Martyn Harlow Frontal Lobe Symposium. John Harlow, Gage's doctor, carefully documented Gage's accident and recovery, providing early insight into frontal lobe brain damage. The symposium will draw experts and scholars from around the globe to reexamine the Gage case, and apply modern technology to better understand the connection between brain damage and personality change.

I join my colleague from Vermont in commending the residents of Cavendish for bringing together their town, the state of Vermont, and the international neurological community to celebrate this Vermont legend and the medical breakthrough surrounding his life.

The story follows:

THE STORY OF PHINEAS GAGE'S ACCIDENT

Phineas Gage is one of the most famous patients in medical history and probably the most famous patient to have survived severe damage to the brain. He is also the first patient from whom we have learned something about the relationship between personality and the function of the frontal lobe of the brain.

Gage was the foreman in a railway construction gang working for the contractors preparing the bed for the Rutland and Burlington Railroad just outside of Cavendish (Vermont). On September 13, 1848, an accidental explosion of a charge he had set blew his tamping iron through the left side of his skull. The tamping iron, a crowbar-like tool, was 3 feet 7 inches long, weighed 13½ pounds, and was 1¼ inches in diameter at one end, tapering over a distance of about 1 foot to a diameter of ¼ inch at the other end.

The tamping iron went point first under his left cheek bone and out through the top of his head, landing about 25 to 30 yards behind him. Gage was knocked over but may not have lost consciousness according to historic accounts even though most of the left frontal lobe was destroyed. He was treated by Dr. John Harlow, the Cavendish physician, with such skill that Gage returned to his home in Lebanon, NH, 10 weeks later.

Seven months later, Gage felt strong enough to resume work. But because his personality had changed so much, the contractors who had employed him would not return him to his former position. Before the accident, he had been their most capable and efficient foreman, one with a well-balanced mind and a shrewd business sense. He was not fitful, irreverent, and grossly profane, showing little deference for his men. He was impatient and obstinate, yet capricious and vacillating, unable to settle on any of the plans he devised for future action. His friends said he was, "No longer Gage."

Phineas Gage never worked at the level of a foreman again. He held a number of odd jobs according to Dr. Harlow's 1868 account. He appeared at Barnum's Museum in New York, worked in the livery stable of the Darmouth Inn (Hanover, NH) and drove coaches and cared for horses in Chile. In about 1859, after his health began to fail, he went to San Francisco to live with his mother. He began to have epileptic seizures in February 1860 and died on May 21, 1860.

No studies of Phineas Gage's brain were made post mortem. Late in 1867, his body was exhumed from its grave in San Francisco's Lone Mountain Cemetery. Phineas' skull and the famous tamping iron were delivered by his brother-in-law to Dr. Harlow (who was at that time, living in Woburn, MA). Harlow reported his findings, including his estimate of the brain damage, in 1868. He donated the skull and tamping iron for preservation to the Warren Museum in the Harvard University School of Medicine where they are still on display, and still studied.

The case created a good deal of interest in both medical and lay circles at the time (which continues to this day). Phineas survived a horrendous injury. His case began to have a profound influence on the science of localization of brain function. For nearly 20 years knowledge of the profound change that occurred to Gage's personality was not widely disseminated. It was true that he was physically unchanged except for the obvious scars and that his mental capacity was also unchanged. Without knowing about the personality difference, most people thought he had survived totally intact. His case was therefore used as evidence against the doctrine that any functions were localized in the brain, especially against the phrenological version of it. Later it was also used as negative evidence in the medical debates regarding aphasia and frontal lobe function. The real story was publicized after 1868 by David Ferrier, the notable English doctor and physiological research worker. Even now, 150 years after the fateful accident, the case continues to generate controversy.•

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE FOR H.R. 1151

• Mr. D'AMATO. Mr. President, I ask that the Congressional Budget Office Cost Estimate for H.R. 1151, the Credit Union Membership Access Act, be printed in the RECORD. The Senate completed action on H.R. 1151 on July 28, 1998.

The cost estimate follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1151—CREDIT UNION MEMBERSHIP ACCESS ACT

Summary: H.R. 1151 would establish new guidelines governing eligibility for membership in credit unions; establish a framework of safety and soundness regulations for credit unions consistent with that for banks and savings and loans; and allow the National Credit Union Administration (NCUA) to increase assessments that credit unions pay into the National Credit Union Share Insurance Fund (NCUSIF) and to increase the normal operating balance of the fund. CBO estimates that implementing the act would increase net assessments paid to the NCUSIF BY $510 million over the 1999–2003 period, thereby reducing net outlays by that amount. The Joint Committee on Taxation (JCT) estimates that enacting H.R. 1151 would lead to a shift of deposits from financial institutions that pay federal income taxes to credit unions, which are not subject to federal income tax, resulting in revenue losses to the federal government totaling $143 million through 2003.

Because H.R. 1151 would affect both revenues and direct spending, it would be subject to pay-as-you-go procedures. H.R. 1151 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would, in certain circumstances, preempt state laws regulating credit unions. CBO estimates that the cost of such mandates would be minimal. Other impacts on states would also not be significant. H.R. 1151 would not impose mandates or have other budgetary impacts on local or tribal governments.

H.R. 1151 would impose new private-sector mandates, as defined by UMRA, on federally insured credit unions. CBO estimates that the cost of those mandates would not exceed the statutory threshold established in UMRA ($100 million in one year, adjusted annually for inflation). Other provisions of the bill would benefit some credit unions by reversing the effects of a recent Supreme Court Decision, thus allowing federal credit unions to organize with members from unrelated occupational groups.

DESCRIPTION OF MAJOR PROVISIONS

H.R. 1151 would overturn a February 1998 supreme Court decision in *National Credit Union Administration* v. *First National Bank & Trust Co., et al.*, which—in the absence of legislation such as this—will tighten the limitations on membership in credit unions. The case dealt with a challenge to the NCUA's interpretation of section 109 of the Federal Credit Union Act, which requires that membership in federal credit unions be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood or community. The NCUA ruled in 1982 that a single credit union could serve employees of multiple employers even though not all employers were engaged in the same industrial activity. The Supreme Court has now determined that the NCUA's interpretation was invalid.

This legislation would amend the Federal Credit Union Act to allow federal credit unions to accept members from unrelated groups—thus forming multiple common bonds—in addition to the current permissible categories of single common bond and community credit unions. The act would grandfather membership status for members of existing credit unions and allow credit unions to solicit members from unrelated groups of up to 3,000 persons.

Other provisions of the act would: establish new procedures for taking prompt corrective action regarding a troubled credit union and specify capital levels for credit unions, which would be equal to the standards that the banking and thrift regulators now require; require the NCUA to develop risk-based requirements for determining the net worth of certain credit unions that the NCUA determines to be "complex;" change the method for calculating the ratio of NCUSIF balances to total credit union deposits; specify a range (between 1.3 percent and 1.5 percent of insured deposits) for the normal balance of the insurance fund; assessments would be triggered if the fund balance falls below 1.2 percent; require an independent financial audit for all credit unions with total assets of $500,000 or more; limit the total volume of commercial loans that can be made by a credit union to the lesser of 1.75 times the actual capital level of the credit union or to 1.75 times the capital level of a well-capitalized credit union with the same amount of assets; require credit unions to serve members of "modest means," and require the NCUA to monitor the lending record of credit unions to ensure compliance with this provision; require the NCUA and the other federal banking agencies to review certain rules and regulations with the goal of streamlining and modifying them, as appropriate, to reduce paperwork and unnecessary costs for insured depository institutions; require the Secretary of the Treasury to prepare several reports, including a study of the difference between credit unions and other financial institutions that are federally insured, and a study outlining recommendations for legislative and administrative actions that would reduce and simplify the tax burden on small insured depository institutions; and simplify the rules allowing credit unions to convert to another insured institution and limit the economic benefit that senior officials of a credit union could gain when converting a credit union to a mutual institution.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1151 is shown in the following table. Over the 1999–2003 period, CBO estimates that net collections of the NCUSIF would increase by about $510 million. The JCT estimates that federal revenues would decline by $6 million in 1999 and $143 million over the 1999–2003 period. The outlay effects of this legislation fall within budget function 370 (commerce and housing credit).

[By fiscal year, in million of dollars]

	1998	1999	2000	2001	2002	2003
DIRECT SPENDING						
NCUA spending under current law:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	−182	−145	−117	−116	−120	−123
Proposed changes:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays [1]	0	−93	−113	−110	−99	−94
NCUA spending under H.R. 1151:						
Estimated budget authority	0	0	0	0	0	0
Estimated outlays	−182	−238	−230	−226	−219	−217
CHANGES IN REVENUES						
Estimated revenues [2]	0	−6	−16	−27	−40	−54

[1] These amounts exclude changes in NCUA interest income from intragovernmental payments that have no net budgetary impact.
[2] A negative sign indicates a decrease in revenues.

Basis of estimate: For purposes of this estimate, we assume H.R. 1151 will be enacted by the beginning of fiscal year 1999. The provisions of the act that are expected to have a significant budgetary effect are discussed below. The reports to be completed by the Secretary of the Treasury would be funded by discretionary spending, but we estimate that the amounts required would not be significant.

Direct spending: CBO estimates that, under H.R. 1151, the amount of assessments that credit unions pay to the NCUSIF would increase by about $352 million over the 1999–2003 period and that rebates to members from the fund would decline by $185 million over the same period. Together, these changes would reduce federal outlays by $537 million from 1999 through 2003. NCUSIF's payments for the NCUA's operating costs would increase by $27 million over the five years, for a net budgetary savings of $510 million through 2003. Finally, we estimate that the operating fund of the NCUA would incur additional administrative costs of $55 million over the 1999–2003 period to carry out the act's provisions related to safety and soundness, and to ensure that credit unions meet the needs of all members of the community. These costs would be offset by additional income from fees and payments from the NCUSIF.

Assessment income: H.R. 1151 would make three changes that CBO expects would increase assessments paid into the NCUSIF over the next 10 years. It would (1) allow current credit union members whose membership status was nuclear as a result of the Supreme Court ruling to retain their membership and allow credit unions to accept members from unrelated groups; (2) change the formula for calculating the reserve balance in the NCUSIF; and (3) change the frequency with which credit unions pay assessments for deposit insurance. This estimate measures these changes relative to current law, which reflects the Supreme Court decision in the case of *National Credit Union Administration* v. *First National Bank & Trust Co., et al.*

The act would allow for an expansion in credit union memberships by allowing growth in groups with common bonds, including occupational credit unions, where the greatest potential for new deposits exists. Recently, about two-thirds of all net new job creation has been associated with small businesses employing fewer than 500 persons. Although H.R. 1151 would encourage the chartering of new credit unions with a common single bond of occupation or association, these groups are often too small to have their own sponsor for a separate credit union. CBO believes that, as a result of this act, such small groups of individuals sharing a common employer or occupation would be more likely to join together to form new credit unions, or to join existing ones, thereby forming credit unions with members having multiple common bonds. Thus, we expect the number of size of credit unions with multiple common bonds to grow faster than under current law. As a result, we expect that enactment of H.R. 1151 would trigger growth of deposits in credit unions of about 5 percent annually by 2000, compared to projected annual growth of about 3 percent under current law. With more rapid growth in deposits, CBO expects that insurance assessments collected by the NCUA also would increase because credit unions pay to the NCUSIF an amount equal to 1 percent of the growth in their deposits each year.

The act would impose some restrictions that could limit the growth of deposits, by narrowing the definition of "family members" eligible for membership; limiting conversions to community credit unions; requiring the NCUA to impose tougher capital standards and to close insolvent credit unions promptly; and prohibiting credit

unions that are undercapitalized from making new commercial loans. It also would encourage a shift of some deposits from credit unions to thrifts or banks by simplifying the process involved in converting a credit union to another type of insured institution and by allowing some profits from conversions to accrue to individuals. Nevertheless, CBO expects that the effects of other provisions of H.R. 1151, which would lead to more rapid deposit growth, would more than offset thee restrictions.

The act would change the NCUSIF's normal operating level of reserves by allowing the fund balance to range between $1.30 per $100 of insured deposits to as much as $1.50 per $100 of insured deposits. Under current law, the NCUA rebates all balances in excess of 1.3 percent. Under the act, however, CBO expects that the NCUA would continue to provide rebates to members but would limit the amount to one-half the total potentially available for refunding, thereby accumulating higher balances in the insurance fund. CBO estimates that the NCUA would authorize rebates totaling about $465 million over the 1999–2003 period, or about $185 million less than under current law.

Safety and Soundness: H.R. 1151 also would strengthen the regulatory framework of credit unions, and would specify statutory capital and net worth standards equal to those of other insured financial institutions. The act would authorize the NCUA to take prompt corrective action against credit unions engaged in unsafe practices. Because the act would allow credit unions to diversify their membership among various occupational groups, we expect that the stress on particular credit unions would be reduced in periods of corporate downsizing or closure. As a consequence, the probability of failure of credit unions and of losses to the insurance fund would be lower. At this time, CBO has no basis for estimating the potential savings—if any—to the NCUSIF.

Other provisions. The act would limit the authority of most credit unions to make business loans exceeding $50,000 to the lesser of 1.75 times the net worth of the institution or 1.75 times the minimum net worth for a well-capitalized credit union with the same amount of assets. (A well-capitalized credit union is defined as having a ratio of capital to assets of 7 percent.) Section 203 would allow a transition period of three years to phase in the new restrictions on business loans. In addition, the act would require the NCUA to issue regulations defining permissible membership and boundaries for community credit unions. Title II would require the NCUA to prescribe criteria for annually evaluating the record of any community credit union and to develop procedures for ensuring compliance.

CBO estimates that the additional cost to the NCUA to undertake the various initiatives required by H.R. 1151 would total approximately $4 million in 1999, and would increase to $17 million by 2003, about 14 percent of its operating budget. The basis for this estimate is the cost of similar activities for the other federal financial regulators. Most of these expenses, which total an estimated $55 million through 2003, would be for evaluating the records of all insured credit unions to ensure that they meet the needs of those in the community with modest means. They include costs for training, computer support, and overhead. The operating funds of the NCUA are derived from two sources: examination fees charged to credit unions and transfers of funds from the NCUSIF equal to one-half of the annual expenses associated with operating the NCUA. We expect the NCUA would increase fees and reduce rebates to credit unions in amounts sufficient to recover the increase in administrative costs, resulting in no significant budgetary impact over the next five years.

Revenues: The Joint Committee on Taxation estimates that enacting H.R. 1151 would result in a loss of governmental receipts because deposits would shift from financial institutions that currently are subject to corporate taxation—primarily banks and thrifts—to credit unions, which are exempt from federal taxation. Assuming that, over time, deposits in credit unions would grow about 2 percent per year faster than under current law, the JCT estimates that the federal government would lose revenues totaling $143 million over the 1999–2003 period.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	0	0	0	0	0	0	0	0	0	0
Changes in receipts	0	−6	−16	−27	−40	−54	−70	−87	−106	−127	−151

The JCT estimates that, under H.R. 1151, there would be more deposits in credit unions and fewer in financial institutions that are subject to federal taxation. Forgone revenues are estimated to total $143 million over the 1999–2003 period.

Under the Balanced Budget and Emergency Deficit Control Act, provisions providing funding necessary to meet the government's deposit insurance commitment are excluded from pay-as-you-go procedures. Therefore, the projected increases in assessment income and decreases in rebates to credit unions would not count for pay-as-you-go purposes. CBO believes that the administrative costs related to safety and soundness, estimated to total about $11 million through 2003, would be excluded as well. In contract, CBO believes that the various costs that the NCUA would incur to ensure that credit unions serve people of modest means would count for pay-as-you-go purposes. We estimate that the additional direct spending for the NCUA's supervisory costs associated with activities other than those related to safety and soundness would total about $45 million over the 1999–2003 period. These costs would be fully offset by increases in fees charged to credit unions or reduced rebates, resulting in no significant net budgetary impact.

Estimated Impact on State, local, and tribal governments: H.R. 1151 contains intergovernmental mandates as defined in UMRA because it would, in certain circumstances, preempt state laws regulating credit unions. Specifically, the act would establish safety, soundness, and audit requirements that are stricter than some state standards. In addition, it would impose limits on the volume of business loans made by credit unions. It could also override state community reinvestment laws that apply to state-chartered credit unions that are federally insured. Under UMRA such preemptions would be mandates. However, because these preemptions would simply limit the application of state law in some circumstances, and because only a few states are likely to be affected, CBO estimates that they would impose only minimal costs on states.

H.R. 1151 also contains provisions that would increase the workload of state regulators of credit unions. These provisions would not be mandates under UMRA because they are the result of voluntary agreements between state and federal regulators, under which state regulators incorporate federal requirements into their evaluations of state-chartered credit unions. The net effect of these provisions would not be significant because costs incurred by state regulators would be offset by examination fees and assessments levied by the states. Finally, the legislation would not impose mandates or have other budgetary impacts on local or tribal governments.

Estimated impact on the private sector: H.R. 1151 would impose new private-sector mandates, as defined by UMRA, on federally insured credit unions. CBO estimates that the direct costs of complying with private-sector mandates in H.R. 1151, in the first five years after mandates become effective, would be below the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation). Several provisions in the act would impose restrictions on credit unions that could affect their long-term future business potential. CBO expects that those restrictions could limit somewhat the growth of deposits. At the same time, a key provision in H.R. 1151 would benefit federal credit unions by relaxing an existing restriction and allowing occupation-based credit unions to serve multiple unrelated groups. Overall, CBO estimates that total deposits of credit unions would grow faster under H.R. 1151 than under current law.

Private-sector mandates contained in the bill: H.R. 1151 would impose several mandates on federally insured credit unions. The primary mandates in the act would: establish new criteria for credit unions to demonstrate service to low- and moderate-income individuals; limit the amount of business loans that an institution can make to members; establish a system of prompt corrective action that is consistent with the system currently applicable to institutions insured by the Federal Deposit Insurance Corporation; require credit unions having assets greater than $50 million to remit deposits to the NCUSIF semiannually instead of annually; and impose new regulations regarding auditing and accounting procedures for institutions with assets greater than $10 million.

Serving persons of modest means. Section 204 would subject federally insured credit unions to a periodic review by the NCUA of their record in providing affordable credit

union services to low- and moderate-income individuals within their membership group. The act would direct the NCUA to develop additional criteria for annual evaluations of the record of community credit unions. Such institutions are usually organized to serve a particular local community, neighborhood, or rural district and are not based on an occupational bond. The act would direct the NCUA to implement regulations that emphasize performance over paperwork.

Business Loans to Members. Section 203 would put limits on the total amount of business loans that a federally insured credit union could make. Business loans to members would be limited to an amount that is the lesser of 1.75 times a credit union's actual net worth or 1.75 times the statutory requirement for well-capitalized institutions with the same amount of assets. For a well-capitalized credit union, this provision would effectively limit business loans to its members to 12.25 percent of its assets. The act would exempt from this requirement credit unions that have a history of primarily making business loans to members and credit unions that serve predominantly low-income members. Although the limit on business loans would be effective on the date of enactment, H.R. 1151 would allow credit unions with loans over the limit on that date three years to reduce the volume of outstanding loans to a level that is in compliance.

Safety and Soundness Provisions. Section 301 would require the NCUA to establish a system of prompt corrective action (PCA) for federally insured credit unions within one and one-half years after enactment. As a part of the PCA system H.R. 1151 would establish statutory capital levels for federally insured credit unions based on an institution's ratio of net worth to assets—well-capitalized, adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized. (Credit unions that are deemed to have complex portfolios by the NCUA would have additional risk-based capital requirements.) Well-capitalized institutions would have no further restrictions on their activities under PCA. Credit unions that are not well-capitalized would have to set aside net worth (usually retained earnings) at a rate of 0.4 percent of assets annually. Undercapitalized institutions would have to (1) create a restoration plan approved by the NCUA, (2) monitor asset growth in compliance with an approved plan, and (3) restrict the growth of business loans to members.

Semi-Annual Remittance to the Share Insurance Fund. Under current law, each insured credit union maintains on deposit in the NCUSIF an amount equal to 1 percent of the credit union's insured share deposits. Credit unions periodically certify the amount of share deposits and, each April, they adjust their deposit in the fund based on this amount. For credit unions with more than $50 million in assets, this legislation would change the schedule to twice per year for adjusting deposit levels in the fund.

New Accounting Requirements. Section 201 would require credit unions with assets over $500 million to have an annual independent audit of their financial statement performed in accordance with generally accepted accounting principles (GAAP). H.R. 1151 would also require credit unions with assets over $10 million to use GAAP in all reports required to be filed with the NCUA. Credit unions with assets under $10 million would be allowed to continue to use other methods outlined in NCUA's Accounting Manual, unless GAAP is specifically prescribed for them by NCUA or their state regulator.

Estimated costs to the private sector: In total, CBO estimates that the cost of mandates in H.R. 1151 would fall below UMRA's threshold for private-sector mandates. Complying with the provisions in section 204, dealing with service to persons of modest means, would be the most costly mandate in the act. The costs of those provisions would range from $25 million to $33 million in the first year that the regulations are fully implemented, fall in the next year, and rise somewhat thereafter. The cost to credit unions of limiting business loans to members are not expected to be substantial overall, but some institutions may have to bear significant losses on loans in order to comply with this restriction. The direct costs of other mandates in the legislation would be less than $3 million in any of the five years after mandates would become effective. The safety-and-soundness provisions would increase examination costs incurred by credit unions by about $1 million annually by the year 2001. Lost investment income to credit unions that would have to make additional deposits to the share insurance fund would total between $1.5 million and $2 million during each of the first five years after implementation. The costs of complying with the accounting provisions in the act would be negligible because most institutions are already in or near compliance.

Serving Persons of Modest Means. The cost of complying with requirements that would result from provisions in section 204 are difficult to assess because the NCUA would have to develop a new set of criteria to evaluate a credit union's service to members of modest means. Such rules are likely to differ substantially from those applicable to other depository institutions. Based on information from the NCUA and other regulatory agencies, CBO estimates that the costs of complying with those provisions would range from $25 million to $33 million in the year 2000 and would fall in the next year once the system is in place. Most of the incremental costs to credit unions would be for keeping additional records on member loans and share accounts to assist in monitoring services to low-income persons, marketing to all segments within the membership field, and undergoing more extensive periodic examinations. Costs could be higher if the NCUA determines that additional types of information would be necessary to monitor compliance with these provisions.

In general, federally insured credit unions would have to record additional information on households with respect to such member services as loans and, possibly, share accounts. The incremental costs of new record-keeping requirements could range between $17 million and $25 million beginning in the year 2000, and would fall by 20 percent to 30 percent in the next years once the system is fully in place. Costs would then rise over time as the number of loans and share accounts grows. CBO estimates that the costs of marketing to all income strata within the field of membership would increase costs by $4 million to $5 million annually, which is less than 1 percent of the amount that credit unions currently spend on educational and promotional expenses. In addition to those incremental costs, credit unions would have to cover the costs of more extensive examinations by regulators. Based on information from the NCUA and banking regulators, CBO estimates that the increased costs for periodic examinations would be about $3 million a year by the year 2000.

Business Loans to Members. The restrictions on business loans to members would not impose a significant cost on the industry as a whole. Currently about 1,550 credit unions make business loans to their members. Of that group, only about 100 institutions are currently over the limit proposed in the act. According to the latest data, those institutions would be over the limit by almost $870 million in loans. However, many of the institutions that are over the limit would be able to qualify under the act for an exemption based on their history of making such loans. (In over 40 percent of the institutions that are currently over the limit, business loans make up 37 percent or more of their loan portfolio.)

Credit unions that do not qualify for an exemption would have 3 years to: allow loans to turn over (the turnover rate for all credit union loans averages about 22 months); try to sell loans on the market—only quality loans would attract a high percentage on the dollar; try to engage in "participating loan" programs, which allow institutions to share up to 90 percent of their loan portfolio with other credit unions; or try to "call in" loans under loan agreements that have a provision allowing such an action. Institutions with nonperforming loans or those that have a slow turnover in their portfolio may have to sell loans at a significant loss or write off loans at a total loss. Even institutions that are able to sell off business loans could experience a loss in interest income if they are unable to invest money from the sale of those loans at comparable interest rates. (Business loans typically garner a higher rate than other loans in a credit union's portfolio.)

Safety and Soundness Provisions. The near-term costs of new requirements under section 301 should be small for two reasons. First, the NCUA currently monitors the net worth of credit unions and administers several informal policies that are analogous to prompt corrective action procedures applicable to FDIC-insured institutions. Second, about 94 percent of all federally insured credit unions are currently well capitalized. Institutions with the lowest composite performance ratings given by regulators have accounted for only 3 percent or less of all credit unions over the last four years.

Under PCA, institutions that are not well capitalized would have to set aside funds that they could otherwise use to earn interest income. However, according to the NCUA, the .04 percent retention requirement is not significantly different from current earnings-retention requirements. The costs of examinations for credit unions would also increase slightly (by $1 million or so by the year 2001) for all credit unions under a system of prompt corrective action.

Other Mandate Costs. Under section 302, insured credit unions with more than $50 million in assets would have to remit assessments twice a year to the NCUSIF, thus losing the use of $60 million for six months, compared to the current system. Assuming credit unions would earn an annual yield of about 5.5 percent on those funds, they would lose income of $1.5 million to $2 million per year over the 1999–2003 period.

The costs of complying with the accounting provisions in H.R. 1151 would be small. According to recent data from the NCUA, all but one of the credit unions with over $500 million in assets already have an independent outside audit performed each year. The incremental costs of an audit would be less than $30,000 for an institution of that size. The costs of complying with GAAP would also be minor because most credit unions with assets over $10 million use accounting procedures that are largely consistent with GAAP. For institutions that

currently use methods that are not consistent with GAAP (mostly cash accounting methods), the additional compliance costs of this mandate could include the costs to train employees in the application of GAAP accounting methods, and the costs of transferring records into a new system of accounting. However, the majority of institutions do not use cash accounting methods and would, therefore, only have to make minor changes to achieve compliance.

Previous CBO estimate: On June 2, 1998, CBO prepared a cost estimate for H.R. 1151, as passed by the House of Representatives on April 1, 1998. For the House version of H.R. 1151, CBO estimated that deposits in credit unions would grow by 6 percent annually by 2000, compared to projected annual growth of about 3 percent under current law. As a result, CBO estimated that net assessments paid to the NCUSIF would increase by $628 million over the period 1999–2003 period, and that the shift in deposits would reduce revenues to the federal government by $217 million through 2003. In contrast, for the Senate version of H.R. 1151, CBO estimates that deposits in credit unions would grow at a rate of about 2 percent annually by 2000, that net assessments would increase by $510 million over the 1999–2003 period, and that revenue losses would total $143 million through 2003.

CBO expects a lower annual rate of growth in deposits under the Senate version of H.R. 1151 for a number of reasons. The Senate version would specify net worth and capital requirements for credit unions and require regulators to restrict the growth of unhealthy institutions. In contrast, the House version would give the NCUA discretion to develop future standards affecting the safety and soundness of credit unions. The Senate version of H.R. 1151 also would simplify and ease procedures for converting a credit union to a mutual institution. Unlike the House version, the Senate provisions would not bar owners and members from earning profits if the newly created mutual institution subsequently converted to a publicly traded financial institution. CBO believes, therefore, that the Senate version of H.R. 1151 would provide a greater incentive to convert a credit union to a mutual or stock institution by allowing participants to realize greater economic benefits. This is consistent with the experience of many small thrifts and banks that recently have converted from mutual to stock ownership, thereby creating substantial value for the new shareholders.

Estimate prepared by: Federal Costs: Mary Maginniss; Revenues: Mark Booth; Impact on State, Local, and Tribal Governments: Marc Nicole; and Impact on the Private Sector: Patrice Gordon.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.•

ADDING SENATOR BINGAMAN AS A COSPONSOR TO THE VETERANS MEDICAL CARE AMENDMENT TO THE DEFENSE AUTHORIZATION BILL

• Mr. HARKIN. Mr. President, during the deliberations over the fiscal year 1999 Defense Authorization bill, I offered an amendment to increase spending for our nation's veterans medical needs. The amendment, offered on June 25th and numbered as 2982 would have allowed the transfer of $329 million from the defense budget to support the VA medical budget. The amendment would have transferred funds so as to avoid harming the readiness of the Armed Forces and the quality of life of military personnel and their families.

The amendment's description was incomplete as to the listing of cosponsors and I would like to correct the record at this time. Along with Senator WELLSTONE of Minnesota, Senator BINGAMAN of New Mexico, also a longtime champion of veterans, should have been included as a cosponsor.

Although the amendment did not receive the support of a majority of my colleagues, I appreciate the cosponsorship by Senator BINGAMAN and Senator WELLSTONE. I also appreciate the support of the 35 other Senators who voted in favor of increasing VA medical funding.•

COLUMBIA RIVER FISH MITIGATION FUNDING

• Mr. SMITH of Oregon. Mr. President, I rise today to urge my colleagues who are conferees for the Fiscal Year 1999 Energy and Water Development Appropriations bill to retain the Senate-passed funding level for the Army Corps of Engineers' fish and wildlife mitigation measures on the Columbia River.

The Senate approved $95 million for this program, which is vitally important to ongoing efforts to restore the salmon and steelhead runs in the Columbia and Snake Rivers. Unfortunately, the House-passed bill slashed funding for the program to less than $8 million, enough for just two studies already underway in the Basin. The House Committee justifies this action by claiming that the funds spent to date have not recovered the salmon. Further, the House report states that since a major decision on the long-term operations of the federal dams on the system is supposed to occur in 1999, we should just wait for that decision before we spend any more money on salmon recovery efforts in the basin.

Given the life cycle of the salmon, waiting even a few years is simply not an option. Inaction on our part could push the salmon closer to extinction, which is unacceptable to those of us in the Pacific Northwest. We must also be realistic about the possibility that the 1999 decision could be delayed. And unless a regional consensus is developed soon on how best to proceed, the decision—whenever it comes—is bound to be controversial and subject to challenges.

Work on these fish mitigation measures, for which most of the funding will be reimbursed through power revenues, must continue while a long-term solution is developed and implemented. The House approach to this issue fails to recognize that most of the funding is earmarked for important mitigation facilities at dams not being studied for permanent drawdown or by-pass, including McNary Dam and Bonneville Dam, as well as for important mitigation analysis studies. Information from these studies is needed if we are to make an informed decision on the long-term operation of the system.

Let me state emphatically that I am opposed to removal or drawdown of dams on the Columbia and Snake Rivers, which would destroy navigation on the river, affect irrigation, and eliminate up to 40 percent of Bonneville's generating capacity. There are those in the region who view this an "either/or" proposition: either the river is operated for salmon, or for economic activity. I say we can operate it for both.

The Columbia River truly is the lifeblood of the Northwest. The Basin drains approximately 259,000 square miles, and encompasses two countries and seven states in its approximately 1,200 miles to the Pacific Ocean.

In this century, we have harnessed the River for a variety of human activities and benefits, including navigation, water supply, power supply, and flood control. At the time many of the great public works projects in the Basin were constructed, fish and wildlife impacts were not fully considered. We are now struggling with the best way to mitigate these impacts while still meeting human needs. The consequences of these decisions could affect the livelihoods of most Northwest residents.

I know that there are those who oppose funding certain activities on the River that they view to be of questionable value. I think our colleague, Senator GORTON, performed a great service for the region with his 1996 amendment to the Northwest Power Planning and Conservation Act to require that an independent, 11-member scientific panel review projects proposed to be funded by that portion of BPA's annual fish and wildlife budget that implements the Northwest Power Planning Council's fish and wildlife program. I would support the expanded use of scientific review panels for other fish and wildlife funding proposals within the Columbia River Basin.

In closing, Mr. President, let me reiterate my fervent hope that Senate conferees on this bill will stand firm on the $95 million appropriation this body has already approved.•

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

(The text of the bill (S. 2260), as passed by the Senate on July 23, 1998, is as follows:)

S. 2260

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

are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1999, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $76,199,000, of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and $7,860,000 shall be expended for the Department Leadership Program: *Provided further*, That not to exceed 39 permanent positions and 39 full-time equivalent workyears and $4,660,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That the Attorney General is authorized to transfer, under such terms and conditions as the Attorney General shall specify, forfeited real or personal property of limited or marginal value, as such value is determined by guidelines established by the Attorney General, to a State or local government agency, or its designated contractor or transferee, for use to support drug abuse treatment, drug and crime prevention and education, housing, job skills, and other community-based public health and safety programs: *Provided further*, That any transfer under the preceding proviso shall not create or confer any private right of action in any person against the United States, and shall be treated as a reprogramming under section 605 of this Act.

JOINT AUTOMATED BOOKING SYSTEM

For expenses necessary for the nationwide deployment of a Joint Automated Booking System, $10,000,000, to remain available until expended.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $19,999,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities, (4) the costs associated with ensuring the continuance of essential Government functions during a time of emergency, and (5) the costs of activities related to the protection of the Nation's critical infrastructure: *Provided*, That any Federal agency may be reimbursed for costs associated with implementation of the recommendations of the President's Commission on Critical Infrastructure Protection: *Provided further*, That any agency receiving services from the Department of Justice from the Fund may reimburse the Fund and that any such reimbursement shall remain available in the Fund until expended: *Provided further*, That funds provided under this paragraph shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

In addition, for necessary expenses, as determined by the Attorney General, $174,000,000, to remain available until expended, for transfer to the Office of Justice Programs (OJP), for counterterrorism grants, contracts, cooperative agreements, and other assistance (including amounts for management and administration which shall be transferred to and merged with the "Justice Assistance" account), to cities, States, territories, and local jurisdictions; of which $95,000,000 shall be available for equipping first responders in cities, States, territories, and local jurisdictions; of which $5,000,000 shall be available to reimburse the Department of Health and Human Services for costs associated with Metropolitan Medical Strike Teams; of which $10,000,000 shall be available for technical assistance and evaluation; of which $7,000,000 shall be available for law enforcement first responder training; of which $22,000,000 shall be available for public safety first responder training provided through the National Domestic Preparedness Consortium; of which $25,000,000 shall be available for firefighter and emergency medical services equipment; and of which $10,000,000 shall be available for situational training exercises.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $41,858,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,211,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year: *Provided*, That up to one-tenth of one percent of the Department of Justice's allocation from the Violent Crime Reduction Trust Fund grant programs may be transferred at the discretion of the Attorney General to this account for the audit or other review of such grant programs, as authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $7,969,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; and for annual obligations of membership in law-based international organizations pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress, notwithstanding any other provision of law; $485,511,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the funds available in this appropriation, not to exceed $17,834,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further*, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, as amended, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $86,588,000: *Provided*, That notwithstanding any other provision of law, not to exceed $86,588,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $0: *Provided further*, That the third proviso under the heading "Salaries and Expenses, Antitrust Division" in Public Law 105–119 is repealed.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including intergovernmental and cooperative agreements, $1,083,642,000; of which not to exceed $2,500,000 shall be available until September 30, 2000, for (1) training personnel in debt collection, (2) locating debtors and their property, (3) paying the net costs of selling property, and (4) tracking debts owed to the United States Government: *Provided*, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further*, That not to exceed $1,200,000 for the design, development, and implementation of an information systems strategy for D.C. Superior Court shall remain available until expended: *Provided further*, That not to exceed $2,500,000 for the operation of the National Advocacy Center shall remain available until expended: *Provided further*, That not to exceed $1,000,000 shall remain available until expended for the expansion of existing Violent Crime Task Forces in United States Attorneys Offices into demonstration projects, including intergovernmental, inter-local, cooperative, and task-force agreements, however denominated, and contracts with State and local prosecutorial and law enforcement agencies engaged in the investigation and prosecution

of violent crimes: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys, not to exceed 8,960 positions and 9,125 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys: *Provided further*, that of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant United States Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended: *Provided further*, That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized by 28 U.S.C. 589a(a), $108,248,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That, notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, $100,000,000 of offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the Fund not to exceed $8,248,000: *Provided further*, That the fourth proviso under the heading "United States Trustee Fund" in Public Law 105–119 is repealed.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $1,227,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, $501,752,000, as authorized by 28 U.S.C. 561(i); of which not to exceed $6,000 shall be available for official reception and representation expenses; and of which not to exceed $4,000,000 for development, implementation, maintenance and support, and training for an automated prisoner information system, shall remain available until expended.

CONSTRUCTION

For planning, constructing, renovating, equipping, and maintaining United States Marshals Service prisoner-holding space in United States courthouses and federal buildings, including the renovation and expansion of prisoner movement areas, elevators, and sallyports, $4,000,000, to remain available until expended.

JUSTICE PRISONER AND ALIEN TRANSPORTATION SYSTEM FUND, UNITED STATES MARSHALS SERVICE

There is hereby established a Justice Prisoner and Alien Transportation System Fund for the payment of necessary expenses related to the scheduling and transportation of United States prisoners and illegal and criminal aliens in the custody of the United States Marshals Service, as authorized in 18 U.S.C. 4013, including, without limitation, salaries and expenses, operations, and the acquisition, lease, and maintenance of aircraft and support facilities: *Provided*, That the Fund shall be reimbursed or credited with advance payments from amounts available to the Department of Justice, other Federal agencies, and other sources at rates that will recover the expenses of Fund operations, including, without limitation, accrual of annual leave and depreciation of plant and equipment of the Fund: *Provided further*, That proceeds from the disposal of Fund aircraft shall be credited to the Fund: *Provided further*, That amounts in the Fund shall be available without fiscal year limitation, and may be used for operating equipment lease agreements that do not exceed five years: *Provided further*, That with respect to the transportation of Federal, State, local and territorial prisoners and detainees, the lease or rent of aircraft by the Justice Prisoner Air Transport System shall be considered use of public aircraft pursuant to 49 U.S.C. section 40102(a)(37).

For the initial capitalization costs of the Fund, $10,000,000.

FEDERAL PRISONER DETENTION

For expenses, related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $407,018,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $95,000,000, to remain available until expended; of which not to exceed $6,000,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure, automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $5,319,000: *Provided*, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (F), and (G), as amended, $23,000,000, to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,000,000.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $294,967,000: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,668 passenger motor vehicles, of which 2,000 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, $2,522,050,000; of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed $1,000,000 for undercover operations shall remain available until September 30, 2000; of which not less than $233,473,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $61,800,000 shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements

with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority which has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government.

In addition, $433,124,000 for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund, as authorized by the Violent Crime Control and Law Enforcement Act of 1994 as amended, and the Antiterrorism and Effective Death Penalty Act of 1996.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $1,287,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,428 passenger motor vehicles, of which 1,080 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $802,054,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $5,000,000 for purchase of evidence and payments for information, not to exceed $10,000,000 for contracting for automated data processing and telecommunications equipment, and not to exceed $2,000,000 for laboratory equipment, $4,000,000 for technical equipment, and $2,000,000 for aircraft replacement retrofit and parts, shall remain available until September 30, 2000; and of which not to exceed $50,000 shall be available for official reception and representation expenses.

In addition, $407,000,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $8,000,000, to remain available until expended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police type use (not to exceed 2,904, of which 1,711 are for replacement only), without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; and for the care and housing of Federal detainees held in the joint Immigration and Naturalization Service and United States Marshals Service's Buffalo Detention Facility; $1,169,317,000 of which not to exceed $400,000 for research shall remain available until expended; of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training, and $5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration; and of which not to exceed $5,000,000 is to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 1999: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed 20 permanent positions and 20 full-time equivalent workyears and $1,711,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That the number of positions filled through non-career appointment at the Immigration and Naturalization Service, for which funding is provided in this Act or is otherwise made available to the Immigration and Naturalization Service, shall not exceed four permanent positions and four full-time equivalent workyears: *Provided further*, That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft.

In addition, $1,099,667,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For planning, construction, renovation, equipping, and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $110,251,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 763, of which 599 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,909,956,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $90,000,000 for the activation of new facilities shall remain available until September 30, 2000: *Provided further*, That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, as amended, for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)), FPS may enter into contracts and other agreements with private entities for periods of not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

In addition, $9,559,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $379,197,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System, upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,266,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and the Victims of Crime Act of 1984, as amended, and section 822 of the Antiterrorism and Effective Death Penalty Act of 1996, $170,151,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102-534 (106 Stat. 3524).

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $552,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102-534 (106 Stat. 3524), of which $47,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including $4,500,000 which shall be available to the Executive Office of United States Attorneys to support the National District Attorneys Association's participation in legal education training at the National Advocacy Center.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $2,124,650,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $500,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, except that for purposes of this Act, the Commonwealth of Puerto Rico shall be considered a "unit of local government" as well as a "State", for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: *Provided*, That no funds provided under this heading may be used as matching funds for any other Federal grant program: *Provided further*, That $40,000,000 of this amount shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: *Provided further*, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers: *Provided further*, That, hereafter, for the purpose of eligibility for the Local Law Enforcement Block Grant Program in the State of Louisiana, parish sheriffs are to be considered the unit of local government at the parish level under section 108 of H.R. 728: *Provided further*, That $20,000,000 shall be available to carry out section 102(2) of H.R. 728; of which $45,000,000 shall be for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; of which $350,000,000 shall be for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; of which $711,000,000 shall be for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the 1994 Act, of which $150,000,000 shall be available for payments to States for incarceration of criminal aliens, of which $25,000,000 shall be available for the Cooperative Agreement Program, and of which $52,000,000 shall be for the construction, renovation and repair of tribal detention facilities; of which $9,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; of which $2,000,000 shall be for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; of which $210,750,000 shall be for Grants to Combat Violence Against Women, to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act, including $12,000,000 which shall be used exclusively for the purpose of strengthening civil legal assistance programs for victims of domestic violence, and $10,000,000 which shall be used exclusively for violence on college campuses: *Provided further*, That, of these funds, $5,200,000 shall be provided to the National Institute of Justice for research and evaluation of violence against women, $1,196,000 shall be provided to the Office of the United States Attorney for the District of Columbia for domestic violence programs in D.C. Superior Court, and $10,000,000 shall be available to the Office of Juvenile Justice and Delinquency Prevention for the Safe Start Program, to be administered as authorized by part C of the Juvenile Justice and Delinquency Act of 1974, as amended; of which $30,000,000 shall be for Grants to Encourage Arrest Policies to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; of which $25,000,000 shall be for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; of which $5,000,000 shall be for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the 1994 Act, and for local demonstration projects; of which $1,000,000 shall be for grants for televised testimony, as authorized by section 1001(a)(7) of the 1968 Act; of which $10,000,000 shall be for the Tribal Courts Initiative, including $400,000 for the establishment of a Sioux Nation Tribal Supreme Court; of which $63,000,000 shall be for grants for residential substance abuse treatment for State prisoners, as authorized by section 1001(a)(17) of the 1968 Act; of which $15,000,000 shall be for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; of which $900,000 shall be for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act; of which $2,000,000 shall be for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; of which $40,000,000 shall be for Drug Courts, as authorized by title V of the 1994 Act; of which $2,000,000 shall be for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; of which $2,000,000 shall be for public awareness programs addressing marketing scams aimed at senior citizens, as authorized by section 250005(3) of the 1994 Act; and of which $100,000,000 shall be for Juvenile Accountability Incentive Block Grants pursuant to Title III of H.R. 3 as passed by the House of Representatives on May 8, 1997, of which $9,523,685 shall be for discretionary grants: *Provided further*, That notwithstanding the requirements of H.R. 3, a State, or unit of local government within such State, shall be eligible for a grant under this program if the Governor of the State certifies to the Attorney General, consistent with guidelines established by the Attorney General in consultation with Congress, that the State is actively considering, or will consider within one year from the date of such certification, legislation, policies, or practices which if enacted would qualify the State for a grant under section 1802 of H.R. 3: *Provided further*, That 3 percent shall be available to the Attorney General for research, evaluation, and demonstration consistent with this program and 2 percent shall be available to the Attorney General for training and technical assistance consistent with this program: *Provided further*, That not less than 45 percent of any grant provided to a State or unit of local government shall be spent for the purposes set forth in paragraphs (3) through (9), and not less than 35 percent shall be spent for the purposes set forth in paragraphs (1), (2) and (10) of section 1801(b) of H.R. 3, unless the State or unit of local government certifies to the Attorney General or the State, whichever is appropriate, that the interests of public safety and juvenile crime control would be better served by expending its grant for other purposes set forth under section 1801(b) of H.R. 3: *Provided further*, That the Federal share limitation in section 1805(e) of H.R. 3 shall be 50 percent in relation to the costs of

constructing a permanent juvenile corrections facility: *Provided further*, That prior to receiving a grant under this program, a unit of local government must establish a coordinated enforcement plan for reducing juvenile crime, developed by a juvenile crime enforcement coalition, such coalition consisting of individuals representing the police, sheriff, prosecutor, State or local probation services, juvenile court, schools, business, and religious affiliated, fraternal, non-profit, or social service organizations involved in crime prevention: *Provided further*, That the conditions of sections 1802(a)(3) and 1802(b)(1)(C) of H.R. 3 regarding juvenile adjudication records require a State or unit of local government to make available to the Federal Bureau of Investigation records of delinquency adjudications which are treated in a manner equivalent to adult records: *Provided further*, That no State or unit of local government may receive a grant under this program unless such State or unit of local government has implemented, or will implement no later than January 1, 1999, a policy of controlled substance testing for appropriate categories of juveniles within the juvenile justice system and funds received under this program may be expended for such purpose: *Provided further*, That the minimum allocation for each State under section 1803(a)(1)(A) of H.R. 3 shall be 0.5 percent: *Provided further*, That the terms and conditions under this heading for juvenile accountability incentive block grants are effective for fiscal year 1999 only and upon the enactment of authorization legislation for juvenile accountability incentive block grants, funding provided in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect: *Provided further*, That funds made available in fiscal year 1999 under subpart 1 of part E of title I of the 1968 Act may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions and for drug testing initiatives: *Provided further*, That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $40,000,000, to remain available until expended, for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided*, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

COMMUNITY ORIENTED POLICING SERVICES

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322 ("the 1994 Act") (including administrative costs), $1,400,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act: *Provided*, That not to exceed 266 permanent positions and 266 full-time equivalent workyears and $34,023,000 shall be expended for program management and administration: *Provided further*, That of the unobligated balances available in this program, $120,960,000 shall be used for innovative community policing programs, of which $66,960,000 shall be used for a law enforcement technology program, $1,000,000 shall be used for police recruitment programs authorized under subtitle H of title III of the 1994 Act, $15,500,000 shall be used for policing initiatives to combat methamphetamine production and trafficking, $12,500,000 shall be used for the Community Policing to Combat Domestic Violence Program pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and $25,000,000 shall be used for the Matching Grant Program for Law Enforcement Armor Vests pursuant to section 2501 of part Y of the Omnibus Crime Control and Safe Streets Act of 1968, as amended: *Provided further*, That up to $54,000,000 shall be available to improve tribal law enforcement including equipment and training.

In addition, for activities authorized by the 1994 Act, $40,000,000 for the Police Corps program to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, ("the Act"), including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $277,597,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102-586, of which (1) notwithstanding any other provision of law, $6,847,000 shall be available for expenses authorized by part A of title II of the Act, $96,000,000 shall be available for expenses authorized by part B of title II of the Act, and $45,750,000 shall be available for expenses authorized by part C of title II of the Act: *Provided*, That $26,500,000 of the amounts provided for part B of title II of the Act, as amended, is for the purpose of providing additional formula grants under part B to States that provide assurances to the Administrator that the State has in effect (or will have in effect no later than one year after date of application) policies and programs, that ensure that juveniles are subject to accountability-based sanctions for every act for which they are adjudicated delinquent; (2) $12,000,000 shall be available for expenses authorized by section 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $12,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $95,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs; of which $20,000,000 shall be for delinquency prevention, control, and system improvement programs for tribal youth; of which $25,000,000 shall be available for grants of $360,000 to each state and $6,640,000 shall be available for discretionary grants to states, for programs and activities to enforce state laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training: *Provided further*, That upon the enactment of reauthorization legislation for Juvenile Justice Programs under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, funding provisions in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect: *Provided further*, That of amounts made available under the Juvenile Justice Programs of the Office of Justice Programs to carry out part B (relating to Federal Assistance for State and Local Programs), subpart II of part C (relating to Special Emphasis Prevention and Treatment Programs), part D (relating to Gang-Free Schools and Communities and Community-Based Gang Intervention), part E (relating to State Challenge Activities), and part G (relating to Mentoring) of title II of the Juvenile Justice and Delinquency Prevention Act of 1974, and to carry out the At-Risk Children's Program under title V of that Act, not more than 10 percent of each such amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized under the appropriate part or title, and not more than 2 percent of each such amount may be used for training and technical assistance activities designed to benefit the programs or activities authorized under that part or title.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $7,000,000, to remain available until expended, as authorized by section 214B of the Act.

PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 103. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 104. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 103 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 105. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly-advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: *Provided*, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 106. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 107. Any amounts credited to the "Legalization Account" established under section 245(c)(7)(B) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)(B)) are transferred to the "Examinations Fee Account" established under section 286(m) of that Act (8 U.S.C. 1356(m)).

SEC. 108. 28 U.S.C. Section 589a(b) is amended—

(1) by striking "and" in paragraph (7);

(2) by striking the period in paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph as follows:

"(9) interest earned on Fund investments.".

SEC. 109. Notwithstanding any other provision of law, during fiscal year 1999, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice—

(1) may make grants, or enter into cooperative agreements and contracts, for the Office of Justice Programs and the component organizations of that Office; and

(2) shall have final authority over all grants, cooperative agreements, and contracts made, or entered into, for the Office of Justice Programs and the component organizations of that Office.

SEC. 110. (a) ADJUSTMENT OF STATUS.—Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is amended—

(1) in paragraph (1), by amending the first sentence to read as follows: "Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States who—

"(A) entered the United States without inspection; or

"(B) is within one of the classes enumerated in subsection (c) of this section, may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence."; and

(2) in paragraph (3)(B), by striking "Breach Bond/Detention Fund established under section 286(r)" and inserting "Immigration Detention and Naturalization Activity Account established under section 286(s)".

(b) REPEAL.—

(1) IN GENERAL.—Section 245(k) of the Immigration and Nationality Act (8 U.S.C. 1255(k)) is repealed.

(2) CONFORMING AMENDMENT.—Section 245(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1255(c)(2)) is amended by striking "subject to subsection (k),".

(c) IMMIGRATION DETENTION AND NATURALIZATION ACTIVITY ACCOUNT.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

"(s) IMMIGRATION DETENTION AND NATURALIZATION ACTIVITY ACCOUNT.—

"(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Detention And Naturalization Activity Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Detention And Naturalization Activity Account amounts described in section 245(i)(3)(B) to remain available until expended.

"(2) USES OF THE ACCOUNT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall refund out of the Immigration Detention And Naturalization Activity Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for the detention of aliens, for construction relating to such detention, and for activities relating to the naturalization of citizens.

"(B) QUARTERLY REFUNDS; ADJUSTMENTS.—The amounts that are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) ESTIMATES IN BUDGET REQUESTS.—The amounts required to be refunded from the Immigration Detention And Naturalization Activity Account for fiscal year 1999 or any fiscal year thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for that fiscal year. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104–134.

"(3) ANNUAL REPORTS.—The Attorney General shall annually submit to Congress a report setting forth—

"(A) the financial condition of the Immigration Detention And Naturalization Activity Account for the current fiscal year, including beginning account balance, revenues, withdrawals, and ending account balance; and

"(B) projections for revenues, withdrawals, and the beginning and ending account balances for the next fiscal year.".

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for adjustment of status filed on or after the end of the 90-day period beginning on the date of enactment of this Act.

SEC. 111. Notwithstanding any other provision of law, with respect to any grant program for which amounts are made available under this title, the term "tribal" means of or relating to an Indian tribe (as that term is defined in section 102(2) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a(2))).

SEC. 112. Section 286(e)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1356(e)(1)(C)) is amended by inserting "State" and a comma immediately before "territory".

SEC. 113. For fiscal year 1999 and thereafter, the Director of the Bureau of Prisons may make expenditures out of the Commissary Fund of the Federal Prison System, regardless of whether any such expenditure is security-related, for programs, goods, and services for the benefit of inmates (to the extent the provision of those programs, goods, or services to inmates is not otherwise prohibited by law), including—

(1) the installation, operation, and maintenance of the Inmate Telephone System;

(2) the payment of all the equipment purchased or leased in connection with the Inmate Telephone System; and

(3) the salaries, benefits, and other expenses of personnel who install, operate, and maintain the Inmate Telephone System.

SEC. 114. (a)(1) Notwithstanding any other provision of law, for fiscal year 1999 and thereafter, the Attorney General may obligate any funds appropriated for or reimbursed to the Counterterrorism programs, projects or activities of the Department of Justice to purchase or lease equipment or any related items, or to acquire interim services, without regard to any otherwise applicable Federal acquisition rule, if the Attorney General determines that—

(A) there is an exigent need for the equipment, related items, or services in order to support an ongoing counterterrorism, national security, or computer-crime investigation or prosecution;

(B) the equipment, related items, or services required are not available within the Department of Justice; and

(C) adherence to that Federal acquisition rule would—

(i) delay the timely acquisition of the equipment, related items, or services; and

(ii) adversely affect an ongoing counterterrorism, national security, or computer-crime investigation or prosecution.

(2) In this subsection, the term "Federal acquisition rule" means any provision of title II or IX of the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, the Small Business Act, the Federal Acquisition Regulation, or any other provision of law or regulation that establishes policies, procedures, requirements, conditions, or restrictions for procurements by the head of a department or agency or the Federal Government.

(b) The Attorney General shall immediately notify the Committees on Appropriations of the House of Representatives and the Senate in writing of each expenditure under subsection (a), which notification shall include sufficient information to explain the circumstances necessitating the exercise of the authority under that subsection.

SEC. 115. Section 210501(b)(1)(A) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14151(b)(1)(A)) is amended by inserting "and provide investigative

assistance to tribal law enforcement agencies" before the semicolon.

SEC. 116. (a) Section 110 of division C of Public Law 104–208 is repealed.

(b)(1) Paragraph (2) of section 104(b) of that Act is amended to read as follows:

"(2) CLAUSE B.—Clause (B) of such sentence shall apply as follows:

"(A) As of October 1, 2000, to not less than 25 percent of the border crossing identification cards in circulation as of April 1, 1998.

"(B) As of October 1, 2001, to not less than 50 percent of such cards in circulation as of April 1, 1998.

"(C) As of October 1, 2002, to not less than 75 percent of such cards in circulation as of April 1, 1998.

"(D) As of October 1, 2003, to all such cards in circulation as of April 1, 1998.".

(2) Such section 104(b) is further amended by adding at the end the following:

"(3) If the Secretary of State and the Attorney General jointly determine that sufficient capacity exists to replace border crossing identification cards in advance of any of the deadlines otherwise provided for under paragraph (2), the Secretary and the Attorney General may by regulation advance such deadlines.".

SEC. 117. (a) The President shall, with the submission of the President's fiscal year 2000 budget request, submit a Chapter in the Analytical Perspectives Volume (referred to in this section as the "Chapter") presenting the specific dollar amounts budgeted, by appropriation account and by line item, for counterterrorism and antiterrorism programs, projects, or activities.

(b) The Chapter shall provide a narrative outline of the content of, and detail the amounts budgeted for, each program, project, or activity for fiscal years 1998, 1999, 2000, and the succeeding 5 years of the Federal Counterterrorism Strategy.

(c) If the President determines that certain portions of the information contained in the Chapter are of a sensitive, classified nature, then the President shall submit to Congress a classified version of the Chapter along with the unclassified version published in the Analytical Perspectives Volume of the President's fiscal year 2000 budget request.

SEC. 118. Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (5), by inserting "knowingly" after "(5)"; and

(2) in paragraph (10), by inserting "knowingly" after "(10)".

SEC. 119. Section 402(c)(1) of the Controlled Substances Act (21 U.S.C. 842(c)(1)) is amended—

(1) by striking "Except as provided in paragraph (2), any person who violates this section shall" and inserting "(A) Subject to subparagraph (B) of this paragraph and paragraph (2), any person who violates this section may"; and

(2) by adding at the end the following:

"(B) In the case of a violation of paragraph (5) or (10) of subsection (a) in which, a result of the violation, no unauthorized person obtains unlawful control of a controlled substance, the civil penalty shall be not more than $500.".

SEC. 120. The General Accounting Office shall—

(1) monitor the compliance of the Department of Justice and all United States Attorneys with the "Guidance on the Use of the False Claims Act in Civil Health Care Matters" issued by the Department of Justice on June 3, 1998, including any revisions to that guidance; and

(2) not later than February 1, 1999, and again not later than August 2, 1999, submit a report on such compliance to the Committees on the Judiciary and the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 121. FIREARMS SAFETY. (a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 122. FIREARM SAFETY EDUCATION GRANTS. (a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

SEC. 123. FIREARMS. Section 922 of title 18, United States Code, is amended—

(1) in subsection (d), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(2) in subsection (g), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(3) in subsection (s)(3)(B), by striking clause (v) and inserting the following:

"(v) is not an alien who—

"(I) is illegally or unlawfully in the United States; or

"(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));"; and

(4) by inserting after subsection (x) the following:

"(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

"(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

"(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

"(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

"(B) an official representative of a foreign government who is—

"(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

"(ii) en route to or from another country to which that alien is accredited;

"(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

"(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

"(3) WAIVER.—

"(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

"(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

"(ii) the Attorney General approves the petition.

"(B) PETITION.—Each petition under subparagraph (B) shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

"(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

"(i) would be in the interests of justice; and

"(ii) would not jeopardize the public safety.".

SEC. 124. MENTAL HEALTH SCREENING AND TREATMENT FOR PRISONERS. (a) ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS PROGRAM.—Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"(b) ADDITIONAL REQUIREMENTS.—

"(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or 20104, a State shall, not later than January 1, 1999, have a program of mental health screening and treatment for appropriate categories of convicted juvenile and other offenders during periods of incarceration and juvenile and criminal justice supervision, that is consistent with guidelines issued by the Attorney General.

"(2) USE OF FUNDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, amounts made available to a State under section 20103 or 20104 may be applied to the costs of programs described in paragraph (1), consistent with guidelines issued by the Attorney General.

"(B) ADDITIONAL USE.—In addition to being used as specified in subparagraph (A), the funds referred to in that subparagraph may be used by a State to pay the costs of providing to the Attorney General a baseline study on the mental health problems of juvenile offenders and prisoners in the State, which study shall be consistent with guidelines issued by the Attorney General.".

SEC. 125. Section 3486(a)(1) of title 18, United States Code, is amended by inserting "or any act or activity involving a Federal offense relating to the sexual exploitation or other abuse of children," after "health care offense,".

SEC. 126. Section 505 of the Incentive Grants for Local Delinquency Prevention Programs Act (42 U.S.C. 5784) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(8) court supervised initiatives that address the illegal possession of firearms by juveniles."; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "demonstrate ability in";

(B) in paragraph (1), by inserting "have in effect" after "(1)";

(C) in paragraph (2)—

(i) by inserting "have developed" after "(2)"; and

(ii) by striking "and" at the end;

(D) in paragraph (3)—

(i) by inserting "are actively" after "(3)"; and

(ii) by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(4) have in effect a policy or practice that requires State and local law enforcement agencies to detain for not less than 24 hours any juvenile who unlawfully possesses a firearm in a school, upon a finding by a judicial officer that the juvenile may be a danger to himself or herself, or to the community.".

SEC. 127. INTENSIVE FIREARMS ENFORCEMENT INITIATIVES. (a)(1) The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative, as enhanced in this section (and referred hereafter to as "YCGII/Exile") to 50 cities or counties by October 1, 2000, to 75 cities or counties by October 1, 2002, and to 150 cities or counties by October 1, 2003.

(2) Cities and counties selected for participation in the YCGII/Exile shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials. Not later than February 1, 1999, the Secretary shall deliver to the Congress, through the Chairman of each Committee on Appropriations, a full report, empirically based, explaining the impact of the pre-existing youth crime gun interdiction initiative on Federal firearms related offenses. The report shall also state in detail the plans by the Secretary to implement this section and the establishment of YCGII/Exile program.

(b)(1) The Secretary of the Treasury shall, utilizing the information provided by the YCGII/Exile, facilitate the identification and prosecution of individuals—

(A) illegally transferring firearms to individuals, particularly to those who have not attained 24 years of age, or in violation of the Youth Handgun Safety Act; and

(B) illegally possessing firearms, particularly in violation of section 922(g) (1)–(2) of title 18, United States Code, or in violation of any provision in section 924 of title 18, United States Code, in connection with a serious drug offense or violent felony, as those terms are used in that section.

(2) Within funds appropriated in this Act for necessary expenses of the Offices of United States Attorneys, $1,500,000 shall be available for the Attorney General to hire additional assistant United States Attorneys and investigators in the City of Philadelphia, Pennsylvania, for a demonstration project to identify and prosecute individuals in possession of firearms in violation of Federal law.

(3) The Attorney General, and the United States Attorneys, shall give the highest possible prosecution priority to the offenses stated in this subsection.

(4) The Secretary of the Treasury shall share information derived from the YCGII/Exile with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c)(1) The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII/Exile.

(2) Grants made under this part shall be used—

(A) to hire additional law enforcement personnel for the purpose of enhanced efforts in identifying and arresting individuals for the firearms offenses stated in subsection (b); and

(B) to purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

SEC. 128. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking "or";

(2) in subsection (g)(3), by striking "minimally sufficient" and inserting "State sexual offender"; and

(3) by amending subsection (i) to read as follows:

"(i) PENALTY.—A person who is—

"(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

"(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

"(3) described in section 4042(c)(4) of title 18, United States Code, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

"(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law 105–119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second or subsequent offense under this subsection, be imprisoned for not more than 10 years.".

SEC. 129. (a) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

"(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.".

(b) CONFORMING AMENDMENT.—Section 200108 (c) of the Police Corps Act (42 U.S.C. 14097(c)) is amended by striking "16 weeks of".

(c) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking "$20,000" and all that follows before the period and inserting "$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002".

SEC. 130. INTERNET PREDATOR PREVENTION. (a) PROHIBITION AND PENALTIES.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes

"(a) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

"(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"2261. Publication of identifying information relating to a minor for criminal sexual purposes.".

SEC. 131. TRANSFER OF COUNTY.— (a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Philadelphia, and Schuylkill" and inserting "and Philadelphia"; and

(2) in subsection (b) by inserting "Schuylkill," after "Potter,".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

SEC. 132. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS. Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

SEC. 133. CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term "home health care agency" means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term "nursing facility" means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of

the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

SEC. 134. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff: *Provided, however*, that this section shall not—(1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to sections 6201–6212 of title 15, United States Code, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

SEC. 135. EXCEPTION TO GROUNDS OF REMOVAL. Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

"(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F), unless that alien has knowingly declined United States citizenship.".

SEC. 136. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS. Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

SEC. 137. EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA. (a) CONTINUATION OF STATUS.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

SEC. 138. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM. (a) ADJUSTMENT OF STATUS.—

(1) EXEMPTION FROM NUMERICAL LIMITATIONS.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) LIMITATION ON FEES.—

(A) IN GENERAL.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) EFFECTIVE DATE.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) COVERED ALIENS.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

SEC. 139. For fiscal year 1999 and thereafter, for any report which is required or authorized by this Act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns matters within the jurisdiction of the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives.

SEC. 140. (a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting ", including older women" after "combat violent crimes against women"; and

(ii) by inserting ", including older women" before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting ", including older women" after "against women";

(ii) in paragraph (6), by striking "and' after the semicolon;

(iii) in paragraph (7), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.";

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting "and elder domestic abuse experts" after "victim services programs"; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking "and' after the semicolon;

(B) in paragraph (8), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(9) the term 'elder' has the same meaning as the term 'older individual' in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

"(10) the term 'domestic abuse' means an act or threat of violence, not including an act of self-defense, committed by—

"(A) a current or former spouse of the victim;

"(B) a person related by blood or marriage to the victim;

"(C) a person who is cohabitating with or has cohabitated with the victim;

"(D) a person with whom the victim shares a child in common;

"(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

"(F) a person similarly situated to a spouse of the victim, or by any other person; if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

SEC. 141. CHILD EXPLOITATION SENTENCING ENHANCEMENT. (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 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 THE 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.

This title may be cited as the "Department of Justice Appropriations Act, 1999".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $24,836,000, of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $45,500,000 to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $310,167,000, to remain available until expended: *Provided*, That of the $318,167,000 provided for in direct obligations (of which $304,167,000 is appropriated from the General Fund, and $8,000,000 is derived

from unobligated balances and deobligations from prior years and $6,000,000 is from fees), $69,826,000 shall be for Trade Development, $20,379,000 shall be for Market Access and Compliance, $31,047,000 shall be for the Import Administration, $177,000,000 shall be for the United States and Foreign Commercial Service, and $11,915,000 shall be for Executive Direction and Administration: *Provided further*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $45,671,000 to remain available until expended, of which $1,877,000 shall be for inspections and other activities related to national security: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $280,775,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $22,465,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $25,276,000.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $49,169,000, to remain available until September 30, 1999.

ECONOMICS AND STATISTICS ADMINISTRATION

REVOLVING FUND

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by sections 1, 2, and 4 of Public Law 91-412 (15 U.S.C. 1525-1527) and, notwithstanding section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912), charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $141,801,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to conduct the decennial census, $848,503,000, to remain available until expended: *Provided*, That the Department of Commerce shall submit a quarterly report to the Appropriations Committees of both Houses on the status and implementation of key decennial census milestones during fiscal year 1999.

In addition, for expenses to collect and publish statistics for other periodic censuses and programs provided for by law, $153,955,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), $10,940,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That hereafter, notwithstanding any other provision of law, NTIA shall not authorize spectrum use or provide any spectrum functions pursuant to the NTIA Organization Act, 47 U.S.C. §§ 902-903, to any Federal entity without reimbursement as required by NTIA for such spectrum management costs, and Federal entities withholding payment of such cost shall not use spectrum: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,900,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further*, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $11,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391: *Provided further*, That none of the funds appropriated under this heading shall be used to make a grant to an applicant that is an entity that is eligible to receive preferential rates or treatment under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h).

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks, $785,526,000, to remain available until expended: *Provided*, That of this amount, $785,526,000 shall be derived from offsetting collections assessed and collected pursuant to 15 U.S.C. 113 and 35 U.S.C. 41 and 376 and

shall be retained and used for necessary expenses in this appropriation: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at $0: *Provided further*, That beginning on October 1, 1998, the Commissioner of Patents and Trademarks shall establish a surcharge on all fees charged under 35 U.S.C. 41(a) and (b) in order to ensure that $132,000,000 is collected: *Provided further*, That surcharges established under this authority may take effect on October 1, 1998, and that Section 553 of title 5, United States Code, shall not apply to the establishment of such surcharges: *Provided further*, That upon enactment of a statute reauthorizing the Patent and Trademark Office or establishing a successor agency or agencies, and upon the subsequent establishment of a new patent fee schedule, the surcharge established in this Act shall expire: *Provided further*, That during fiscal year 1999, should the total amount of offsetting collections be less than $785,526,000, the total amounts available to the Patent and Trademark Office shall be reduced accordingly: *Provided further*, That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving, furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.

SCIENCE AND TECHNOLOGY

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $9,993,000, of which not to exceed $1,600,000 shall remain available until September 30, 2000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $290,636,000, to remain available until expended, of which not to exceed $5,000,000 shall be used to fund a cooperative agreement with Montana State University for a research program on green buildings; and of which not to exceed $1,625,000 may be transferred to the "Working Capital Fund": *Provided*, That $2,300,000 shall be used to expand the Malcolm Baldrige National Quality Award program established under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a): *Provided further*, That none of the funds appropriated or otherwise made available by this Act for the "Malcolm Baldrige National Quality Award" may be obligated or expended unless such obligation or expenditure is expressly authorized by enactment of a subsequent Act.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, $106,800,000, to remain available until expended, of which not to exceed $300,000 may be transferred to the "Working Capital Fund": *Provided*, That notwithstanding the time limitations imposed by 15 U.S.C. 278k(c)(1) and (5) on the duration of Federal financial assistance that may be awarded by the Secretary of Commerce to Regional Centers for the transfer of Manufacturing Technology ("Centers"), such Federal financial assistance for a Center may continue beyond six years and may be renewed for additional periods, not to exceed one year, at a rate not to exceed one-third of the Center's total annual costs, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to the Center is in the best interest of the Regional Centers for the transfer of Manufacturing Technology Program: *Provided further*, That the Center's most recent performance evaluation is positive, and the Center has submitted a reapplication which has successfully passed merit review.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, $192,500,000, to remain available until expended, of which not to exceed $38,700,000 shall be available for the award of new grants, and of which not to exceed $500,000 may be transferred to the "Working Capital Fund".

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $56,714,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities as authorized by 33 U.S.C. 883i; $1,608,914,000, to remain available until expended: *Provided*, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, $63,073,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed $2,000,000: *Provided further*, That unexpended balances in the accounts "Construction" and "Fleet Modernization, Shipbuilding and Conversion" shall be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated: *Provided further*, That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further*, That of funds made available for the National Marine Fisheries Service information collection and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further*, That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further*, That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction, and $5,000,000 shall be made available for Great Bay land acquisition: *Provided further*, That the Secretary of Commerce shall make funds available to implement the mitigation recommendations identified subsequent to the "1995 Secretary's Report to Congress on Adequacy of NEXRAD Coverage and Degradation of Weather Services" for Erie, PA; Williston, ND; Caribou, ME; and Key West, FL, and shall ensure continuation of weather service coverage for these communities until mitigation activities are completed: *Provided further*, That with respect to Erie, PA and Williston, ND, the Secretary shall integrate local radar data from such weather service offices into the advanced weather interactive processing system (AWIPS).

PROCUREMENT, ACQUISITION AND CONSTRUCTION

(INCLUDING TRANSFERS OF FUNDS)

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, $587,922,000, to remain available until expended: *Provided*, That unexpended balances of amounts previously made available in the "Operations, Research, and Facilities" account and the "Construction" account for activities funded under this heading may be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed $4,000,000, for purposes set forth in sections 308(b)(2)(A), 308(b)(2)(B)(v), and 315(e) of such Act.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $953,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627), and the American Fisheries Promotion Act (Public Law 96–561), to be derived from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $189,000, to remain available until expended.

FISHERIES FINANCE PROGRAM ACCOUNT

For the cost of direct loans, $388,000, as authorized by the Merchant Marine Act of 1936, as amended: *Provided*, That such costs, including the cost of modifying such loans,

shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $31,765,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $20,662,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce, shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce, or any portion thereof, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: *Provided*, That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: *Provided further*, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce, or any portion thereof, to cover the costs of actions relating to the abolishment, reorganization, or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: *Provided*, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 207. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 208. Section 401(e)(4)(B) of Public Law 105–83 is amended by striking "majority vote, with each member" and inserting in lieu thereof, "the majority vote of the board members under paragraphs (3)(A), (F), and (G), the board member representing academia under paragraph (3)(K), and one of the board members under paragraph (3)(L) (as identified by the Governor), with each such member".

SEC. 209. (a) PROHIBITION.—

(1) IN GENERAL.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended—

(A) by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively; and

(B) by inserting after subsection (d) the following new subsection (e):

"(e)(1) Whoever in interstate or foreign commerce in or through the World Wide Web is engaged in the business of the commercial distribution of material that is harmful to minors shall restrict access to such material by persons under 17 years of age.

"(2) Any person who violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than six months, or both.

"(3) In addition to the penalties under paragraph (2), whoever intentionally violates paragraph (1) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(4) In addition to the penalties under paragraphs (2) and (3), whoever violates paragraph (1) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(5) It is an affirmative defense to prosecution under this subsection that the defendant restricted access to material that is harmful to minors by persons under 17 years of age by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number or in accordance with such other procedures as the Commission may prescribe.

"(6) This subsection may not be construed to authorize the Commission to regulate in any manner the content of any information provided on the World Wide Web.

"(7) For purposes of this subsection:

"(A) The term 'material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

"(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

"(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

"(iii) lacks serious literary, artistic, political, or scientific value.

"(B) The terms 'sexual act' and 'sexual contact' have the meanings assigned such terms in section 2246 of title 18, United States Code.".

(2) CONFORMING AMENDMENT.—Subsection (h) of such section, as so redesignated, is amended by striking "(e), or (f)" and inserting "(f), or (g)".

(b) AVAILABILITY ON INTERNET OF DEFINITION OF MATERIAL THAT IS HARMFUL TO MINORS.—The Attorney General, in the case of the Internet web site of the Department of Justice, and the Federal Communications Commission, in the case of the Internet web site of the Commission, shall each post or otherwise make available on such web site such information as is necessary to inform the public of the meaning of the term "material that is harmful to minors" under section 223(e) of the Communications Act of 1934, as amended by subsection (a) of this section.

SEC. 210. NO UNIVERSAL SERVICE FOR SCHOOLS OR LIBRARIES THAT FAIL TO IMPLEMENT A FILTERING OR BLOCKING SYSTEM FOR COMPUTERS WITH INTERNET ACCESS. (a) IN GENERAL.—Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end thereof the following:

"(l) IMPLEMENTATION OF A FILTERING OR BLOCKING SYSTEM.—

"(1) IN GENERAL.—No services may be provided under subsection (h)(1)(B) to any elementary or secondary school, or any library, unless it provides the certification required by paragraph (2) or (3), respectively.

"(2) CERTIFICATION FOR SCHOOLS.—Before receiving universal service assistance under subsection (h)(1)(B), an elementary or secondary school (or the school board or other authority with responsibility for administration of that school) shall certify to the Commission that it has—

"(A) selected a system for computers with Internet access to filter or block matter deemed to be inappropriate for minors; and

"(B) installed, or will install as soon as it obtains computers with Internet access, a system to filter or block such matter.

"(3) CERTIFICATION FOR LIBRARIES.—Before receiving universal service assistance under subsection (h)(1)(B), a library that has a computer with Internet access shall certify

to the Commission that, on one or more of its computers with Internet access, it employs a system to filter or block matter deemed to be inappropriate for minors. If a library that makes a certification under this paragraph changes the system it employs or ceases to employ any such system, it shall notify the Commission within 10 days after implementing the change or ceasing to employ the system.

"(4) LOCAL DETERMINATION OF CONTENT.—For purposes of paragraphs (2) and (3), the determination of what matter is inappropriate for minors shall be made by the school, school board, library or other authority responsible for making the required certification. No agency or instrumentality of the United States Government may—

"(A) establish criteria for making that determination;

"(B) review the determination made by the certifying school, school board, library, or other authority; or

"(C) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).".

(b) CONFORMING CHANGE.—Section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) is amended by striking "All telecommunications" and inserting "Except as provided by subsection (l), all telecommunications".

SEC. 211. MULTICHANNEL VIDEO PROGRAMMING. Notwithstanding any other provision of law, the Copyright Office is prohibited from implementing, enforcing, collecting or awarding copyright royalty fees, and no obligation or liability for copyright royalty fees shall accrue pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of $0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before March 31, 1999. This shall have no effect on the implementing, enforcing, collecting, or awarding copyright royalty fees pursuant to the royalty fee structure as it existed prior to October 27, 1997.

SEC. 212. PUBLIC AIRCRAFT. The flush sentence following subparagraph (B)(ii) of section 40102(37) of title 49, United States Code, is amended by striking "if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat" and inserting "if the operation is conducted for law enforcement, search and rescue, or responding to an imminent threat to property or natural resources".

SEC. 213. COMPENSATION OF ATTORNEYS. (a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

"(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).".

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking "Payment" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), payment"; and

(2) by adding at the end the following:

"(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).".

SEC. 214. No funds may be used under this Act to process or register any application filed or submitted with the Patent and Trademark Office under the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, commonly referred to as the Trademark Act of 1946, as amended, after the date of enactment of this Act for a mark identical to the official tribal insignia of any federally recognized Indian tribe for a period of one year from the date of enactment of this Act.

SEC. 215. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under "DEPARTMENT OF COMMERCE" is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under "DEPARTMENT OF COMMERCE" except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION" and under the heading "INFORMATION INFRASTRUCTURE GRANTS".

(B) Amounts appropriated under any heading under "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY".

(C) Amounts appropriated under any heading under "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION".

(c)(1) Notwithstanding any other provision of this Act, the second proviso under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

SEC. 216. SEDIMENT CONTROL STUDY. Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

SEC. 217. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) MEMBERSHIP OF JOINT BOARD.—

"(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

"(i) 3 shall be members of the Federal Communications Commission;

"(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

"(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

"(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

"(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.".

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) RECONSTITUTED JOINT BOARD TO CONSIDER UNIVERSAL SERVICE.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998 (CC Docket No. 96-45; FCC 98-160), relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairmen of the Joint Board have been chosen under that section.

SEC. 218. NONPOINT POLLUTION CONTROL. (a) IN GENERAL.—In addition to the amounts

made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1999".

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $31,059,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $5,871,000, to remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $15,631,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $11,483,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,808,516,000 (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; and of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects: *Provided*, That of the amount made available under this heading, $7,150,000 shall be available only for the State Justice Institute.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,515,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended; the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); $360,952,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $68,721,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $176,873,000, of which not to exceed $10,000,000 shall remain available until expended for security systems, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $54,682,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,716,000; of which $1,800,000 shall remain available through September 30, 2000, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $27,500,000; to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,800,000; and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $2,000,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $9,374,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Not to exceed 10 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and Other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and Other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 20 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 303. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 304. Pursuant to section 140 of Public Law 97–92, justices and judges of the United States are authorized during fiscal year 1999, to receive a salary adjustment in accordance with 28 U.S.C. 461: *Provided*, That $6,893,000 is appropriated for salary adjustments pursuant to this section and such funds shall be transferred to and merged with appropriations in Title III of this Act.

This title may be cited as "The Judiciary Appropriations Act, 1999".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration; $1,685,094,000: *Provided*, That of the amount made available under this heading, not to exceed $4,000,000 may be transferred to, and merged with, funds in the "Emergencies in the Diplomatic and Consular Service" appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made available under this heading, $500,000 shall be available only for the National Law Center for Inter-American Free Trade: *Provided further*, That of the amount made available under this heading, $13,000,000 shall be available only for the East-West Center: *Provided further*, That, hereafter, notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), fees may be collected under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717); in addition not to exceed $1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553), as amended, and in addition, as authorized by section 5 of such Act $490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $349,474,000.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $118,340,000, to remain available until expended, as authorized in Public Law 103–236: *Provided*, That section 135(e) of Public Law 103–236 shall not apply to funds available under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $27,495,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96–465), as it relates to post inspections.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for necessary expenses as authorized by section 4 of the State Department Basic Authority Act of 1956 (22 U.S.C. 2671), $6,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $7,900,000, to remain available until September 30, 2000.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), preserving, maintaining, repairing, and planning for, buildings that are owned or directly leased by the Department of State, renovating, in addition to funds otherwise available, the Main State Building, and carrying out the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $550,832,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $3,500,000 to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $543,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $457,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8, $14,490,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $132,500,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $1,131,718,000, of which not to exceed $254,000,000 shall remain available until expended for payment of arrearages: *Provided*, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of an Act that makes payment of arrearages contingent upon reforms that include the following: a reduction in the United States assessed share of the United Nations regular budget to 20 percent and of peacekeeping operations to 25 percent; reimbursement for goods and services provided by the United States to the United Nations; certification that the United Nations and its specialized or affiliated agencies have not taken any action to infringe on the sovereignty of the United States; a ceiling on United States contributions to international organizations after fiscal year 1999 of $900,000,000; establishment of a merit-based personnel system at the United Nations that includes a code of conduct and a personnel evaluation system; United States membership on the Advisory Committee on Administrative and Budgetary Questions that oversees the United Nations budget; access to United Nations financial data by the General Accounting Office; and achievement of a negative growth budget and the establishment of independent inspectors general for affiliated organizations; and improved consultation procedures with the Congress: *Provided further*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons: *Provided further*, That notwithstanding section 402 of this Act, not to exceed $1,223,000 may be transferred from the funds made available under this heading to the "International conferences and contingencies" account for assessed contributions to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security $431,093,000, of which not to exceed $23,100,000 shall remain available until expended, and of which not to exceed $221,000,000 shall remain available until expended for payment of arrearages: *Provided*,

That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of an Act described in the first proviso under the heading "Contributions to International Organizations" in this title.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $17,490,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,463,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,490,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,549,000: *Provided*, That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, $43,400,000, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

INTERNATIONAL INFORMATION PROGRAMS

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by section 801 of such Act of 1948 (22 U.S.C. 1471), and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)); $427,097,000: *Provided*, That not to exceed $1,400,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085): *Provided further*, That not to exceed $6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other law, fees from educational advising and counseling, and exchange visitor program services: *Provided further*, That not to exceed $920,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $5,050,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $205,024,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455): *Provided*, That not to exceed $800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other provision of law, fees from educational advising and counseling.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1999, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1999, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities, $332,915,000, of which not to exceed $16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1747(3)), not to exceed $35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed $2,000,000 in receipts from advertising and revenue from business ventures, not to exceed $500,000 in receipts from cooperating international organizations, and not to exceed $1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $22,095,000, to remain available until expended.

RADIO CONSTRUCTION

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), $13,245,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $12,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for

carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $3,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,500,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 10 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 20 percent by any such transfers: *Provided*, That not to exceed 10 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 20 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. None of the funds made available in this Act may be used by the Department of State or the United States Information Agency to provide equipment, technical support, training, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation or similar organization.

SEC. 404. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

SEC. 405. During the current fiscal year and hereafter, the Secretary of State shall have discretionary authority to pay tort claims in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with the overseas operations of the Department of State.

SEC. 406. None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter should be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. 407. None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official Government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. 408. For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

SEC. 409. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

SEC. 410. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of

State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term "nonimmigrant visas" means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term "timeliness standards" means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

SEC. 411. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105-119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998-1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

SEC. 412. BAN ON EXTRADITION OR TRANSFER OF UNITED STATES CITIZENS TO THE INTERNATIONAL CRIMINAL COURT. (a) EXTRADITION.—None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on re-extradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) CONSENT.—None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on re-extradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term "International Criminal Court" means the court established by agreement concluded in Rome on July 17, 1998.

SEC. 413. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1999".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $97,650,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $69,818,000: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated: *Provided further*, That, of this amount, $1,400,000 shall be available for Student Incentive Payments.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $10,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $250,000, as authorized by Public Law 99-83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,900,000: *Provided*, That not to exceed $50,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $1,159,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; and not to exceed $27,500,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $253,580,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901-02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed 16) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $197,921,000, of which not to exceed $300,000 shall remain available until September 30, 1999, for research and policy studies: *Provided*, That $172,523,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are

received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at $25,398,000: *Provided further*, That any offsetting collections received in excess of $172,523,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999: *Provided further*, That any two stations that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal by November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution).

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 U.S.C. App. 1111, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $14,300,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $93,167,000: *Provided*, That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: *Provided further*, That notwithstanding any other provision of law, not to exceed $90,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $3,167,000: *Provided further*, That the fourth proviso under the heading "Federal Trade Commission, Salaries and Expenses" in Public Law 105–119 is repealed: *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $300,000,000, of which $288,700,000 is for basic field programs and required independent audits; $300,000 is for grants for litigation associated with Aguilar v. United States; $2,015,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; and $8,985,000 is for management and administration.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 501. (a) CONTINUATION OF COMPETITIVE SELECTION PROCESS.—None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity except through a competitive selection process conducted in accordance with regulations promulgated by the Corporation in accordance with the criteria set forth in subsections (c), (d), and (e) of section 503 of Public Law 104–134 (110 Stat. 1321–52 et seq.).

(b) INAPPLICABILITY OF CERTAIN PROCEDURES.—Sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 2996j) shall not apply to the provision, denial, suspension, or termination of any financial assistance using funds appropriated in this Act.

(c) ADDITIONAL PROCEDURES.—If, during any term of a grant or contract awarded to a recipient by the Legal Services Corporation under the competitive selection process referred to in subsection (a) and applicable Corporation regulations, the Corporation finds, after notice and opportunity for the recipient to be heard, that the recipient has failed to comply with any requirement of the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), this Act, or any other applicable law relating to funding for the Corporation, the Corporation may terminate the grant or contract and institute a new competitive selection process for the area served by the recipient, notwithstanding the terms of the recipient's grant or contract.

SEC. 502. (a) CONTINUATION OF REQUIREMENTS AND RESTRICTIONS.—None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of—

(1) sections 501, 502, 505, 506, and 507 of Public Law 104–134 (110 Stat. 1321–51 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions as set forth in such sections, except that all references in such sections to 1995 and 1996 shall be deemed to refer instead to 1998 and 1999, respectively; and

(2) section 504 of Public Law 104–134 (110 Stat. 1321–53 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such section, except that—

(A) subsection (c) of such section 504 shall not apply;

(B) paragraph (3) of section 508(b) of Public Law 104–134 (110 Stat. 1321–58) shall apply with respect to the requirements of subsection (a)(13) of such section 504, except that all references in such section 508(b) to the date of enactment shall be deemed to refer to April 26, 1996; and

(C) subsection (a)(11) of such section 504 shall not be construed to prohibit a recipient from using funds derived from a source other than the Corporation to provide related legal assistance to—

(i) an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or

(ii) an alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty.

(b) DEFINITIONS.—For purposes of subsection (a)(2)(C):

(1) The term "battered or subjected to extreme cruelty" has the meaning given such term under regulations issued pursuant to subtitle G of the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1953).

(2) The term "related legal assistance" means legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty described in such subsection.

SEC. 503. (a) CONTINUATION OF AUDIT REQUIREMENTS.—The requirements of section 509 of Public Law 104–134 (110 Stat. 1321–58 et seq.), other than subsection (l) of such section, shall apply during the current fiscal year.

(b) REQUIREMENT OF ANNUAL AUDIT.—An annual audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act shall be conducted during the current fiscal year in accordance with the requirements referred to in subsection (a).

SEC. 504. (a) DEBARMENT.—The Legal Services Corporation may debar a recipient, on a showing of good cause, from receiving an additional award of financial assistance from the Corporation. Any such action to debar a recipient shall be instituted after the Corporation provides notice and an opportunity for a hearing to the recipient.

(b) REGULATIONS.—The Legal Services Corporation shall promulgate regulations to implement this section.

(c) GOOD CAUSE.—In this section, the term "good cause", used with respect to debarment, includes—

(1) prior termination of the financial assistance of the recipient, under part 1640 of title 45, Code of Federal Regulations (or any similar corresponding regulation or ruling);

(2) prior termination in whole, under part 1606 of title 45, Code of Federal Regulations (or any similar corresponding regulation or ruling), of the most recent financial assistance received by the recipient, prior to date of the debarment decision;

(3) substantial violation by the recipient of the statutory or regulatory restrictions that prohibit recipients from using financial assistance made available by the Legal Services Corporation or other financial assistance for purposes prohibited under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or for involvement in any activity prohibited by, or inconsistent with, section 504 of Public Law 104–134 (110 Stat. 1321–53 et seq.), section 502(a)(2) of Public Law 104–208 (110 Stat. 3009–59 et seq.), or section 502(a)(2) of this Act;

(4) knowing entry by the recipient into a subgrant, subcontract, or other agreement with an entity that had been debarred by the Corporation; or

(5) the filing of a lawsuit by the recipient, on behalf of the recipient, as part of any program receiving any Federal funds, naming the Corporation, or any agency or employee of a Federal, State, or local government, as a defendant.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,240,000.

COMMISSION ON OCEAN POLICY

SALARIES AND EXPENSES

For the necessary expenses of the Commission on Ocean Policy, pursuant to S. 1213 as passed by the Senate in November 1996, $3,500,000, to remain available until expended: *Provided*, That the Commission shall present to the Congress with 18 months its recommendations for a national ocean policy.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $341,098,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (1) such incidental expenses as meals taken in the course of such attendance, (2) any travel and transportation to or from such meetings, and (3) any other related lodging or subsistance: *Provided*, That fees and charges authorized by sections 6(b)(4) of the Securities Act of 1933 (15 U.S.C. 77f(b)(4)) and 31(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78ee(d)) and collected in fiscal year 1999 shall be credited to this account as offsetting collections: *Provided further*, That not to exceed $341,098,000 of such offsetting collections shall be available until expended for necessary expenses of this account: *Provided further*, That the total amount appropriated from the General Fund for fiscal year 1999 under this heading shall be reduced as all such offsetting fees are deposited to this appropriation so as to result in no fiscal year 1999 appropriation from the General Fund.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103-403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $265,000,000: *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further*, That, notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations: *Provided further*, That $85,000,000 shall be available to fund grants for performance in fiscal year 1999 or fiscal year 2000 as authorized by section 21 of the Small Business Act, as amended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11, as amended by Public Law 100-504), $10,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $3,816,000, and the cost of guaranteed loans, $143,000,000, as authorized by 15 U.S.C. 631 note: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That of the funds previously made available under Public Law 105-135, section 507(g), for the Delta Loan program, up to $20,000,000 may be transferred to and merged with the appropriations for salaries and expenses: *Provided further*, That during fiscal year 1999, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(d)(1)(B)(ii) of the Small Business Act, as amended: *Provided further*, That during fiscal year 1999, commitments for general business loans authorized under section 7(a) of the Small Business Act, as amended, shall not exceed $10,000,000,000 without prior notification of the Committees on Appropriations of the House of Representatives and Senate in accordance with section 605 of this Act.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $94,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, $94,000,000, including not to exceed $500,000 for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program, and said sums shall be transferred to and merged with appropriations for the Office of Inspector General.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $3,300,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102-572 (106 Stat. 4515-4516)), $6,850,000, to remain available until expended: *Provided*, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions, or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $1,000,000 or 20 percent, whichever is more, that: (1) augments existing programs, projects, or activities; (2) reduces by 20 percent funding for any existing program, project, or activity, or numbers of personnel by 20 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any

contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC-17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 610. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 611. None of the funds made available in this Act to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.

SEC. 612. Of the funds appropriated in this Act under the heading "OFFICE OF JUSTICE PROGRAMS—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than 90 percent of the amount to be awarded to an entity under the Local Law Enforcement Block Grant shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits at the time of retirement or separation as they received while on duty.

SEC. 613. (a) None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmery, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(4) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(5) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 614. (a) None of the funds made available in this Act or any other Act hereafter enacted may be used to issue or renew a fishing permit or authorization for any fishing vessel of the United States greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing more than 3,000 shaft horsepower that would allow such vessel to engage in fishing in any fishery within the exclusive economic zone of the United States (except territories), unless a certificate of documentation had been issued for the vessel, endorsed with a fishery endorsement that was effective on September 25, 1997, and endorsed with a fishery endorsement at all times thereafter, or unless the appropriate regional fishery management council recommends after the date the enactment of this Act, and the Secretary approves, a fishery management plan or amendment that specifically allows such a vessel to engage in such fishing.

(b) Any fishing permit or authorization issued or renewed prior to the date of the enactment of this Act for a fishing vessel that exceeds the length, tonnage, or horsepower thresholds in subsection (a) that would allow such vessel to engage in fishing for any Atlantic mackerel or herring (or both) in the waters off the east coast of the United States during fiscal year 1999 shall be null and void unless the appropriate regional fishery management council has recommended and the Secretary has approved a fishery management plan or plan amendment that specifically allows such vessel to engage in such fishing.

(c) The prohibition in this section shall not apply to fishing vessels in the menhaden fishery, which occurs primarily outside the exclusive economic zone of the United States.

SEC. 615. None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee for the International Brotherhood of Teamsters.

SEC. 616. (a) IN GENERAL.—Section 1303 of the International Security and Development Corporation Act of 1985 (16 U.S.C. 469j) is amended—

(1) in subsection (d)(1)—

(A) by striking "21" and inserting "15"; and

(B) by striking "7" each place it appears and inserting "5"; and

(2) in subsection (e), by striking "three" and inserting "six".

(b) SAVINGS PROVISION.—The enactment of the amendments made by paragraph (1) of

subsection (a) shall not require any person appointed as a member of the Commission for the Preservation of America's Heritage Abroad before the date of enactment of this Act to terminate his or her service prior to the expiration of his or her current term of service.

SEC. 617. JAPAN-UNITED STATES FRIENDSHIP COMMISSION. (a) RELIEF FROM RESTRICTION OF INTERCHANGEABILITY OF FUNDS.—Section 6(4) of the Japan-United States Friendship Act (22 U.S.C. 2905(4)) is amended by striking "needed, except" and all that follows through "United States" and inserting "needed".

(b) The second sentence of section 7(b) of the Japan-United States Friendship Act (22 U.S.C. 2906(b)) is amended to read as follows: "Such investment may be made in only interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan.".

SEC. 618. STUDY ON INTERNET ACCESS AND COMMUNICATIONS AND THE TAXATION OF THE INTERNET. (a) DEFINITIONS.—In this section:

(1) INTERNET.—The term "Internet" has the meaning provided that term in section 230(e)(1) of the Communications Act of 1934 (47 U.S.C. 230(e)(1)).

(2) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than March 1, 1999, the Secretary, in consultation with the Secretary of State and the Secretary of the Treasury, shall conduct a study under this section and submit to the Committee on Appropriations a report on the results of the study.

(2) CONTENTS OF STUDY.—The study conducted by the Secretary under this section shall examine—

(A) the taxation of the Internet by States and political subdivisions thereof;

(B) access to the Internet; and

(C) communications and transactions conducted through the Internet.

(3) EFFECTS OF TAXATION.—With respect to the taxation of the Internet, the study conducted by the Secretary under this section shall examine the extent to which—

(A) that taxation may impede the progress and development of the Internet; and

(B) the effect that taxation may have with respect to the efforts of the President to keep the Internet free of discriminatory taxes on an international level.

SEC. 619. (a) PURPOSE.—The purpose of this section is to allow for the investment of joint Federal and State funds from the civil settlement of damages from the Exxon Valdez oil spill.

(b) INVESTMENT OF JOINT TRUST FUNDS.—Notwithstanding any other provision of law, upon the joint motion of the United States and the State of Alaska and the issuance of an appropriate order by the United States District Court for the District of Alaska, the joint trust funds or any portion thereof, including any interest accrued thereon, previously received or to be received by the United States and the State of Alaska pursuant to the Agreement and Consent Decree issued in United States v. Exxon Corporation, et al. (No. A91-082 CIV) and State of Alaska v. Exxon Corporation, et al. (No. A91-083 CIV) (hereafter referred to as the "Consent Decree"), may be deposited in appropriate accounts outside the Court Registry, including the Natural Resource Damage Assessment and Restoration Fund (hereafter referred to as the "Fund") established in title I of the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102-154, 43 U.S.C. 1474b) and such accounts outside the United States Treasury consisting of income-producing obligations and other instruments or securities of a type or class that have been determined unanimously by the Federal and State natural resource trustees for the Exxon Valdez oil spill to have a high degree of reliability and security: *Provided*, That any joint trust funds in the Fund and any such outside accounts that have been approved unanimously by the trustees for expenditure by or through a State or Federal agency shall be transferred promptly from the Fund and such outside accounts to the State or United States upon the joint request of the governments: *Provided further*, That the transfer of joint trust funds outside the Court Registry shall not affect the supervisory jurisdiction of such District Court under the Consent Decree or the Memorandum of Agreement and Consent Decree in United States v. State of Alaska (No. A91-081-CIV) over all expenditures of the joint trust funds: *Provided further*, That nothing herein shall affect the requirement of section 207 of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for the Incremental Cost of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229, 42 U.S.C. 1474b note) that amounts received by the United States and designated by the trustees for the expenditure by or through a Federal agency must be deposited into the Fund: *Provided further*, That any interest accrued under the authority in this section may be used only for grants for marine research and monitoring (including applied fisheries research) and for community and economic restoration projects (including projects proposed by the fishing industry and facilities): *Provided further*, That the Federal trustees are hereby authorized to administer such grants: *Provided further*, That the authority provided in this section shall expire on September 30, 2002, unless by September 30, 2001 the trustees have submitted to the Congress legislation to establish a board to administer funds invested, interest received, and grants awarded from such interest.

SEC. 620. None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t): *Provided*, That any person aggrieved by a violation of this provision may bring an action in the Federal district court for the district in which the person resides: *Provided further*, That any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee. The provisions of this section shall become effective upon enactment of this Act.

SEC. 621. SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY. (a) FINDINGS.—The Senate finds that—

(1) the Social Security system provides benefits to 44,000,000 Americans, including 27,300,000 retirees, over 4,500,000 people with disabilities, 3,800,000 surviving children and 8,400,000 surviving adults, and is essential to the dignity and security of the Nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds have reported to the Congress that the "total income" of the Social Security system "is estimated to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032";

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to "save Social Security first" and to "reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century";

(6) saving Social Security first would work to expand national savings, reduce interest rates, enhance private investment, increase labor productivity, and boost economic growth;

(7) section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget; and

(8) the Congressional Budget Office has estimated that the unified budget surplus will reach nearly $1,500,000,000,000 over the next ten years.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations;

(3) save Social Security first; and

(4) return all remaining surpluses to American taxpayers.

SEC. 622. REPORT BY THE JUDICIAL CONFERENCE. (a) Not later than September 1, 1999, the Judicial Conference of the United States shall prepare and submit to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report evaluating whether an amendment to Rule 6 of the Federal Rules of Criminal Procedure permitting the presence in the grand jury room of counsel for a witness who is testifying before the grand jury would further the interests of justice and law enforcement.

(b) In preparing the report referred to in subsection (a) of this section the Judicial Conference shall consider the views of the Department of Justice, the organized Bar, the academic legal community, and other interested parties.

(c) Nothing in this section shall require the Judicial Conference to submit recommendations to the Congress in accordance with the Rules Enabling Act, nor prohibit the Conference from doing so.

SEC. 623. POLICIES RELATING TO FEDERALISM. It is the sense of the Senate that

the President should repeal Executive Order No. 13083, issued May 14, 1998 and should reissue Executive Order No. 12612, issued October 26, 1987, and Executive Order No. 12875, issued October 26, 1993.

SEC. 624. PROHIBITION ON INTERNET GAMBLING. (a) SHORT TITLE.—This section may be cited as the "Internet Gambling Prohibition Act of 1998".

(b) DEFINITIONS.—Section 1081 of title 18, United States Code, is amended—

(1) in the matter immediately following the colon, by designating the first 5 undesignated paragraphs as paragraphs (1) through (5), respectively, and indenting each paragraph 2 ems to the right; and

(2) by adding at the end the following:

"(6) BETS OR WAGERS.—The term 'bets or wagers'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, sporting event of others, or of any game of chance, upon an agreement or understanding that the person or another person will receive something of value based on that outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28, United States Code; and

"(D) does not include—

"(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

"(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

"(iii) a contract of indemnity or guarantee;

"(iv) a contract for life, health, or accident insurance; or

"(v) participation in a game or contest, otherwise lawful under applicable Federal or State law—

"(I) that, by its terms or rules, is not dependent on the outcome of any single sporting event, any series or sporting events, any tournament, or the individual performance of 1 or more athletes or teams in a single sporting event;

"(II) in which the outcome is determined by accumulated statistical results of games or contests involving the performances of amateur or professional athletes or teams; and

"(III) in which the winner or winners may receive a prize or award;

(otherwise know as a 'fantasy sport league' or a 'rotisserie league') if such participation is without charge to the participant or any charge to a participant is limited to a reasonable administrative fee.

"(7) FOREIGN JURISDICTION.—The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

"(8) INFORMATION ASSISTING IN THE PLACING OF A BET OR WAGER.—The term 'information assisting in the placing of a bet or wager'—

"(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; and

"(B) does not include—

"(i) information concerning parimutuel pools that is exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, if that information is used only to conduct common pool parimutuel pooling under applicable law;

"(ii) information exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and a support service located in another State or foreign jurisdiction, if the information is used only for processing bets or wagers made with that facility under applicable law;

"(iii) information exchanged between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and any support service, wherever located, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities under applicable State law;

"(iv) any news reporting or analysis of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

"(v) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.".

(c) PROHIBITION ON INTERNET GAMBLING.—

(1) IN GENERAL.—Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

"§ 1085. Internet gambling

"(a) DEFINITIONS.—In this section:

"(1) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term 'closed-loop subscriber-based service' means any information service or system that uses—

"(A) a device or combination of devices—

"(i) expressly authorized and operated in accordance with the laws of a State for the purposes described in subsection (e); and

"(ii) by which a person located within a State must subscribe to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

"(B) a customer verification system to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

"(C) appropriate data security standards to prevent unauthorized access.

"(2) GAMBLING BUSINESS.—The term 'gambling business' means a business that is conducted at a gambling establishment, or that—

"(A) involves—

"(i) the placing, receiving, or otherwise making of bets or wagers; or

"(ii) offers to engage in placing, receiving, or otherwise making bets or wagers;

"(B) involves 1 or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(C) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

"(3) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service, system, or access software provider that uses a public communication infrastructure or operates in interstate or foreign commerce to provide or enable computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

"(4) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(5) PERSON.—The term 'person' means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other government, organization, or entity.

"(6) PRIVATE NETWORK.—The term 'private network' means a communications channel or channels, including voice or computer data transmission facilities, that use either—

"(A) private dedicated lines; or

"(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technology to prevent unauthorized access.

"(7) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.

"(b) GAMBLING.—

"(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager with any person; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager with the intent to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) PENALTIES.—A person who violates paragraph (1) shall be—

"(A) fined in an amount that is not more than the greater of—

"(i) three times the greater of—

"(I) the total amount that the person is found to have wagered through the Internet or other interactive computer service; or

"(II) the total amount that the person is found to have received as a result of such wagering; or

"(ii) $500;

"(B) imprisoned not more than 3 months; or

"(C) both.

"(c) GAMBLING BUSINESSES.—

"(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) PENALTIES.—A person engaged in a gambling business who violates paragraph (1) shall be—

"(A) fined in an amount that is not more than the greater of—

"(i) the amount that such person received in bets or wagers as a result of engaging in that business in violation of this subsection; or

"(ii) $20,000;

"(B) imprisoned not more than 4 years; or

"(C) both.

"(d) PERMANENT INJUNCTIONS.—Upon conviction of a person under this section, the court may, as an additional penalty, enter a permanent injunction enjoining the transmission of bets or wagers or information assisting in the placing of a bet or wager.

"(e) EXCEPTIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the prohibitions in this section shall not apply to any—

"(A) otherwise lawful bet or wager that is placed, received, or otherwise made wholly intrastate for a State lottery or a racing or parimutuel activity, or a multi-State lottery operated jointly between 2 or more States in conjunction with State lotteries, (if the lottery or activity is expressly authorized, and licensed or regulated, under applicable Federal or State law) on—

"(i) an interactive computer service that uses a private network, if each person placing or otherwise making that bet or wager is physically located at a facility that is open to the general public; or

"(ii) a closed-loop subscriber-based service that is wholly intrastate; or

"(B) otherwise lawful bet or wager for class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) that is placed, received, or otherwise made on a closed-loop subscriber-based service or an interactive computer service that uses a private network, if—

"(i) each person placing, receiving, or otherwise making that bet or wager is physically located on Indian land; and

"(ii) all games that constitute class III gaming are conducted in accordance with an applicable Tribal-State compact entered into under section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2701(d)) by a State in which each person placing, receiving, or otherwise making that bet or wager is physically located.

"(2) INAPPLICABILITY OF EXCEPTION TO BETS OR WAGERS MADE BY AGENTS OR PROXIES.—An exception under subparagraph (A) or (B) of paragraph (1) shall not apply in any case in which a bet or wager is placed, received, or otherwise made by the use of an agent or proxy using the Internet or an interactive computer service. Nothing in this paragraph shall be construed to prohibit the owner operator of a parimutuel wagering facility that is licensed by a State from employing an agent in the operation of the account wagering system owned or operated by the parimutuel facility.

"(f) STATE LAW.—Nothing in this section shall be construed to create immunity from criminal prosecution or civil liability under the law of any State.".

(2) TECHNICAL AMENDMENT.—The analysis for chapter 50 of title 18, United States Code, is amended by adding at the end the following:

"1085. Internet gambling.".

(d) CIVIL REMEDIES.—

(1) IN GENERAL.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of section 1085 of title 18, United States Code, as added by this section, by issuing appropriate orders.

(2) PROCEEDINGS.—

(A) INSTITUTION BY FEDERAL GOVERNMENT.—The United States may institute proceedings under this section. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(B) INSTITUTION BY STATE ATTORNEY GENERAL.—

(i) IN GENERAL.—Subject to subclause (ii), the attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by this section, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this subsection. Upon application of the attorney general (or other appropriate State official) of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(ii) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by this section, that is alleged to have occurred, or may occur, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the enforcement authority under clause (i) shall be limited to the remedies under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), including any applicable Tribal-State compact negotiated under section 11 of that Act (25 U.S.C. 2710).

(C) ORDERS AND INJUNCTIONS AGAINST INTERNET SERVICE PROVIDERS.—Notwithstanding subparagraph (A) or (B), the following rules shall apply in any proceeding instituted under this paragraph in which application is made for a temporary restraining order or an injunction against an interactive computer service:

(i) SCOPE OF RELIEF.—

(I) If the violation of section 1085 of title 18, United States Code, originates with a customer of the interactive computer service's system or network, the court may require the service to terminate the specified account or accounts of the customer, or of any readily identifiable successor in interest, who is using such service to place, receive or otherwise make a bet or wager, engage in a gambling business, or to initiate a transmission that violates such section 1085.

(II) Any other relief ordered by the court shall be technically feasible for the system or network in question under current conditions, reasonably effective in preventing a violation of section 1085, of title 18, United States Code, and shall not unreasonably interfere with access to lawful material at other online locations.

(III) No relief shall issue under clause (i)(II) if the interactive computer service demonstrates, after an opportunity to appear at a hearing, that such relief is not economically reasonable for the system or network in question under current conditions.

(ii) CONSIDERATIONS.—In the case of an application for relief under clause (i)(II), the court shall consider, in addition to all other factors that the court shall consider in the exercise of its equitable discretion, whether—

(I) such relief either singularly or in combination with such other injunctions issued against the same service under this paragraph, would seriously burden the operation of the service's system or network compared with other comparably effective means of preventing violations of section 1085 of title 18, United States Code;

(II) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, by a gambling business (as is defined in such section 1085) located outside the United States, the relief is more burdensome to the service than taking comparably effective steps to block access to specific, identified sites used by the gambling business located outside the United States; and

(III) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, as added by this section, relating to material or activity located within the United States, whether less burdensome, but comparably effective means are available to block access by a customer of the service's system or network to information or activity that violates such section 1085.

(iii) FINDINGS.—In any order issued by the court under this paragraph, the court shall set forth the reasons for its issuance, shall be specific in its terms, and shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained and the general steps to be taken to comply with the order.

(D) EXPIRATION.—Any temporary restraining order or preliminary injunction entered pursuant to this paragraph shall expire if, and as soon as, the United States, or the attorney general (or other appropriate State official) of the State, as applicable, notifies the court that issued the injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(3) EXPEDITED PROCEEDINGS.—

(A) IN GENERAL.—In addition to proceedings under paragraph (2), a district court may enter a temporary restraining order against a person alleged to be in violation of section 1085 of title 18, United States Code, as added by this section, upon application of the United States under paragraph (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(B), without notice and the opportunity for a hearing, if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the transmission at issue violates section 1085 of title 18, United States Code, as added by this section.

(B) EXPIRATION.—A temporary restraining order entered under this paragraph shall expire on the earlier of—

(i) the expiration of the 30-day period beginning on the date on which the order is entered; or

(ii) the date on which a preliminary injunction is granted or denied.

(C) HEARINGS.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest practicable time.

(4) RULE OF CONSTRUCTION.—In the absence of fraud or bad faith, no interactive computer service (as defined in section 1085(a) of title 18, United States Code, as added by this section) shall be liable for any damages, penalty, or forfeiture, civil or criminal, for a reasonable course of action taken to comply with a court order issued under paragraph (2) or (3) of this subsection.

(5) PROTECTION OF PRIVACY.—Nothing in this section or the amendments made by this section shall be construed to authorize an affirmative obligation on an interactive computer service—

(A) to monitor use of its service; or

(B) except as required by an order of a court, to access, remove or disable access to material where such material reveals conduct prohibited by this section and the amendments made by this section.

(6) NO EFFECT ON OTHER REMEDIES.—Nothing in this subsection shall be construed to affect any remedy under section 1084 or 1085

of title 18, United States Code, as amended by this section, or under any other Federal or State law. The availability of relief under this subsection shall not depend on, or be affected by, the initiation or resolution of any action under section 1084 or 1085 of title 18, United States Code, as amended by this section, or under any other Federal or State law.

(7) CONTINUOUS JURISDICTION.—The court shall have continuous jurisdiction under this subsection to enforce section 1085 of title 18, United States Code, as added by this section.

(e) REPORT ON ENFORCEMENT.—Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that includes—

(1) an analysis of the problems, if any, associated with enforcing section 1085 of title 18, United States Code, as added by this section;

(2) recommendations for the best use of the resources of the Department of Justice to enforce that section; and

(3) an estimate of the amount of activity and money being used to gamble on the Internet.

(f) REPORT ON COSTS.—Not later than 3 years after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress that includes—

(1) an analysis of existing and potential methods or technologies for filtering or screening transmissions in violation of section 1085 of title 18, United States Code, as added by this section, that originate outside of the territorial boundaries of any State or the United States;

(2) a review of the effect, if any, on interactive computer services of any court ordered temporary restraining orders or injunctions imposed on those services under this section;

(3) a calculation of the cost to the economy of illegal gambling on the Internet, and other societal costs of such gambling; and

(4) an estimate of the effect, if any, on the Internet caused by any court ordered temporary restraining orders or injunctions imposed under this section.

(g) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section, the amendments made by this section, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 625. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION. (a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

SEC. 626. (a) Add the following at the end of section 1153(b)(5)(C) of title 8, United States Code:

"(iv) DEFINITION.—

"(I) As used in this subsection the term 'capital' means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a payback period that exceeds 21 months.

"(II) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.".

(b) This section shall not apply to any application filed prior to July 23, 1998.

SEC. 627. (a) REQUIREMENT.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—

"(1) IN GENERAL.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

"(2) DEFINITIONS.—As used in this subsection:

"(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

"(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

"(C) SCREENING SOFTWARE.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

SEC. 628. REPORT ON KOREAN STEEL SUBSIDIES. (a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act,

the United States Trade Representative (in this section referred to as the "Trade Representative") shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

SEC. 629. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GMDSS).

SEC. 630. AGRICULTURAL EXPORT CONTROLS. The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

"SEC. 208. AGRICULTURAL CONTROLS.

"(a) IN GENERAL.—

"(1) REPORT TO CONGRESS.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(2) APPLICATION OF PARAGRAPH (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

"(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

"(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(b) JOINT RESOLUTION.—

"(1) IN GENERAL.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on _____.', with the blank space being filled with the appropriate date.

"(2) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) REFERRAL.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

"(4) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) CONSIDERATION IN SENATE AND HOUSE OF REPRESENTATIVES.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) PASSAGE BY 1 HOUSE.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(c) COMPUTATION OF TIME.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.".

SEC. 631. INVESTIGATION OF PRACTICES OF CANADIAN WHEAT BOARD. (a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) SCOPE OF INVESTIGATION.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) ACTION BASED ON RESULTS OF THE INVESTIGATION.—

(1) IN GENERAL.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) CORRECTION OF HARMONIZATION PROBLEMS.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) DEFINITION OF GRAIN.—For purposes of this section, the terms "Canadian grain" and "grain" include spring wheat, durum wheat, and barley.

SEC. 632. (a) IN GENERAL.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

"(c) FM TRANSLATOR STATIONS.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and

lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

"(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

"(B) authority to operate the station (either omnidirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

"(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

"(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

"(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

"(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

"(A) may accept or receive any amount of theoretical interference from any full service FM station;

"(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

"(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

"(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

"(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

"(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

"(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

"(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).".

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

"SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.".

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading on September 30, 1997, $45,326,000 are rescinded.

FEDERAL BUREAU OF INVESTIGATION

(RESCISSIONS)

Of the funds provided in previous Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"Construction, 1996", $6,000,000.

"Construction, 1998", $4,000,000.

"Salaries and Expenses-Legal Attaché, 1998", $4,178,000.

"Salaries and Expenses, no year", $6,400,000.

"Violent Crime Reduction Program, 1996", $2,000,000.

"Violent Crime Reduction Program, 1997", $300,000.

DEPARTMENT OF COMMERCE

(RESCISSIONS)

Of the funds provided in previous Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"United States Travel and Tourism Administration, no year", $915,000.

"Endowment for Children's Educational TV, no year", $1,175,000.

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

TITLE VIII—LOCAL GOVERNMENT LAW ENFORCEMENT BLOCK GRANT ACT

SEC. 801. SHORT TITLE; DEFINITIONS. (a) SHORT TITLE.—This title may be cited as the "Local Government Law Enforcement Block Grant Act of 1998".

(b) DEFINITIONS.—In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

(2) JUVENILE.—The term "juvenile" means an individual who is 17 years of age or younger.

(3) LAW ENFORCEMENT EXPENDITURES.—The term "law enforcement expenditures" means the current operation expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported to the Bureau of the Census.

(4) PART 1 VIOLENT CRIMES.—The term "part 1 violent crimes" means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

(5) PAYMENT PERIOD.—The term "payment period" means each 1-year period beginning on October 1 of any year in which a grant under this Act is awarded.

(6) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 805(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

(7) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a general purpose unit of local government, as determined by the Secretary of Commerce for general statistical purposes, including a parish sheriff in the State of Louisiana;

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers; and

(C) the Commonwealth of Puerto Rico, in addition to being considered a State, for the purposes set forth in section 802(a)(2).

SEC. 802. PAYMENTS TO LOCAL GOVERNMENTS. (a) PAYMENT AND USE.—

(1) PAYMENT.—The Director shall pay to each unit of local government that qualifies for a payment under this Act an amount equal to the sum of any amounts allocated to such unit under this Act for each payment period. The Director shall pay such amount from amounts appropriated to carry out this Act.

(2) USE.—Amounts paid to a unit of local government under this section shall be used by the unit for reducing crime and improving public safety, including but not limited to, 1 or more of the following purposes:

(A)(i) Hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel.

(ii) Paying overtime to presently employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel.

(iii) Procuring equipment, technology, and other material directly related to basic law enforcement functions.

(B) Enhancing security measures—

(i) in and around schools; and

(ii) in and around any other facility or location that is considered by the unit of local government to have a special risk for incidents of crime.

(C) Establishing crime prevention programs that may, though not exclusively, involve law enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood watch and citizen patrol programs, sexual assault and domestic violence programs, and programs intended to prevent juvenile crime.

(D) Establishing or supporting drug courts.

(E) Establishing early intervention and prevention programs for juveniles to reduce or eliminate crime.

(F) Enhancing the adjudication process of cases involving violent offenders, including the adjudication process of cases involving violent juvenile offenders.

(G) Enhancing programs under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

(H) Establishing cooperative task forces between adjoining units of local government to work cooperatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug or gang-related involvement.

(I) Establishing a multijurisdictional task force, particularly in rural areas, composed of law enforcement officials representing units of local government, that works with Federal law enforcement officials to prevent and control crime.

(J) Establishing or supporting programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests.

(3) DEFINITIONS.—In this subsection—

(A) the term "violent offender" means a person charged with committing a part I violent crime; and

(B) the term "drug courts" means a program that involves—

(i) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

(ii) the integrated administration of other sanctions and services, which shall include—

(I) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

(II) substance abuse treatment for each participant;

(III) probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(IV) programmatic, offender management, and aftercare services such as relapse prevention, vocational job training, job placement, and housing placement.

(b) PROHIBITED USES.—Notwithstanding any other provision of this Act, a unit of local government may not expend any of the funds provided under this Act to purchase, lease, rent, or otherwise acquire—

(1) tanks or armored personnel carriers;

(2) fixed wing aircraft;

(3) limousines;

(4) real estate;

(5) yachts;

(6) consultants; or

(7) vehicles not primarily used for law enforcement;

unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of funds for such purposes essential to the maintenance of public safety and good order in such unit of local government. With regard to paragraph (2), such circumstances shall be deemed to exist with respect to a unit of local government in a rural State, as defined in section 1501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb), upon certification by the chief law enforcement officer of the unit of local government that the unit of local government is experiencing an increase in production or cultivation of a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), and that the fixed wing aircraft will be used in the detection, disruption, or abatement of such production or cultivation.

(c) TIMING OF PAYMENTS.—The Director shall pay each unit of local government that has submitted an application under this Act not later than the later of—

(1) 90 days after the date that the amount is available; or

(2) the first day of the payment period if the unit of local government has provided the Director with the assurances required by section 804(c).

(d) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Director shall adjust a payment under this Act to a unit of local government to the extent that a prior payment to the unit of local government was more or less than the amount required to be paid.

(2) CONSIDERATIONS.—The Director may increase or decrease under this subsection a payment to a unit of local government only if the Director determines the need for the increase or decrease, or if the unit requests the increase or decrease, not later than 1 year after the end of the payment period for which a payment was made.

(e) RESERVATION FOR ADJUSTMENT.—The Director may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of local government in a State if the Director considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of local government in the State.

(f) REPAYMENT OF UNEXPENDED AMOUNTS.—

(1) REPAYMENT REQUIRED.—A unit of local government shall repay to the Director, by not later than 27 months after receipt of funds from the Director, any amount that is—

(A) paid to the unit from amounts appropriated under the authority of this section; and

(B) not expended by the unit within 2 years after receipt of such funds from the Director.

(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Director shall reduce payment in future payment periods accordingly.

(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Director as repayments under this subsection shall be deposited in a designated fund for future payments to units of local government. Any amounts remaining in such designated fund after 5 years following the date of enactment of this Act shall be applied to the Federal deficit or, if there is no Federal deficit, to reducing the Federal debt.

(g) NONSUPPLANTING REQUIREMENT.—Funds made available under this Act to units of local government shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of funds made available under this Act, be made available from State or local sources.

(h) MATCHING FUNDS.—The Federal share of a grant received under this Act may not exceed 90 percent of the costs of a program or proposal funded under this Act. No funds provided under this Act may be used as matching funds for any other Federal grant program.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act $750,000,000 for each of fiscal years 1998 through 2003.

(b) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—Not more than 3 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1998 through 2003 shall be available to the Attorney General for studying the overall effectiveness and efficiency of the provisions of this Act, and assuring compliance with the provisions of this Act and for administrative costs to carry out the purposes of this Act. From the amount described in the preceding sentence, the Bureau of Justice Assistance shall receive such sums as may be necessary for the actual costs of administration and monitoring. The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients. Such sums are to remain available until expended.

(c) FUNDING SOURCE.—Appropriations for activities authorized in this Act may be made from the Violent Crime Reduction Trust Fund.

(d) TECHNOLOGY ASSISTANCE.—Of the amount appropriated under subsection (a) for each of fiscal years 1998 through 2003, the Attorney General shall reserve—

(1) 3 percent for use by the Bureau of Justice Statistics for information and identification technology, including the Integrated Automated Fingerprint Identification System (IAFIS), DNA, and ballistics systems; and

(2) 3 percent for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement.

(e) AVAILABILITY.—The amounts appropriated under subsection (a) shall remain available until expended.

SEC. 804. QUALIFICATION FOR PAYMENT. (a) IN GENERAL.—The Director shall issue regulations establishing procedures under which a unit of local government is required to provide notice to the Director regarding the proposed use of funds made available under this Act.

(b) PROGRAM REVIEW.—The Director shall establish a process for the ongoing evaluation of projects developed with funds made available under this Act.

(c) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit of local government submits an application to the Director and establishes, to the satisfaction of the Director, that—

(1) the unit of local government has established a local advisory board that—

(A) includes, but is not limited to, a representative from—

(i) the local police department or local sheriff's department;

(ii) the local prosecutor's office;

(iii) the local court system;

(iv) the local public school system; and

(v) a local nonprofit, educational, religious, or community group active in crime prevention or drug use prevention or treatment;

(B) has reviewed the application; and

(C) is designated to make nonbinding recommendations to the unit of local government for the use of funds received under this Act;

(2) the chief executive officer of the State has had not less than 20 days to review and comment on the application prior to submission to the Director;

(3)(A) the unit of local government will establish a trust fund in which the government will deposit all payments received under this Act; and

(B) the unit of local government will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the unit of local government;

(4) the unit of local government will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the unit of local government;

(5) the unit of local government will use accounting, audit, and fiscal procedures that conform to guidelines, which shall be prescribed by the Director after consultation with the Comptroller General of the United States and as applicable, amounts received under this Act shall be audited in compliance with the Single Audit Act of 1984;

(6) after reasonable notice from the Director or the Comptroller General of the United States to the unit of local government, the unit of local government will make available to the Director and the Comptroller General of the United States, with the right to inspect, records that the Director reasonably requires to review compliance with this Act or that the Comptroller General of the United States reasonably requires to review compliance and operation;

(7) a designated official of the unit of local government shall make reports the Director reasonably requires, in addition to the annual reports required under this Act;

(8) the unit of local government will spend the funds made available under this Act only for the purposes set forth in section 802(a)(2);

(9) the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service if such unit uses funds received under this Act to increase the number of law enforcement officers as described under section 802(a)(2)(A);

(10) the unit of local government—

(A) has an adequate process to assess the impact of any enhancement of a school security measure that is undertaken under section 802(a)(2)(B), or any crime prevention programs that are established under subparagraphs (C) and (E) of section 802(a)(2), on the incidence of crime in the geographic area where the enhancement is undertaken or the program is established;

(B) will conduct such an assessment with respect to each such enhancement or program; and

(C) will submit an annual written assessment report to the Director; and

(11) the unit of local government has established procedures to give members of the Armed Forces who, on or after October 1, 1990, were or are selected for involuntary separation (as described in section 1141 of title 10, United States Code), approved for separation under section 1174a or 1175 of such title, or retired pursuant to the authority provided under section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 1293 note), a suitable preference in the employment of persons as additional law enforcement officers or support personnel using funds made available under this Act. The nature and extent of such employment preference shall be jointly established by the Attorney General and the Secretary of Defense. To the extent practicable, the Director shall endeavor to inform members who were separated between October 1, 1990, and the date of enactment of this Act of their eligibility for the employment preference.

(d) SANCTIONS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—If the Director determines that a unit of local government has not complied substantially with the requirements or regulations prescribed under subsections (a) and (c), the Director shall notify the unit of local government that if the unit of local government does not take corrective action within 60 days of such notice, the Director will withhold additional payments to the unit of local government for the current and future payment periods until the Director is satisfied that the unit of local government—

(A) has taken the appropriate corrective action; and

(B) will comply with the requirements and regulations prescribed under subsections (a) and (c).

(2) NOTICE.—Before giving notice under paragraph (1), the Director shall give the chief executive officer of the unit of local government reasonable notice and an opportunity for comment.

(e) MAINTENANCE OF EFFORT REQUIREMENT.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit's expenditures on law enforcement services (as reported by the Bureau of the Census) for the fiscal year preceding the fiscal year in which the payment period occurs were not less than 90 percent of the unit's expenditures on such services for the second fiscal year preceding the fiscal year in which the payment period occurs.

SEC. 805. ALLOCATION AND DISTRIBUTION OF FUNDS. (a) STATE SET-ASIDE.—

(1) IN GENERAL.—Of the total amounts appropriated for this Act for each payment period, the Director shall allocate for units of local government in each State an amount that bears the same ratio to such total as the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

(2) MINIMUM REQUIREMENT.—Each State shall receive not less than 0.5 percent of the total amounts appropriated under section 803 under this subsection for each payment period.

(3) PROPORTIONAL REDUCTION.—If amounts available to carry out paragraph (2) for any payment period are insufficient to pay in full the total payment that any State is otherwise eligible to receive under paragraph (1) for such period, then the Director shall reduce payments under paragraph (1) for such payment period to the extent of such insufficiency. Reductions under the preceding sentence shall be allocated among the States (other than States whose payment is determined under paragraph (2)) in the same proportions as amounts would be allocated under paragraph (1) without regard to paragraph (2).

(b) LOCAL DISTRIBUTION.—

(1) IN GENERAL.—From the amount reserved for each State under subsection (a), the Director shall allocate among units of local government an amount that bears the same ratio to the aggregate amount of such funds as

(A) the product of—

(i) two-thirds; multiplied by

(ii) the ratio of the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, to the sum of such violent crime in all units of local government in the State; and

(B) the product of—

(i) one-third; multiplied by

(ii) the ratio of the law enforcement expenditure, for such unit of local government for the most recent year for which such data are available, to such expenditures for all units of local government in the State.

(2) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (1) for a payment period shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.

(3) REALLOCATION.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (2) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

(4) LOCAL GOVERNMENTS WITH ALLOCATIONS OF LESS THAN $10,000.—If under paragraph (1) a unit of local government is allotted less than $10,000 for the payment period, the amount allotted shall be transferred to the chief executive officer of the State who shall distribute such funds among State police departments that provide law enforcement services to units of local government and units of local government whose allotment is less than such amount in a manner that reduces crime and improves public safety.

(5) SPECIAL RULE.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Director in making allocations pursuant to this section, the Director shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

(c) GRANTS TO INDIAN TRIBES.—Notwithstanding subsections (a) and (b), of the amount appropriated under section 803(a) in each of fiscal years 1998 through 2003, the Attorney General shall reserve 0.3 percent for grants to Indian tribal governments performing law enforcement functions, to be used for the purposes described in section 802. To be eligible to receive a grant with amounts set aside under this subsection, an Indian tribal government shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(d) UNAVAILABILITY AND INACCURACY OF INFORMATION.—

(1) DATA FOR STATES.—For purposes of this section, if data regarding part 1 violent crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data regarding the number of violent crimes for such years for such State for the purposes of allocation of any funds under this Act.

(2) POSSIBLE INACCURACY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—In addition to the provisions of paragraph (1), if the Director believes that the reported rate of part 1 violent crimes or legal expenditure information for a unit of local government is insufficient or inaccurate, the Director shall—

(A) investigate the methodology used by such unit to determine the accuracy of the submitted data; and

(B) when necessary, use the best available comparable data regarding the number of violent crimes or legal expenditure information for such years for such unit of local government.

SEC. 806. UTILIZATION OF PRIVATE SECTOR. Funds or a portion of funds allocated under this Act may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 802(a)(2).

SEC. 807. PUBLIC PARTICIPATION. (a) IN GENERAL.—A unit of local government expending

payments under this Act shall hold not less than 1 public hearing on the proposed use of the payment from the Director in relation to its entire budget.

(b) VIEWS.—At the hearing, persons shall be given an opportunity to provide written and oral views to the unit of local government authority responsible for enacting the budget.

(c) TIME AND PLACE.—The unit of local government shall hold the hearing at a time and place that allows and encourages public attendance and participation.

SEC. 808. ADMINISTRATIVE PROVISIONS. The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782 et seq.), shall apply to this Act and for purposes of this section any reference in such provisions to title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall be deemed to be a reference to this Act.

TITLE IX—NATIONAL WHALE CONSERVATION FUND ACT

SEC. 901. SHORT TITLE. This title may be cited as the "National Whale Conservation Fund Act of 1998".

SEC. 902. FINDINGS. Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 903. NATIONAL WHALE CONSERVATION FUND. Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

"(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

"(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

"(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

"(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

"(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

"(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

"(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

"(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

"(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

"(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

"(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

"(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

"(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.".

TITLE X—VAWA RESTORATION ACT

SEC. 1001. SHORT TITLE. This title may be cited as the "VAWA Restoration Act".

SEC. 1002. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE. (a) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting "of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" after "The status";

(2) in subsection (a), by adding at the end the following: "An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).";

(3) in subsection (c)(2), by striking "201(b) or a special" and inserting "201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special";

(4) in subsection (c)(4), by striking "201(b))" and inserting "201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))";

(5) in subsection (c)(5), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))" after "an alien"; and

(6) in subsection (c)(8), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)" after "any alien".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

SEC. 1003. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE. (a) IN GENERAL.—

(1) SPECIAL RULE FOR CALCULATING CONTINUOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

"(1) TERMINATION OF CONTINUOUS PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(B) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.".

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

"(C) Aliens whose removal is canceled under subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—"; and

(B) in clause (i)—

(i) by striking "or" at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iii) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. 1004. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE. (a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

"(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(ii) section 1003 of this title.

TITLE XI—TEMPORARY AGRICULTURAL WORKERS

SEC. 1101. SHORT TITLE; TABLE OF CONTENTS. (a) SHORT TITLE.—This title may be cited as the "Agricultural Job Opportunity Benefits and Security Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1101. Short title; table of contents.
Sec. 1102. Definitions.
Sec. 1103. Agricultural worker registries.
Sec. 1104. Employer applications and assurances.
Sec. 1105. Search of registry.
Sec. 1106. Issuance of visas and admission of aliens.
Sec. 1107. Employment requirements.
Sec. 1108. Enforcement and penalties.
Sec. 1109. Alternative program for the admission of temporary H–2A workers.
Sec. 1110. Inclusion in employment-based immigration preference allocation.
Sec. 1111. Migrant and seasonal Head Start program.
Sec. 1112. Regulations.
Sec. 1113. Funding.
Sec. 1114. Report to Congress.
Sec. 1115. Presidential authority.
Sec. 1116. Effective date.

SEC. 1102. DEFINITIONS. In this title:

(1) ADVERSE EFFECT WAGE RATE.—The term "adverse effect wage rate" means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) ELIGIBLE.—The term "eligible" as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) EMPLOYER.—The term "employer" means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) JOB OPPORTUNITY.—The term "job opportunity" means a specific period of employment for a worker in one or more specified agricultural activities.

(6) PREVAILING WAGE.—The term "prevailing wage" means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) REGISTERED WORKER.—The term "registered worker" means an individual whose name appears in a registry.

(8) REGISTRY.—The term "registry" means an agricultural worker registry established under section 1103(a).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) UNITED STATES WORKER.—The term "United States worker" means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this title.

SEC. 1103. AGRICULTURAL WORKER REGISTRIES. (a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) COVERAGE.—

(A) SINGLE STATE OR GROUP OF STATES.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) REQUESTS FOR INCLUSION.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a registry or by a registry of contiguous States.

(b) REGISTRATION.—

(1) IN GENERAL.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) VALIDATION OF EMPLOYMENT AUTHORIZATION.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) WORKERS REFERRED TO JOB OPPORTUNITIES.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section 1105 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section 1105.

(4) REMOVAL OF NAMES FROM A REGISTRY.—The Secretary shall remove from all registries the name of any registered worker who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) VOLUNTARY REMOVAL.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) REMOVAL BY EXPIRATION.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) REINSTATEMENT.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) CONFIDENTIALITY OF REGISTRIES.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

SEC. 1104. EMPLOYER APPLICATIONS AND ASSURANCES. (a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section 1105. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this title.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) IN GENERAL.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) EMPLOYERS.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this title.

(b) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may delay issuance of the report described in section 1105(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) ASSURANCES.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) ASSURANCE THAT THE JOB OPPORTUNITY IS NOT A RESULT OF A LABOR DISPUTE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.—

(A) REQUIRED ASSURANCE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) SEASONAL BASIS.—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) TEMPORARY BASIS.—For purposes of this title, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) ASSURANCE OF PROVISION OF REQUIRED WAGES AND BENEFITS.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section 1107 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) ASSURANCE OF EMPLOYMENT.—The employer shall assure that the employer will refuse to employ individuals referred under section 1105, or terminate individuals employed pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) ASSURANCE OF COMPLIANCE WITH LABOR LAWS.—

(A) IN GENERAL.—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) LIMITATIONS.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) ASSURANCE OF ADVERTISING OF THE REGISTRY.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) ASSURANCE OF CONTACTING FORMER WORKERS.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) ASSURANCE OF PROVISION OF WORKERS COMPENSATION.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(d) WITHDRAWAL OF APPLICATIONS.—

(1) IN GENERAL.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) LIMITATION.—An application may not be withdrawn while any alien provided status under this title pursuant to such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) REVIEW OF APPLICATION.—

(1) IN GENERAL.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) APPROVAL OF APPLICATIONS.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section 1108(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) REJECTION OF APPLICATIONS.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) REJECTION FOR PROGRAM VIOLATIONS.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section 1108(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

SEC. 1105. SEARCH OF REGISTRY. (a) SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.—Upon the approval of an application under section 1104(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) DEADLINE FOR COMPLETING SEARCH PROCESS; REFERRAL OF WORKERS.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) NOTICE OF INSUFFICIENT WORKERS.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section 1104(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

SEC. 1106. ISSUANCE OF VISAS AND ADMISSION OF ALIENS. (a) IN GENERAL.—

(1) NUMBER OF ADMISSIONS.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section 1105(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) PROCEDURES.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this title.

(3) AGRICULTURAL ASSOCIATIONS.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section 1104(a)(2)(B). Independent contractors, agricultural associations, and such similar entities shall be subject to a cap on the number of H2–A visas that they may sponsor at the discretion of the Secretary of Labor.

(b) DIRECT APPLICATION UPON FAILURE TO ACT.—

(1) APPLICATION TO THE SECRETARY OF STATE.—If the employer has not received a referral of sufficient workers pursuant to section 1105(b) or a report of insufficient workers pursuant to section 1105(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section 1104(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this title in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. 1107. EMPLOYMENT REQUIREMENTS. (a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section 1104(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY A STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(A) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment

does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) TASK RATE.—For purposes of this paragraph, the term "task rate" means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) GROUP RATE.—For purposes of this paragraph, the term "group rate" means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—An employer applying under section 1104(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) TYPE OF HOUSING.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) LIMITATION.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) DAMAGES.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) EFFECT OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section 1105(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section 1105(a).

(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section 1105(a), or an alien employed pursuant to this title, who completes the period of employment for the job opportunity involved, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence.

(3) LIMITATION.—

(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(d) CONTINUING OBLIGATION TO EMPLOY UNITED STATES WORKERS.—

(1) IN GENERAL.—An employer that applies for registered workers under section 1104(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section 1105(b) after the employer receives the report described in section 1105(b).

(2) LIMITATION.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section 1104(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which the worker is qualified that offer substantially similar terms and conditions of employment.

(3) LIMITATION ON REQUIREMENT TO PROVIDE HOUSING.—Notwithstanding any other provision of this title, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) REFERRAL OF WORKERS DURING 50-PERCENT PERIOD.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this title.

SEC. 1108. ENFORCEMENT AND PENALTIES. (a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section 1104 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable

cause to believe that such a failure or misrepresentation has occurred.

(B) STATUTORY CONSTRUCTION.—Nothing in this title limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this title.

(2) WRITTEN NOTICE OF FINDING AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this title, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section 1104(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section 1104,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) PROGRAM DISQUALIFICATION.—

(A) 3 YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this title or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this title, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this title.

SEC. 1109. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H-2A WORKERS. (a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking "(c)(1) The" and inserting "(c)(1)(A) Except as provided in subparagraph (B), the"; and

(C) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section 1104(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.".

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

"ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H-2A WORKERS

"SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

"(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

"(A) CRITERIA FOR ADMISSIBILITY.—

"(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section 1106 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

"(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

"(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

"(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

"(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

"(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

"(C) ABANDONMENT OF EMPLOYMENT.—

"(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section 1106 of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien's employment.

"(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

"(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

"(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

"(I) specify the date of the alien's acquisition of status under this section;

"(II) specify the expiration date of the alien's work authorization; and

"(III) specify the alien's admission number or alien file number.

"(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

"(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section 1106(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section 1106 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

"(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

"(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

"(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

"(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

"(b) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and make recommendations on appropriate courses of action.".

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking "specified in this paragraph" and inserting "specified in this subparagraph (other than in clause (ii)(a))".

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

"Sec. 218A. Alternative program for the admission of H-2A workers.".

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking "ALTERNATIVE PROGRAM FOR".

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

"(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).".

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

"(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.".

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

SEC. 1110. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION. (a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

"(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.".

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(iv)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this title.

SEC. 1111. MIGRANT AND SEASONAL HEAD START PROGRAM. (a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting "and seasonal" after "migrant"; and

(2) by inserting before the period the following: ", or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period".

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike "13" and insert "14";

(2) in paragraph (2)(A), by striking "1994" and inserting "1998"; and

(3) by adding at the end the following new paragraph:

"(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.".

SEC. 1112. REGULATIONS. (a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. 1113. FUNDING. If additional funds are necessary to pay the start-up costs of the registries established under section 1103(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.). Except as provided for by subsequent appropriation, additional expenses incurred for administration by the Attorney General, the Secretary of Labor, and the Secretary of State shall be paid for out of appropriations otherwise made available to their respective departments.

SEC. 1114. REPORT TO CONGRESS. Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, the Attorney General and the Secretaries of Agriculture and Labor

shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their authorized stay ends;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of United States workers and aliens admitted under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the housing provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.

SEC. 1115. PRESIDENTIAL AUTHORITY. In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles—

(1) where the procedures for using the program are simple and the least burdensome for growers;

(2) which assures an adequate labor supply for growers in a predictable and timely manner;

(3) that provides a clear and meaningful first preference for United States farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop;

(4) which avoids the transfer of costs and risks from businesses to low wage workers;

(5) that encourages longer periods of employment for legal United States workers;

(6) which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

SEC. 1116. EFFECTIVE DATE. This title and the amendments made by this title shall take effect 180 days after the date of enactment of this title.

TITLE XII—NURSING RELIEF FOR DISADVANTAGED AREAS

SEC. 1201. SHORT TITLE. This title may be cited as the "Nursing Relief for Disadvantaged Areas Act of 1998".

SEC. 1202. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS DURING 4-YEAR PERIOD.—

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "; or" at the end and inserting the following: ", or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or".

(b) REQUIREMENTS.—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

"(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to alien who is coming to the United States to perform nursing services for a facility, are that the alien—

"(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

"(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

"(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

"(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to a facility for which an alien will perform services, is an attestation as to the following:

"(i) The facility meets all the requirements of paragraph (6).

"(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

"(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

"(iv) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

"(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

"(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

"(vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

"(viii) The facility will not, with respect to any alien issued a visa or otherwise provided non-immigrant status under section 101(a)(15)(H)(i)(c)—

"(I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

"(II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Health Professional Shortage Area Nursing Relief Act of 1998. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of the filing.

"(B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

"(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

"(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

"(iv) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv). Subparagraph (A)(iv)'s requirement shall be satisfied by a facility taking any of the steps listed in this subparagraph.

"(C) Subject to subparagraph (E), an attestation under subparagraph (A)—

"(i) shall expire on the date that is the later of—

"(I) the end of the one-year period beginning of the date of its filing with the Secretary of Labor; or

"(II) the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied (in accordance with clause (ii)); and

"(ii) shall apply to petitions filed during the one-year period beginning on the date of its filing with the Secretary of Labor if the facility states in each such petition that it continues to comply with the conditions in the attestation.

"(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

"(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

"(ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this

clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established under this clause, this subparagraph shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

"(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such an administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

"(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding $250.

"(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

"(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

"(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

"(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of petitions granted under section 101(a)(15)(H)(i)(c) for each State in each fiscal year shall not exceed the following:

"(A) For States with populations of less than 9,000,000 based upon the 1990 decennial census of population, 25 petitions.

"(B) For States with populations of 9,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

"(C) If the total number of visas available under this paragraph for a calendar quarter exceeds the number of qualified nonimmigrants who may be issued such visas, the visas made available under this paragraph shall be issued without regard to the numerical limitations under subparagraphs (A) and (B) of this paragraph during the remainder of the calendar quarter.

"(5) A facility that has filed a petition under section 101(a)(15)(H)(I)(c) to employ a nonimmigrant to perform nursing services for the facility—

"(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

"(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

"(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

"(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term 'facility' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements:

"(A) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

"(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

"(i) the hospital has not less than 190 licensed acute care beds;

"(ii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital's acute care inpatient days for such period; and

"(iii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital's acute care inpatient days for such period.".

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).

SEC. 1203. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE. Not later than the last day of the 4-year period described in section 1202(e), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section 1202(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section 1202) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999".

MODIFICATION TO AMENDMENT NO. 3258 OF S. 2260

Mr. CAMPBELL. Mr. President, during the consideration of S. 2260 and amendment No. 3258, language was inadvertently omitted.

I ask unanimous consent that in the engrossment of the bill the language that was omitted that is now at the desk be added at the appropriate place.

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

The modification is as follows:

At the end of Section 13, before the period, insert "made available to their respective departments".

EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO DEMOCRACY AND HUMAN RIGHTS IN THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 429, S. Res. 240.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 240) expressing the sense of the Senate with respect to democracy and human rights in the Lao People's Democratic Republic.

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with amendments.

(The parts of the resolution intended to be stricken are shown in boldface brackets and the parts of the resolution intended to be inserted are shown in italic.)

S. RES. 240

Whereas in 1975, the Pathet Lao party supplanted the existing Lao government and the Lao Royal Family, and established a "people's democratic republic", in violation of the 1962 Declaration on the Neutrality of Laos and its Protocol, as well as the 1973 Vientiane Agreement on Laos;

Whereas since the 1975 overthrow of the existing Lao government, Laos has been under the sole control of the Lao People's Democratic Party;

Whereas the present Lao Constitution provides for human rights protection for the

Lao people, and Laos is a signatory to international agreements on civil and political rights;

Whereas Laos has become a member of the Association of Southeast Asian Nations, which calls for the creation of open societies in each of its member states by the year 2020;

Whereas despite that, the State Department's "Country Reports on Human Rights Practices for 1997" notes that the government has only slowly eased restrictions on basic freedoms and begun codification of implementing legislation for rights stipulated in the Lao Constitution, and continues to significantly restrict the freedoms of speech, assembly, and religion; and

Whereas on January 30, 1998, the Lao government arrested and detained forty-four individuals at a Bible study meeting in Vientiane and on March 25 sentenced thirteen Christians from the group to prison terms of three to five years for "creating divisions among the people, undermining the government, and accepting foreign funds to promote religion": Now, therefore, be it

Resolved, That it is the sense of the Senate that the present government of Laos should—

(1) respect international norms of human rights and democratic freedoms for the Lao people, and fully honor its commitments to those norms and freedoms as embodied in its constitution and international agreements, and in the 1962 Declaration on the Neutrality of Laos and its Protocol and the 1973 Vientiane Agreement on Laos;

(2) issue a public statement specifically reaffirming its commitment to protecting religious freedom *and other basic human rights;* [and]

(3) fully institute a process of democracy, human rights, and openly-contested free and fair elections in Laos, and ensure specifically that the National Assembly elections—currently scheduled for 2002—are openly contested[.]; *and*

(4) allow access for international human rights monitors, including the International Committee of the Red Cross to Lao prisons, and to all regions of the country to investigate allegations of human rights abuses, including those against the Hmong people, when requested.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the committee amendments be agreed to, as amended, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at this point in the RECORD.

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

The committee amendments were agreed to.

The resolution, (S. Res. 240) as amended, was agreed to.

The preamble was agreed to.

EXPRESSING THE SENSE OF CONGRESS CONCERNING THE HUMAN RIGHTS AND HUMANITARIAN SITUATION FACING THE WOMEN AND GIRLS OF AFGHANISTAN

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 428, Senate Concurrent Resolution 97.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A resolution (S. Con. Res. 97) expressing the sense of Congress concerning human rights and humanitarian situation facing women and girls of Afghanistan.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with amendments.

Mr. CAMPBELL. Mr. President, I ask unanimous consent the committee amendment be agreed to, the concurrent resolution as amended and the preamble be agreed to en bloc, and the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be placed in the RECORD at the appropriate place as if read.

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

The committee amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

The text of the concurrent resolution (S. Con. Res. 97) will be printed in a future edition of the RECORD.

AMY SOMERS VOLUNTEERS AT FOOD BANKS ACT

Mr. CAMPBELL. I further ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 3152 and, further, 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 bill (H.R. 3152) to provide that certain volunteers at private nonprofit food banks are not employees for purposes of the Fair Labor Standards Act of 1938.

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

Mr. CAMPBELL. Mr. President, I ask unanimous consent the bill 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 this point in the RECORD.

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

The bill (H.R. 3152) was passed.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

Mr. CAMPBELL. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 1260) to amend the Securities Act of 1933 and Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1260) entitled "An Act to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Litigation Uniform Standards Act of 1998".

TITLE I—SECURITIES LITIGATION UNIFORM STANDARDS

SEC. 101. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—

"(1) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

"(A) ACTIONS PRESERVED.—Notwithstanding subsection (b) or (c), a covered class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A covered class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(2) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named

plaintiffs, and that have authorized participation, in such action.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

"(3) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding subsection (b) or (c), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

"(4) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to subsection (c), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

"(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) COVERED CLASS ACTION.—

"(A) IN GENERAL.—The term 'covered class action' means—

"(i) any single lawsuit in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(B) EXCEPTION FOR DERIVATIVE ACTIONS.—Notwithstanding subparagraph (A), the term 'covered class action' does not include an exclusively derivative action brought by one or more shareholders on behalf of a corporation.

"(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as one person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the discretion of a State court in determining whether actions filed in such court should be joined, consolidated, or otherwise allowed to proceed as a single action.

"(3) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in section 18(b)(1) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred, except that such term shall not include any debt security that is exempt from registration under this title pursuant to rules issued by the Commission under section 4(2) of this title.".

(2) CIRCUMVENTION OF STAY OF DISCOVERY.—Section 27(b) of the Securities Act of 1933 (15 U.S.C. 77z-1(b)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) CIRCUMVENTION OF STAY OF DISCOVERY.—Upon a proper showing, a court may stay discovery proceedings in any private action in a State court as necessary in aid of its jurisdiction, or to protect or effectuate its judgments, in an action subject to a stay of discovery pursuant to this subsection.".

(3) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting "except as provided in section 16 with respect to covered class actions," after "Territorial courts,"; and

(B) by striking "No case" and inserting "Except as provided in section 16(c), no case".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) AMENDMENT.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(A) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

(B) by adding at the end the following new subsection:

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) PRESERVATION OF CERTAIN ACTIONS.—

"(A) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

"(i) ACTIONS PRESERVED.—Notwithstanding paragraph (1) or (2), a covered class action described in clause (ii) of this subparagraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(ii) PERMISSIBLE ACTIONS.—A covered class action is described in this clause if it involves—

"(I) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(II) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

"(aa) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(bb) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(B) STATE ACTIONS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named plaintiffs, and that have authorized participation, in such action.

"(ii) STATE PENSION PLAN DEFINED.—For purposes of this subparagraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

"(C) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding paragraph (1) or (2), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

"(D) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to paragraph (2), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

"(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(B) COVERED CLASS ACTION.—The term 'covered class action' means—

"(i) any single lawsuit in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(C) EXCEPTION FOR DERIVATIVE ACTIONS.—Notwithstanding subparagraph (B), the term 'covered class action' does not include an exclusively derivative action brought by one or more shareholders on behalf of a corporation.

"(D) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as one person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(E) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in section 18(b)(1) of the Securities Act of 1933, at the

time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred, except that such term shall not include any debt security that is exempt from registration under the Securities Act of 1933 pursuant to rules issued by the Commission under section 4(2) of such Act.

"(F) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the discretion of a State court in determining whether actions filed in such court should be joined, consolidated, or otherwise allowed to proceed as a single action.".

(2) CIRCUMVENTION OF STAY OF DISCOVERY.—Section 21D(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(b)(3)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) CIRCUMVENTION OF STAY OF DISCOVERY.—Upon a proper showing, a court may stay discovery proceedings in any private action in a State court as necessary in aid of its jurisdiction, or to protect or effectuate its judgments, in an action subject to a stay of discovery pursuant to this paragraph.".

(c) APPLICABILITY.—The amendments made by this section shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

SEC. 102. PROMOTION OF RECIPROCAL SUBPOENA ENFORCEMENT.

(a) COMMISSION ACTION.—The Securities and Exchange Commission, in consultation with State securities commissions, shall seek to encourage the adoption of State laws providing for reciprocal enforcement by State securities commissions of subpoenas issued by another State securities commission seeking to compel persons to attend, testify in, or produce documents or records in connection with an action or investigation by a State securities commission of an alleged violation of State securities laws.

(b) REPORT.—Within 24 months after the date of enactment of this Act, the Commission shall submit a report to the Congress—

(1) identifying the States that have adopted laws described in subsection (a);

(2) describing the actions undertaken by the Commission and State securities commissions to promote the adoption of such laws; and

(3) identifying any further actions the Commission recommends for such purposes.

SEC. 103. REPORT ON CONSEQUENCES.

The Securities and Exchange Commission shall include in each of its first three annual reports submitted after the date of enactment of this Act a report regarding—

(1) the nature and the extent of the class action cases that are preempted by, or removed pursuant to, the amendments made by section 101 of this title;

(2) the extent to which that preemption or removal either promotes or adversely affects the protection of securities investors or the public interest; and

(3) if adverse effects are found, alternatives to, or revisions of, such preemption or removal that—

(A) would not have such adverse effects;

(B) would further promote the protection of investors and the public interest; and

(C) would still substantially reduce the risk of abusive securities litigation.

TITLE II—REAUTHORIZATION OF THE SECURITIES AND EXCHANGE COMMISSION

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission $351,280,000 for fiscal year 1999.

"(b) MISCELLANEOUS EXPENSES.—Funds appropriated pursuant to this section are authorized to be expended—

"(1) not to exceed $3,000 per fiscal year, for official reception and representation expenses;

"(2) not to exceed $10,000 per fiscal year, for funding a permanent secretariat for the International Organization of Securities Commissions; and

"(3) not to exceed $100,000 per fiscal year, for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives, and staff to exchange views concerning developments relating to securities matters, for development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings, including—

"(A) such incidental expenses as meals taken in the course of such attendance;

"(B) any travel or transportation to or from such meetings; and

"(C) any other related lodging or subsistence.".

SEC. 202. REQUIREMENTS FOR THE EDGAR SYSTEM.

Section 35A of the Securities Exchange Act of 1934 (15 U.S.C. 78ll) is amended—

(1) by striking subsections (a), (b), (c), and (e); and

(2) in subsection (d)—

(A) by striking the subsection designation;

(B) by striking "; and" at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

TITLE III—CLERICAL AND TECHNICAL AMENDMENTS

SEC. 301. CLERICAL AND TECHNICAL AMENDMENTS.

(a) SECURITIES ACT OF 1933.—The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended as follows:

(1) Section 2(a)(15)(i) (15 U.S.C. 77b(a)(15)(i)) is amended by striking "section 2(13) of the Act" and inserting "paragraph (13) of this subsection".

(2) Section 11(f)(2)(A) (15 U.S.C. 77k(f)(2)(A)) is amended by striking "section 38" and inserting "section 21D(f)".

(3) Section 13 (15 U.S.C. 77m) is amended—

(A) by striking "section 12(2)" each place it appears and inserting "section 12(a)(2)"; and

(B) by striking "section 12(1)" each place it appears and inserting "section 12(a)(1)".

(4) Section 18 (15 U.S.C. 77r) is amended—

(A) in subsection (b)(1)(A), by inserting ", or authorized for listing," after "Exchange, or listed";

(B) in subsection (c)(2)(B)(i), by striking "Capital Markets Efficiency Act of 1996" and inserting "National Securities Markets Improvement Act of 1996";

(C) in subsection (c)(2)(C)(i), by striking "Market" and inserting "Markets";

(D) in subsection (d)(1)(A)—

(i) by striking "section 2(10)" and inserting "section 2(a)(10)"; and

(ii) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (a) and (b)";

(E) in subsection (d)(2), by striking "Securities Amendments Act of 1996" and inserting "National Securities Markets Improvement Act of 1996"; and

(F) in subsection (d)(4), by striking "For purposes of this paragraph, the" and inserting "The".

(5) Sections 27, 27A, and 28 (15 U.S.C. 77z-1, 77z-2, 77z-3) are transferred to appear after section 26.

(6) Paragraph (28) of schedule A of such Act (15 U.S.C. 77aa(28)) is amended by striking "identic" and inserting "identical".

(b) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended as follows:

(1) Section 3(a)(10) (15 U.S.C. 78c(a)(10)) is amended by striking "deposit, for" and inserting "deposit for".

(2) Section 3(a)(12)(A) (15 U.S.C. 78c(a)(12)(A)) is amended by moving clause (vi) two em spaces to the left.

(3) Section 3(a)(22)(A) (15 U.S.C. 78c(a)(22)(A)) is amended—

(A) by striking "section 3(h)" and inserting "section 3"; and

(B) by striking "section 3(t)" and inserting "such section 3".

(4) Section 3(a)(39)(B)(i) (15 U.S.C. 78c(a)(39)(B)(i)) is amended by striking "an order to the Commission" and inserting "an order of the Commission".

(5) The following sections are each amended by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System": subsections (a) and (b) of section 7 (15 U.S.C. 78g(a), (b)); section 17(g) (15 U.S.C. 78q(g)); and section 26 (15 U.S.C. 78z).

(6) The heading of subsection (d) of section 7 (15 U.S.C. 78g(d)) is amended by striking "EXCEPTION" and inserting "EXCEPTIONS".

(7) Section 14(g)(4) (15 U.S.C. 78n(g)(4)) is amended by striking "consolidation sale," and inserting "consolidation, sale,".

(8) Section 15 (15 U.S.C. 78o) is amended—

(A) in subsection (c), by moving paragraph (8) two em spaces to the left;

(B) in subsection (h)(2), by striking "affecting" and inserting "effecting";

(C) in subsection (h)(3)(A)(i)(II)(bb), by inserting "or" after the semicolon;

(D) in subsection (h)(3)(A)(ii)(I), by striking "maintains" and inserting "maintained";

(E) in subsection (h)(3)(B)(ii), by striking "association" and inserting "associated".

(9) Section 15B(c)(4) (15 U.S.C. 78o-4(c)(4)) is amended by striking "convicted by any offense" and inserting "convicted of any offense".

(10) Section 15C(f)(5) (15 U.S.C. 78o-5(f)(5)) is amended by striking "any person or class or persons" and inserting "any person or class of persons".

(11) Section 19(c) (15 U.S.C. 78s(c)) is amended by moving paragraph (5) two em spaces to the right.

(12) Section 20 (15 U.S.C. 78t) is amended by redesignating subsection (f) as subsection (e).

(13) Section 21D (15 U.S.C. 78u-4) is amended—

(A) by redesignating subsection (g) as subsection (f); and

(B) in paragraph (2)(B)(i) of such subsection, by striking "paragraph (1)" and inserting "subparagraph (A)".

(14) Section 31(a) (15 U.S.C. 78ee(a)) is amended by striking "this subsection" and inserting "this section".

(c) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended as follows:

(1) Section 2(a)(8) (15 U.S.C. 80a-2(a)(8)) is amended by striking "Unitde" and inserting "United".

(2) Section 3(b) (15 U.S.C. 80a-3(b)) is amended by striking "paragraph (3) of subsection (a)" and inserting "paragraph (1)(C) of subsection (a)".

(3) Section 12(d)(1)(G)(i)(III)(bb) (15 U.S.C. 80a-12(d)(1)(G)(i)(III)(bb)), by striking "the acquired fund" and inserting "the acquired company".

(4) Section 18(e)(2) (15 U.S.C. 80a–18(e)(2)) is amended by striking "subsection (e)(2)" and inserting "paragraph (1) of this subsection".

(5) Section 30 (15 U.S.C. 80a–29) is amended—

(A) by inserting "and" after the semicolon at the end of subsection (b)(1);

(B) in subsection (e), by striking "semi-annually" and inserting "semiannually"; and

(C) by redesignating subsections (g) and (h) as added by section 508(g) of the National Securities Markets Improvement Act of 1996 as subsections (i) and (j), respectively.

(6) Section 31(f) (15 U.S.C. 80a–30(f)) is amended by striking "subsection (c)" and inserting "subsection (e)".

(d) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amended as follows:

(1) Section 203(e)(8)(B) (15 U.S.C. 80b–3(e)(8)(B)) is amended by inserting "or" after the semicolon.

(2) Section 222(b)(2) of (15 U.S.C. 80b–18a(b)(2)) is amended by striking "principle" and inserting "principal".

(e) TRUST INDENTURE ACT OF 1939.—The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended as follows:

(1) Section 303 (15 U.S.C. 77ccc) is amended by striking "section 2" each place it appears in paragraphs (2) and (3) and inserting "section 2(a)".

(2) Section 304(a)(4)(A) (15 U.S.C. 77ddd(a)(4)(A)) is amended by striking "(14) of subsection" and inserting "(13) of section".

(3) Section 313(a) (15 U.S.C. 77mmm(a)) is amended—

(A) by inserting "any change to" after the paragraph designation at the beginning of paragraph (4); and

(B) by striking "any change to" in paragraph (6).

(4) Section 319(b) (15 U.S.C. 77sss(b)) is amended by striking "the Federal Register Act" and inserting "chapter 15 of title 44, United States Code,".

SEC. 302. EXEMPTION OF SECURITIES ISSUED IN CONNECTION WITH CERTAIN STATE HEARINGS.

Section 18(b)(4)(C) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(C)) is amended by striking "paragraph (4) or (11)" and inserting "paragraph (4), (10), or (11)".

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate disagree in the amendment of the House and request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

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

The Presiding Officer appointed Mr. D'AMATO, Mr. GRAMM, Mr. SHELBY, Mr. SARBANES, and Mr. DODD conferees on the part of the Senate.

ORDERS FOR THURSDAY, JULY 30, 1998

Mr. CAMPBELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Thursday, July 30. I further ask that when the Senate reconvenes on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 9:30 a.m., with the time controlled by Senator GRASSLEY or his designee.

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

Mr. CAMPBELL. I now ask that at 9:30 a.m. on Thursday, the Senate proceed to the DOD appropriations bill.

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

PROGRAM

Mr. CAMPBELL. For the information of all Senators, when the Senate reconvenes on Thursday at 9 a.m., there will be a period of morning business until 9:30 a.m. so that several Senators may introduce and discuss a farmer's tax bill. Following morning business, under a previous order, the Senate will begin consideration of S. 2132, the Department of Defense appropriations bill. Members are encouraged to come to the floor early during Thursday's session to offer and debate amendments to the defense bill. The first votes of Thursday's session will be in a stacked series at 2 p.m. Those votes will include any remaining amendments to the Treasury-Postal appropriations bill and possibly amendments to the defense appropriations bill. Members should expect further votes late into the evening on Thursday, as the Senate attempts to complete action on the defense bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. CAMPBELL. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:59 p.m., adjourned until Thursday, July 30, 1998, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 29, 1998:

ENVIRONMENTAL PROTECTION AGENCY

NORINE E. NOONAN, OF FLORIDA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE ROBERT JAMES HUGGETT, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PATRICIA T. MONTOYA, OF NEW MEXICO, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE OLIVIA A. GOLDEN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. ROBERT W. CHEDISTER, XX...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE 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. CHARLES R. HEFLEBOWER, XX...

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

LT. GEN. MICHAEL J. BYRON, XX...

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. VERNON E. CLARK, XX...

DEPARTMENT OF DEFENSE

JAMES M. BODNER, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY, VICE JAN LODAL.

DEPARTMET OF TRANSPORTATION

EUGENE A. CONTI, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE FRANK EUGENE KRUESI, RESIGNED.

DEPARTMENT OF ENERGY

GREGORY H. FRIEDMAN, OF COLORADO, TO BE INSPECTOR GENERAL OF THE DEPARTMENT OF ENERGY, VICE JOHN C. LAYTON, RESIGNED.

DEPARTMENT OF JUSTICE

HARRY LITMAN, OF PENNSYLVANIA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS VICE FREDERICK W. THIEMAN, RESIGNED.

PAUL M. WARNER, OF UTAH, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF UTAH FOR THE TERM OF FOUR YEARS VICE SCOTT M. MATHESON, JR., RESIGNED.