SENATE—*Friday, July 31, 1998*

The Senate met at 10 a.m. and was called to order by the Honorable WAYNE ALLARD, a Senator from the State of Colorado.

PRAYER

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

Gracious God, You have been faithful to help us when we have asked for Your guidance and strength. May we be as quick to praise You for what You have done for us in the past as we are to ask You to bless us in the future. We have come to You in difficulties and crises this week; You have been on time and in time in Your interventions. Thank You, Lord, for Your providential care of this Senate as it has dealt with an immense workload.

Now, as a much needed recess is taken, we thank You for all the people who make it possible for the Senate to function effectively. Especially, we thank You for the Senators' staffs and all those here in the Senate Chamber who work cheerfully and diligently for long hours to keep the legislative process moving smoothly. Help us to take no one for granted and express our gratitude to each one.

Lord, when this day's work is done, give us refreshment of mind, spirit, and body. Watch over us as we are absent from each other and bring us back with renewed dedication to You and this great Nation we serve. In the name of our Lord and Saviour. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE,
Washington, DC, July 31, 1998.

TO THE SENATE: Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WAYNE ALLARD, a Senator from the State of Colorado, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ALLARD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE SENATE CHAPLAIN

Mr. LOTT. Mr. President, we thank our Chaplain for his always meaningful prayers, and we will certainly think of him and all of our colleagues who work with us during this August recess period when we go back to our respective States.

PRAYERS FOR THE FAMILY, FRIENDS AND COLLEAGUES OF OFFICER J.J. CHESTNUT

Mr. LOTT. Mr. President, once again, I want to acknowledge that our thoughts this morning are with the family, friends and colleagues of Officer J.J. Chestnut. He will pass before the Capitol one last time today and be laid to rest. Our hearts continue to be heavy with sorrow for the loss of this fine man. We certainly have his family in our prayers today.

SCHEDULE

Mr. LOTT. Mr. President, we will have a period for morning business today. Following that, the Senate will turn to the consideration of any legislative or Executive Calendar items cleared for action. We are hopeful that some bills can be cleared by unanimous consent. I believe that last night we were able to move around some 20 nominations, plus military nominations, plus at least two or three bills. The Work Force Development Conference Report was one of those. I am glad we were able to move it quickly by unanimous consent. It is almost a shame to do it just in wrap-up because that is such a monumental achievement. We have been working on that legislation now for at least 3 years. We have had difficulty getting it through each body and through conference. But I believe the conferees did a fine job.

I commend Senators JEFFORDS, DEWINE, and all the Senators on both sides of the aisle that were involved in that. That consolidation of jobs training programs will allow us to get better use of the money we have, and a better program for workplace development is an important cog in our effort to improve our overall education opportunities, which should include job training.

As we continue to move toward more and more people going off of welfare and into meaningful jobs, it means we have to continue to work and improve elementary and secondary education, higher education, as well as vocational education and job training. I believe that conference report will do that. I wanted to point out once again this morning what did occur last night. We will continue to try to move other agreed-to bills and conference reports of that nature. We do expect that we will move a number of nominations throughout the day. We may even have to wait a little while to get those agreements worked out or to see if there are others that may be coming out that could be cleared today.

When the Senate returns from the August break, there will be two back-to-back rollcall votes at a time to be determined by the two leaders. Obviously, as we announced last night, there will be no recorded votes today. I know all the Senators already knew that, but I just wanted to confirm it again. As it stands now, we will have two votes when we return, either on August 31, or the 1st of September. The first one will be on the adoption of the Texas low-level waste conference report. There will be 4 hours of debate on that, equally divided, and then a vote. Then we will have a vote on the conference report to accompany the military construction appropriations bill, which will be broadly supported, probably 99–0 or 100–0. As is usually the case, if we don't vote on an appropriations bill when it goes through the Senate the first time, we do usually want to have a vote on the final conference report.

Again, I thank all our colleagues for their cooperation over the last couple of weeks. I think we made some really good progress. We have cleared eight appropriations bills, and the ninth, Treasury-Postal Service is probably within 30 minutes or an hour of completion. I hope we will be able to do that the first week we are back.

We do expect to take up other appropriations bills when we return. I don't know the exact order now, but we have the foreign operations appropriations bill, the Interior appropriations bill, the District of Columbia appropriations bill, and the Labor-HHS, Education appropriations bill. We expect, also, to take up the bankruptcy legislation that came out of the Judiciary Committee. And we do have the trade package from the Finance Committee. I will need to talk with all interested Senators about exactly when and how to schedule that.

I wish all my colleagues a very restful and productive August break. We will look forward to seeing our colleagues then.

● 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

MEASURE PLACED ON CALENDAR—S. 2393

Mr. LOTT. Mr. President, I understand there is a bill at the desk awaiting a second reading.

The ACTING PRESIDENT pro tempore. The leader is correct.

The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2393) to protect the sovereign right of the State of Alaska and prevent the Secretary of Agriculture and the Secretary of the Interior from assuming management of Alaska's fish and game resources.

Mr. LOTT. I object to further consideration of the bill at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. KYL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

COMPLIMENTING THE MAJORITY LEADER FOR HIS REMARKS AT THE MEMORIAL CEREMONY FOR J.J. CHESTNUT AND JOHN GIBSON

Mr. KYL. Mr. President, as long as the majority leader is still on the floor, let me repeat what I told him a couple days ago. The remarks he made on the occasion of the public ceremony in the Rotunda for the two fallen Capitol Police officers, I thought, were extraordinary, right on the mark, and I very much appreciate his representation of the Senate at that occasion. This Nation has now spent 1 week thinking very carefully about what the meaning of the events of just a week ago are. I think that his remarks and the remarks of other speakers on that occasion certainly help to bring proper perspective to those events for all Americans as well as those of us here in the Congress.

THE RUMSFELD COMMISSION REPORT

Mr. KYL. Mr. President, I want to talk this morning about something called the Rumsfeld Report.

There has been a lot of discussion about the Rumsfeld Commission Report in the news media here in Washington. But around the country I have noted there is less coverage of it.

I want to talk a little bit about it today, because I think that the Rumsfeld Commission Report issued to the Congress about 2 weeks ago is probably the most important report that this Congress has received and that it is one of the most important events of the last 2 years with respect to the obligations of the Congress and the administration to ensure the national security of the United States. Of course, when all is said and done, our first responsibility is to the defense of the American people.

By way of background, in the 1996 defense authorization bill we ensured that there was an amendment that required the establishment of the National Missile System by the year 2003.

During the debate on that amendment, however—this was on December 1, 1995—Senators CARL LEVIN and DALE BUMPERS received a letter from Joanne Isham of the CIA's Congressional Relations Office. That letter claimed that the language in the DOD bill relating to the threat posed by ballistic missiles—I am quoting now—". . . [overstates] what we currently believe to be the future threat" of missile attack on the United States."

This is a letter from the CIA directly to Members of the Senate in opposition to an amendment that is pending on the floor.

The letter also said, again quoting, it was "extremely unlikely" that nations would sell ICBMs and that the United States would be able to detect a homegrown ICBM program "many years in advance," again quoting the letter.

The statements in that CIA letter were based entirely on a new National Intelligence Estimate—an NIE. The title is "NIE 95–19." It was entitled "Emerging Missile Threat to North America During the Next 15 Years." It was released in its classified form in November 1995.

But the key judgment of that NIE is, quoting: ". . .[no] country, other than the major declared nuclear powers, will develop or otherwise acquire a ballistic missile in the next 15 years that will threaten the contiguous 48 States or Canada."

President Clinton vetoed H.R. 1530, the defense authorization bill for fiscal year 1996, on December 28, 1995, in part because the National Missile Defense System called for pursuant to our amendment, in his words, addresses ". . . [a] long-range threat that our Intelligence Community does not foresee in the coming decade."—end of quote of the President.

In reaction, Mr. President, many Members of the Congress rejected the conclusions of that NIE as incorrect. Some of us on the Intelligence Committee believed that the information that we possessed suggested that the conclusions were inaccurate. Our concerns, frankly, centered on flawed assumptions underlying the key judgment of the NIE. The unclassified assumptions are—there are several. Let me tell you what they are:

First, concentrating on indigenous development of ICBMs adequately addresses the foreign missile threat to the United States.

What that means is, we can focus just on what these countries are able to build all by themselves and that that is going to be adequate in telling us what the threat posed by these countries will be in the future.

Second, foreign assistance will not enable countries to significantly accelerate ICBM development.

In other words, we are not going to look at what other countries might sell or give to these powers that we are concerned about, again relying on the notion that whatever they do they are going to do all by themselves without any help from the outside.

In other words, third, that no country will sell ICBMs to a country of concern.

Fourth, that no countries, other than the declared nuclear powers with the requisite technical ability or economic resources, will develop ICBMs from a space launch vehicle.

In other words, they are not going to use the rockets that are used to launch satellites for military purposes to convert those missiles or rockets for military purposes.

Another assumption: A flight test program of 5 years is essential to the development of an ICBM.

Of course, when the United States and the old Soviet Union did research on a new missile, it would take 5 years for us to test it to make sure it worked properly, because it was always a new concept.

So the CIA assumed in this NIE that it would take 5 years to develop a new missile.

Seventh, that development of short- and medium-range missiles will not enable countries to significantly accelerate ICBM development.

In other words, when they develop a shorter-range missile, that will have nothing whatsoever to do with their capability to develop more robust systems.

Finally, the possibility of an unauthorized or accidental launch from existing nuclear arsenals has not changed significantly over the last decade.

In my view, and in the view of many, these underlying assumptions ignored plain facts: Foreign assistance is increasingly commonplace and will accelerate indigenous missile programs. Other countries have sold, and almost certainly will continue to sell, weapons of mass destruction with ballistic missile components. The MTCR, which is the regime that is supposed to prevent this proliferation of weapons, has already been violated and is no doubt going to be violated again. And, finally, a flight test program does not have to follow the model of the United States or Soviet flight test program.

So the conclusion that flowed from the faulty assumptions of the CIA National Intelligence Estimate had the

effect of allowing unwarranted political conclusions to be reached and preached.

Let me reiterate that.

Because of the CIA's letter to Senators at the time that we were debating the national missile defense amendment, policy was affected. The President vetoed that bill based in part on the conclusions of the CIA's National Intelligence Estimate, which was based upon flawed assumptions, which turned out to be inaccurate.

There were several reactions as a result of the President's action.

The General Accounting Office and two former CDIs—Directors of Central Intelligence—Jim Woolsey and Bob Gates, each offered opinions about the NIE 95–19.

The GAO prepared a report in September of 1996, and it concluded that the level of certainty regarding the 15-year threat which was stated in the NIE was, quoting, "overstated."

Former Director of the CIA Jim Woolsey validated this GAO assessment during a September 24, 1996, Senate Foreign Relations Committee hearing. In his formal statement, Mr. Woolsey suggested the 1995 NIE asked the wrong question.

He said the following:

If you are assessing indigenous capabilities with the currently-hostile countries to develop ICBMs of standard design that can hit the lower 48 states, the NIE's answer that we may have 15 years of comfort may well be a plausible answer. But each of these qualifications is an important caveat and severely restricts one's ability to generalize legitimately, or to make national policy, based on such a limited document.

Among the things that former DCI Bob Gates said about the NIE was that it was "politically naive."

Despite these concerns, the administration and opponents of missile defense were unwilling to hear views contrary to the conclusions of the NIE. Frankly, this is still the case. In May, when the Senate attempted to invoke cloture on the American Missile Protection Act, Senate bill 1873, offered by Senators COCHRAN and INOUYE, the administration based its opposition to the bill on that previous NIE, National Intelligence Estimate 95–19.

Here is the quotation from the administration's opposition:

The bill seeks to make it U.S. policy "to deploy as soon as technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)."

That is true.

In her letter stating the administration's position in opposition to Senate bill 1873, the Defense Department's general counsel stated, and I quote:

The Intelligence Community has concluded that a long-range ballistic missile threat to the United States from a rogue nation, other than perhaps North Korea, is unlikely to emerge before 2010... Additionally, the Intelligence Community concluded that the only rogue nation missile in development that could strike the United States is the North Korean Taepo Dong 2, which could strike portions of Alaska or the far-western Hawaiian Islands.

That is the end of the quotation from the Department of Defense general counsel.

So the administration was still basing its opposition to missile defense on this National Intelligence Estimate of 1995.

In the wake of the debate over that poorly crafted report, Congress asked for a second opinion. It appointed a bipartisan commission of former senior government officials and members of academia led by former Defense Secretary Donald Rumsfeld, hence the name "The Rumsfeld Commission Report."

This bipartisan Commission was asked to examine the current and potential missile threat to all 50 States and to assess the capability of the U.S. intelligence community to warn policymakers of changes in this threat.

The Commission unanimously concluded three things: No. 1, the missile threat to the United States is real and growing; No. 2, the threat is greater than previously assessed; and, No. 3, we may have little or no warning of new threats.

Let me go back and review each of those.

1. The missile threat to the United States is real and growing.

"Concerted efforts by a number of overtly or potential hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces, its friends and allies. These newer, developing threats in North Korea, Iran and Iraq are in addition to those still posed by the existing missile arsenals of Russia and China, nations with which we are not now in conflict but which remain in uncertain transitions."

2. The threat is greater than previously assessed.

"The threat to the United States posed by these emerging capabilities is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the Intelligence Community," and a rogue nation could acquire the capability to strike the United States with a ballistic missile in as little as five years.

3. We may have little or no warning of new threats.

"The Intelligence Community's ability to provide timely and accurate assessments of ballistic missile threats to the United States is eroding."

"The warning times the United States can expect of new, threatening ballistic missile deployments are being reduced," and under some plausible scenarios, "the United States might well have little or no warning before operational deployment [of a long-range missile.]"

Now, Mr. President, why are the Rumsfeld Commission conclusions so different?

First of all, the Commission answered a slightly different question than our intelligence agencies did in the 1995 NIE, by examining the missile threat to all 50 States. The intelligence community has acknowledged that Alaska and Hawaii could be threatened much sooner than 15 years from now, but for some reason did not include that in its 1995 estimate.

Second, the Commission has access to the entire amount of information in the intelligence community—frankly, a broader and more highly classified set of information than most of the analysts in the compartmentalized intelligence world. Obviously, much information is compartmentalized to prevent its unauthorized distribution and release, but that also inhibits to some extent the ability of analysts to appreciate all aspects of the potential threat.

Third, the Rumsfeld Commission recognized that missile development programs in Third World countries no longer follow the patterns of United States and Soviet programs. They might, for example, succeed in testing a missile one time, conclude that they have got it right because, after all, they are using a weapon that has been sold to them essentially by another country and then deploy it based upon one test, whereas the United States and the Soviet Union, as I said before, might well have had to engage in years of testing to ensure that a new product would work.

Fourth, the Commission also understood that foreign assistance and technology transfers are increasingly commonplace. Without getting into the classified information in the Rumsfeld report, it is very clear that countries with which we are concerned have acquired a great deal of technology and in some cases components and perhaps even whole missile systems from other countries eager to earn the cash from the sale of those components or that equipment or technology. And so these nations did not have to do what the intelligence community thought they had to do, and that was to develop it indigenously, from the ground up, with only what the nation could produce. They have been very successful in acquiring technology from other countries which has naturally shortened the lead time for them to develop and deploy their own systems.

Finally, and very importantly, the Rumsfeld Commission realized that foreign nations are aggressively pursuing denial and deception programs, thus reducing our insight into the status of their missile programs. In effect, what the Rumsfeld Commission concluded is this: That while the CIA in its estimate provided to us based its conclusions, in effect, on only what it could prove it knew, which, of course, is very little in the intelligence world, the Rumsfeld Commission examined what we knew and then asked questions about what the implications were about what we knew.

Would it be possible, even though we have no evidence that a country has done certain things, that it could do so as a result of what we knew? And if our assumptions with respect to its intentions are correct, would it not be plausible to assume that they would try to do that; and if they tried to do it, might they succeed?

So questions like that were asked in ways that were not based upon hard evidence in all cases but plausibilities and possibilities, and, as a result of asking those questions, some very troubling conclusions were reached which in many cases were verified by certain confirming evidence. And that is why we now understand that the nations with which we are most concerned have much more robust systems, both with respect to the missiles for delivery of weapons and the weapons on top of the missiles, than we had ever thought before.

Second, these programs can be deployed with little or no warning. And third, and probably the key lesson to come out of this, we have to appreciate the fact that we will be surprised by surprises, but we should not be. We should not be surprised by surprises, because most of what these countries are doing we don't know, and we won't know until the weapon is used or it is finally tested and we realize that they have developed it or we find information in some other way that confirms a program that we previously did not know existed.

So instead of being surprised at surprises, the Rumsfeld Commission report says we need to get into a new mode of thinking to understand that we should not be surprised by surprises, and that we should base our policy on that understanding.

That is my concluding point, Mr. President. The Congress and the President, in setting national policy, in developing our missile defenses, in appropriating the funds to support those programs, should approach this with the understanding that we will have little or no advanced warning, that there is much that we don't know but that we are likely to be facing threats. Therefore, my conclusion is we have got to get on with the development of our missile defenses. That represents my three concluding points. No. 1, we have got to get on with the job of developing and deploying both theater missile defenses and a National Missile Defense System, and we can begin by voting for cloture and for the Cochran-Inouye bill when we return from the recess.

Second, we must improve our intelligence capabilities and resources.

And third, we must avoid arms control measures and diplomatic actions that impede our ability to defend ourselves and damage our intelligence sources and methods.

We have a lot of work to do. Those of us on the Intelligence Committee have committed ourselves, based upon the briefing of the Rumsfeld report, to begin working on the intelligence aspects of this problem, and those who are on the Armed Services Committee and the Appropriations Committees will also have to work toward correction of the problems of the past to assure that our missile defense programs can proceed with the speed that is required to meet these emerging threats.

I conclude by thanking the members of this bipartisan Rumsfeld Commission and suggest to all of my colleagues that they become familiar with the contents of its report because it should certainly guide us in our policy deliberations with respect to the security of the United States from a missile threat in future years.

Mr. ENZI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

GLOBAL WARMING ESTIMATES

Mr. ENZI. Mr. President, I would like to take a couple of minutes to talk about global warming and about where we are in the process of getting information from the administration about the Kyoto Treaty.

Last year, when we were doing appropriations, the Senate unanimously adopted an amendment to the Foreign Operations spending bill. That amendment directed the White House to describe exactly the amounts and locations of all its planned expenditures for domestic and international climate change activities for 1997, 1998, and thereafter. The President signed that bill.

What I hoped to get was a list, by agency, with their expected costs and objectives. I thought the Office of Management and Budget would be able to easily locate the pots of money involved in something as critical to the administration as global warming. But the President's response was a 2-page letter describing the Climate Change Technology Initiative and the Global Change Research Program. I have gotten more information out of any issue of the newspaper. No numbers were included in the global change research section. No numbers were included showing the money the Department of State has spent negotiating climate change or supporting the U.N.'s scientific bodies. No numbers were included telling us how much "indirect programs" would cost.

The administration's letter was an unacceptable response to our request, and it took a year to get it.

I ask unanimous consent to have that letter printed in the RECORD.

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

THE WHITE HOUSE,
March 10, 1998.

To the Congress of the United States:

In accordance with section 580 of the Foreign Operations, Export Financing, and Related Agencies Appropriations Act, 1998, I herewith provide an account of all Federal agency climate change programs and activities.

These activities include both domestic and international programs and activities directly related to climate change.

WILLIAM J. CLINTON.

In response to Section 580 of Public Law 105–118, "Foreign Operations, Export Financing, and Related Agencies Appropriations Act of FY 1998," the following is a summary of Federal agency programs most directly related to global climate change.

DOMESTIC PROGRAMS

The Climate Change Technology Initiative is a five-year research and technology program to reduce the Nation's emissions of greenhouse gases. Led by the Energy Department (DOE) and the Environmental Protection Agency (EPA), the initiative also includes activities of the National Institute of Standards and Technology (NIST) and the Departments of Agriculture (USDA) and Housing and Urban Development (HUD). The initiative includes a combined $2.7 billion increase over five years for these agencies for research and development on energy efficiency, renewable energy, and carbon-reduction technologies. The initiative also includes $3.6 billion in tax incentives over five years to stimulate the adoption of more efficient technologies in buildings, industrial processes, vehicles, and power generation.

The Global Change Research Program, led by the National Science Foundation and the National Aeronautics and Space Administration, builds understanding of climate change and variability, atmospheric chemistry, and ecosystems. The scientific results from the program help in the development of climate change policies, and the development of new observing systems will enable better monitoring of future climate changes and their impacts. For example, the Tropical Rainfall Measuring Mission satellite launched during 1997 will provide previously unavailable, detailed, and accurate rainfall measurements, filling a significant gap in our understanding of the Earth system. In 1998 and 1999, the program will launch more satellites and increase its focus on investigating regional climate changes and assessing the vulnerability of the U.S. to climate variability and change.

A more complete description of these programs can be found in Chapter 6 ("Promoting Research") of the President's FY 1999 Budget.

INTERNATIONAL PROGRAMS

Last June, the President announced a $1 billion, five-year commitment to address climate change in developing countries. This initiative includes at least $750 million ($150 million per year) for the U.S. Agency for International Development (USAID) to support climate change-related activities in developing countries, particularly programs in energy efficiency, forestry, and agriculture. USAID will also use up to $250 million of its new credit authority to provide partial loan guarantees for projects in developing countries that address climate change.

The Global Environment Facility (GEF) is the world's leading institution for protecting the global environment and avoiding economic disruption from climate change, extinction of valuable species, and collapse of the oceans' fish population. The $300 million proposed for 1999 includes $193 million for U.S. contributions previously due and $107 million for the initial contribution to the GEF's second four-year replenishment (1999

to 2002). Approximately 38 percent of the total U.S. annual contribution to the GEF supports climate change-related projects in developing countries.

The State Department supports the work of the UN framework Convention on Climate Change Secretariat and the Intergovernmental Panel on Climate Change (IPCC)—the single, most authoritative, international scientific and technical assessment body with respect to climate change. Many nations rely on the IPCC for information and assessment advice on climate change.

INDIRECTLY RELATED PROGRAMS

Several Federal agencies conduct programs that are indirectly related to global climate change. For example, the Department of Defense conducts research to improve energy efficiency of military aircraft as a means of improving defense capability. The Department of Transportation conducts research that can lead to improved vehicular traffic flow and reduced fuel consumption. By promoting energy efficiency, these programs can also help reduce the Nation's emissions of greenhouse gases. Nevertheless, since the primary focus of these programs is not on climate change, the Administration does not consider them to be "climate change programs and activities," as stipulated in Section 580 of the Foreign Operations bill.

Mr. ENZI. Since that time, other Members of Congress have been trying diligently to track down these budget numbers. I have tried to get questions answered. I have followed up on administration statements. It has not been easy. The House Government Reform Committee has been forced to issue three subpoenas and has threatened a fourth. In response to those, the administration has made some documents available, but some are still waiting for White House Counsel approval.

I, too, have encountered obstacles in trying to see those cost numbers. Earlier this year, Janet Yellen, Chairman of the Council of Economic Advisers, testified twice in the House that Kyoto would cost American families only $90 per year—only $90 per year. Estimates from independent economic consulting firms, however, show vastly different numbers. These estimates put costs as high as $2,100 per household per year. Most people that I know think that $90 a year would be a lot of additional tax; $2,100 would be unconscionable. That is a $2,000 difference per year on what it will cost to solve the problem the administration says we have.

The obvious question is, Why are they so far apart? Why are the White House numbers so low? The Department of Energy places the cost of reducing 1 ton of carbon emissions at $130 to $150, to cut to 1990 levels. The White House uses $171 per ton, to go 7 percent below 1990. If you add it up, the cost is over $100 billion per year, not adjusted for inflation. Factor in inflation and divide by households. The fact is, that $90 per family is not realistic.

When Ms. Yellen was asked how they came up with the $90, her answer was that the assumptions and models were a national security secret.

I asked for a copy of those documents. I was told that they were a national security secret. I pointed out that when you get elected to this body, you get a top secret clearance. You are supposed to be able to view all documents necessary to your work. I offered that, if they were so busy that they couldn't deliver those numbers to the Capitol, that I would be happy to go down to the White House and look at those numbers. After some weeks, they did say they might send a few numbers up.

I asked the Counsel of Economic Advisers nominee, Rebecca Blank, if she could get me a copy. I held up the nomination until they could produce them. I got a series of runs and explanations, but certain critical parts were missing. In fact, what I got is a table of contents with formulas, and no explanation.

I was also curious to know what part of these documents had been so secret. They were delivered by an intern from the White House to my office, not given to me personally, not stamped "confidential." There was no stamp on them whatsoever to designate how important these were to national security. So I had to suspect that I had not gotten the documents that we had been talking about.

I asked about it. I got an interesting response. I would like to share part of that with my colleagues.

The White House Counsel's Office is concerned that public disclosure of these materials would set an unfortunate precedent that could chill the free flow of internal discussions essential to effective decision making. Counsel believes that such disclosure is not necessary for purposes of Congressional oversight.

In other words, we don't deserve the information. We should not be a part of that. We don't need to know. And letting us know would damage the Executive's ability to make decisions.

We are the policy body of the United States. Only with FDR did the President start traveling all over the country, and all over the world, trying to set legislation. That has gone on, on an ever-increasing basis, since that time. It is our job to pass the laws. The laws set the policy. The White House is the management branch of this Government. And they say that our information would interfere in their decision-making, it would have a chilling effect.

Mr. President, I ask unanimous consent the letter from the Executive Office of the President 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, COUNCIL OF ECONOMIC ADVISERS,

Washington, DC, July 29, 1998.

Hon. MICHAEL B. ENZI,
U.S. Senate, Russell Senate Office Building, Washington, DC

DEAR SENATOR ENZI: I understand that you would like me to elaborate on the views I expressed during my testimony before Congress regarding public disclosure of the documents that were relied on in preparation of my testimony on the economic implications of the Kyoto Protocol. It is also my understanding that you are specifically interested in the reasons why public disclosure of these documents would not be useful to U.S. interests in ongoing international negotiations.

The economic materials relied on in the preparation of my testimony reflect internal deliberations of the Executive Branch, and in particular, of the President's economic advisers. Nonetheless, we provided these documents to you and several House Committees, expressly on the basis that they not be made public. We did so in an effort to accommodate the legitimate oversight needs of Congress while preserving the President's interest in the confidentiality of Executive Branch deliberations. The White House Counsel's Office is concerned that public disclosure of these materials would set an unfortunate precedent that could chill the free flow of internal discussions essential to effective Executive decision making. Counsel believes that such disclosure is not necessary for purposes of Congressional oversight.

In addition, disclosure of some of these documents would not be helpful to the position of the United States in ongoing international negotiations. The documents reveal Administration assessments of the costs of options that are the topic of ongoing negotiations in international fora. We prefer that other countries participating in those negotiations not have access to such materials.

I appreciate your consideration of our views on this matter. Please let me know if you have any other questions or need additional information.

Sincerely,

JANET L. YELLEN.

Mr. ENZI. I do disagree with that. I think the public does have a right to know. What is the point in hiding the information? What is the White House afraid that people might find out? I have a hunch it is all about jobs. The study conducted by DRI-McGraw-Hill estimated Kyoto could cost us 1.5 million jobs. Charles River Associates puts that figure as high as 3.1 million jobs by 2010.

Even the Argonne National Laboratory pointed to job losses in a study on the impact of higher energy prices on energy-intensive industries. Argonne concluded that 200,000 American chemical workers could lose their jobs. All of the American aluminum plants could close, putting another 20,000 workers out of work. Cement companies would move another 6,000 jobs overseas. And nearly 100,000 United States steelworkers would be out of work.

Americans have a right to know what is going on. They have a right to know if it is going to cost them their job.

Mr. President, I ask for a few additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ENZI. Mr. President, even if the Office of White House Counsel doesn't think so, they should have a chance to see who is playing with their livelihoods.

In spite of the White House position, the Secretary of Interior had the nerve to call energy companies "un-American in their attempts to mislead the American public." Remember, they are the only ones disclosing figures. They are the only ones from whom you can get the model, all of the math, and an explanation. They are the ones sharing data.

The Secretary of Interior had the nerve to call them "un-American in their attempts to mislead the American people." He further asserted that they were engaged in "a conspiracy to distort the facts." They are the only ones sharing facts.

I will repeat that. They were called "un-American in their attempts to mislead the American people." There are a lot of people working in coal and oil fields in my State, over 20,000 of them. Mr. President, 20,000 people is 6 percent of all the people working in Wyoming. More important, it is over 10 percent of the private sector employees.

These are the people who work for energy companies. These are the people Mr. Babbitt claims are "un-American." I think they are worried about their jobs. They are worried about laying off their employees. They are worried about their own families and all the other families who survive in our towns because of energy production. As an industry, these people are worried about a treaty that can force them to lay off over a million Americans. It could force industry to lay off half of their employees in Wyoming.

On the other hand, the Executive Office of the President finds that, "public disclosure would set an unfortunate precedent" and that it "is not necessary for purposes of Congressional oversight." I ask just who is misleading the American people?

There is something else I want to bring to the attention of this body. In spite of the fact that the President has firmly stated that this treaty will not be implemented before ratification, right now the Environmental Protection Agency has undertaken an effort to manipulate the Clean Air Act to enact it. I think we deserve to know what other branches of Government are currently working behind the scenes, behind our back, to make changes through Executive orders or rules and regulations that put a treaty into place that this body would not ratify. If it were brought here today, it would not be ratified. It violates everything in the resolution that we adopted, sending signals to the people who went to Kyoto to negotiate on behalf of the United States.

There has been no public input. I think the administration does not want public input on climate change. I know they don't want to look at the science, but I think they also don't want public input. If they wanted input, this letter from the Executive Office wouldn't say what it does. If the White House wanted the public to know all the details about the treaty, they would send it to the Senate and America, and they would let us debate it. They would tell the American people what they are planning to do.

My only experience in the executive branch was as mayor of a boom town. But I can tell you, when I was trying to pass the smallest bond issue or when I was working on negotiations on industrial siting, figuring out what the companies that were coming to our counties would have to do to participate in the growth of our town so we could have orderly growth, if I would not have shared on a regular basis more information, more detail, more explanation for those little things than what the President is doing with us on this big thing, I would not have been able to do any of them, and I should not have been able to do any of them.

It is the duty of the executive branch to inform the people who make the decisions legislatively, to provide them with all of the information that can possibly be provided and not just to send out a group of numbers with no explanation, a bunch of abbreviations with no explanation. We don't need a table of contents. We don't need a bunch of math. We need answers. We need to know the formulas, and we need to be able to have people who understand those numbers take a look at them.

This is not national security. This is a need for the American public to know, and the American public in this case probably ought to start with the U.S. Senate. We do have the kind of authority that we should be able to get the numbers, and if the President wants cooperation from us, he will provide those numbers. We can take them the way he wants. We can take them in secret, but I hope they will share them with us and with the American public.

SACAJAWEA ON THE DOLLAR COIN

Mr. ENZI. Mr. President, I rise today to express my strong support for the selection of an image of Sacajawea for the new one dollar coin. The Dollar Coin Design Advisory Committee recently recommended to the Treasury Secretary that the new dollar coin bear a design inspired by Sacajawea. On July 29th, the Treasury Secretary announced that he was accepting the Committee's recommendation. I am pleased that the committee and the Treasury Secretary have recognized the important role of Sacajawea in the history of our Nation.

I do believe that it is important, however, that the coin explicitly honor and bear a likeness of Sacajawea. The actual language of the committee's recommendation is that the coin should bear a design of "Liberty represented by a Native American woman, inspired by Sacajawea and other Native American women." This language is a bit vague, but it does make it clear that Sacajawea is their symbolic choice. I strongly urge the Treasury Secretary to approve a final design that is based on a historically accepted image of Sacajawea. There are several images that could be used, and I will be happy to share them with the Secretary.

Mr. President, I am distressed to learn that a bill has been introduced in Congress that would overturn the recommendation and subsequent acceptance of the depiction of Sacajawea on the new one dollar coin. As we know, Congress specifically refrained from mandating a design for the coin when we passed the authorizing legislation. This was to ensure that political pressures would not affect the decision-making process. Instead, the Treasury Secretary appointed the Dollar Coin Design Advisory Committee, which was specifically charged with coming up with a design for the coin, subject to some general guidelines from the Secretary. The selection process of the advisory committee emphasized citizen participation. After a thorough and open debate, the committee voted 6–1 to recommend Sacajawea for the dollar coin. Unfortunately, that whole process could be undermined by the bill that has been introduced. We are beyond debating the merits of Sacajawea or the Statue of Liberty. Arguments against her image obviously were not persuasive. I see no reason for Congress to attempt to impose its will and reverse a decision that was made by an unbiased panel based on extensive input from the American people.

Mr. President, I sent a letter to the Treasury Secretary earlier this month requesting that he accept the committee's recommendation of Sacajawea for the new one dollar coin. In that letter, I outlined some of the reasons that I think she would be a great choice for the coin. I would like to briefly discuss these reasons right now.

As most Americans know, Sacajawea was an integral part of the Lewis and Clark expedition, the story of which is an incredible tale of adventure, determination, cooperation, and persistence. When Lewis and Clark set out for the West, they had no idea what they might find in the coming months or how long they would be gone. Anyone who has traveled through the West has to be in awe of what the Lewis and Clark expedition was able to accomplish. It is remarkable that Sacajawea was just a teenager with an infant when she endured the rigors of this trip into uncharted territory.

The importance of Sacajawea to the Lewis and Clark expedition can not be understated. Her knowledge of the land and its resources helped the expedition survive the rugged terrain of the West.

Her diplomatic and translation skills helped Lewis and Clark establish peaceful relations with the American Indians they met along the way, whose assistance was also vital to the expedition. Her bravery saved the expedition's valuable supplies, including the journals that would be used to record the trip, after a boat nearly capsized. Lewis and Clark's appreciation of her skills and resourcefulness led them to grant her a vote on the operation of the expedition that was equal to the other members of the group. In a very real sense, this is the first recorded instance of a woman being allowed to vote in America. I am proud to note that Wyoming, which typifies the landscape of their journey, also recognized the important role of women in overcoming the challenges of the West and was the first state to grant women the right to vote.

I believe that the selection of Sacajawea to be represented on the dollar coin would not only celebrate her valuable contribution to the Lewis and Clark expedition, it would also celebrate the contributions of all American Indians during the expedition. In addition, it would honor all the American Indians of our nation; it would celebrate the greatest terrestrial exploration ever undertaken in U.S. history; and, it would commemorate the turning of our country's hearts and minds from Europe and the East—to the West and our future.

Mr. President, I urge the Treasury Department to continue the process of selecting an image of Sacajawea for the dollar coin. I also urge the Treasury Department to specifically designate and honor Sacajawea as the person on the coin. And finally I encourage my colleagues to oppose any measure that would undermine the placement of Sacajawea on the dollar coin.

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

Mr. DEWINE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for the next 20 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF KIM McLEAN WARDLAW AND THE NINTH CIRCUIT

Mr. DEWINE. Mr. President, later today, the U.S. Senate will vote on the nomination of Kim McLean Wardlaw to be a judge for the ninth circuit. The Judiciary Committee approved this nomination by a voice vote. At that time, I noted my opposition to this nomination for the record. Today, I expect the Senate will approve this nomination by a voice vote again. Again, Mr. President, I note my opposition for the record.

When we vote on the nomination of a Federal district or circuit court judge, I am sure all of us do so only after deliberation and consideration. I believe that the President of the United States has very broad discretion to nominate whomever he chooses, and I believe the U.S. Senate should give him due deference when he sends us his choice for a Federal judgeship.

Having said that, however, I believe the Senate has a constitutional duty, and it is prescribed in the Constitution, to offer its advice and consent on judicial nominations. Each Senator has his or her own criteria for offering this advice and consent. However, since these nominations are lifetime appointments, all of us must take our advice and consent responsibility very seriously, and rightfully so.

Earlier this year, when the Senate Judiciary Committee considered the nomination of another nominee to be a judge for the ninth circuit, in this case William Fletcher, I expressed my concerns about how far the ninth circuit has moved away from the mainstream of judicial thought and how far it consistently—consistently—strays from Supreme Court precedent.

At that time, considering that nomination to the ninth circuit, I also stated that when the Judiciary Committee considers nominees for the ninth circuit, I feel compelled to apply a higher standard of scrutiny than I do with regard to other circuits.

I have come to this conclusion after an examination of the recent trend of decisions that have been coming out of this ninth circuit. Simply put, I am concerned that the ninth circuit does not follow Supreme Court precedent, and its rulings are simply not in the mainstream. The statistics tell the sad story.

In 1997, the Supreme Court of the United States reversed 27 out of 28 ninth circuit decisions that were appealed and granted cert. That is a 96-percent reversal rate.

In 1996, 10 of 12 decisions for that same circuit were reversed, or 83 percent. If you go back to 1995, 14 of 17 decisions were reversed, or an 82-percent reversal rate.

In other words, what we are seeing from 1995 to the present is an escalating trend of judicial confrontation between the ninth circuit and the U.S. Supreme Court. Let's keep in mind that the Supreme Court only has time to review a small number of ninth circuit decisions. This leaves the ninth circuit, in reality, as the court of last resort for the 45 million Americans who reside within that circuit. In the vast, vast majority of cases, what the ninth circuit says is the final word.

To preserve the integrity of the judicial system for so many people, I believe we need to take a more careful look; I believe this Senate needs to take a more careful work at who we are sending to a circuit that increasingly chooses to disregard precedent and ultimately just plain gets it wrong so much of the time.

Consistent with our constitutional duties, the U.S. Senate has to take responsibility for correcting this disturbing reversal rate of the ninth circuit. That is why I will only support those nominees to the ninth circuit who possess the qualifications and have shown in their background that they have the ability and the inclination to move the circuit back towards that mainstream.

Mr. President, as the statistics reveal, the ninth circuit's reversal rate is an escalating problem. It is not getting better, it is getting worse. So today, this Senator is drawing the line. I am providing notice to my colleagues that this is the last ninth circuit nominee that I will allow to move by voice vote on this floor.

Further, until the ninth circuit starts to follow precedent and produce mainstream decisions, I will continue to hold every ninth circuit nominee to a higher standard to help ensure that the 45 million people who live in the ninth circuit receive justice that is consistent with the rest of the Nation, justice that is predictable, justice that is not arbitrary, nor dependent on the few times the Supreme Court actually reviews and ultimately reverses an erroneous ninth circuit decision.

Mr. President, all this leads me back to this nominee for the ninth circuit, the nominee that we will later today be considering, Judge Kim Wardlaw. There is simply, in my opinion, no evidence that this nominee will help to move the ninth circuit closer to the mainstream. And it is largely for that reason that I rise today to oppose this nomination.

On November 9, 1995, the Judiciary Committee approved Kim Wardlaw's nomination to be U.S. district judge by unanimous consent. Further, the full Senate did the same thing on December 22, 1995. Today, we are now considering her nomination for elevation to the ninth circuit.

Mr. President, during Judge Wardlaw's nomination hearing last June, I asked her to explain or describe the significant cases in which the Women's Lawyers Association of Los Angeles, the WLALA, filed amicus briefs during the time Judge Wardlaw served as president of this organization from 1993 to 1994 and the role she played during that time in the selection of these cases. That was my question.

Judge Wardlaw responded that when she was president there was a "separate Amicus Briefs Committee that would take requests for writing briefs." She described one case she remembered from that year in which the WLALA filed an amicus brief. Our dialogue in the committee then continued as follows. I asked her to "tell me again—

you had this committee. Did you sit on the committee?" She responded, "No, I did not." Then I asked her, "Did the president sit on the committee?" She responded, "No."

In written followup questions that I sent to her, I stated—and I quote—"In further reviewing the questionnaire to the Judiciary Committee, I noticed that you responded you were Amicus Briefs Committee chair (1997–98)." I then rephrased the question I asked her at the hearing. In her written response, Judge Wardlaw apologized, "if my response to your question at the hearing was narrower in any way than the scope of your intended question"—she then explained she thought my question and "ensuing colloquy" only referred to the years 1993 and 1994 that she was president of the Women's Lawyers Association of Los Angeles, and not to the year she served as the Amicus Briefs cochair from September 1977 to 1988.

Mr. President, I believe her written response was sincere. I do, however, think that she could have been more forthcoming in this response. I believe she could have been more forthcoming in her response during the hearing in order to clarify that she had, in fact, served as one of the chairs of the Amicus Briefs Committee during another point of her entire membership of the WLALA, which by the way, began in 1983.

Mr. President, further, in Judge Wardlaw's 1995 responses to the Judiciary Committee's questionnaire for her nomination to be U.S. district court judge, she noted she was a member of the California Leadership Council for the NOW Legal Defense and Education Fund, California Leadership Council. However, she omitted this information from her 1998 questionnaire.

When recently asked orally to explain this omission, she noted that the NOW Legal Defense and Education Fund's California Leadership Council "was not an organization"—it "was not an organization." So she said that she should not have even noted her affiliation with the organization in her original district court nomination questionnaire.

Mr. President, I think, again, this, in my view at least, reflects a reluctance to be totally forthcoming with the committee. It is required of a nominee to include all information that is requested in the committee's questionnaire. And it is up to each committee member to weigh the importance, then, of the nominee's responses. Let me make it clear, Mr. President, people can make mistakes on questionnaires. I believe, however, the evidence shows—the totality of the evidence shows she has not been as forthcoming to this committee as, frankly, we should expect.

This nominee has a 12-year affiliation—12-year affiliation—with the Women's Lawyers Association of Los Angeles. She has not only been a member, but has served as an officer. She has served as Amicus Briefs Committee chair and as vice president. She was elected as president of the organization, and served as chair of the Nominations Committee, which selects the officers of the organization.

During the time she served in a leadership capacity, this organization filed amicus briefs in the Supreme Court in cases such as William Webster v. Reproductive Health Services, the case of Rust v. Sullivan, and Planned Parenthood of Southeastern Pennsylvania v. Casey.

I only cite these cases as further examples of her position as a leader of an organization that, in fact, took public stands on issues that were contrary to what the Supreme Court ultimately decided. For me, this serves as evidence that Judge Wardlaw would not help move the circuit more to the mainstream. This is not simply a matter of this nominee being a mere member of an organization that took these positions. Rather, this is a matter of her being a recognized leader of this organization who states, however, that she was not aware of the legal positions taken by this organization.

In response to Senator THURMOND's written questions, Judge Wardlaw stated that "Once a position was voted upon . . . it was the position of the organization as a whole, not necessarily the view of any individual member." That may be, Mr. President, but she did not offer to the Judiciary Committee any details on the role she may or may not have played in the development of these positions.

Judge Wardlaw also stated that she "would not have publicly opposed a position taken by the organization." I believe anyone who voluntarily holds numerous leadership positions in an organization—leadership positions ranging from president to secretary to chair of various committees—I believe that person adopts, helps shape, or at the very least condones the positions taken by that organization.

After all, our committee asked all nominees if they belong to any organization that discriminates on the basis of race, sex or religion; and if so, we ask what the nominee has done to try to change these policies. These are not exactly comparable, but the point simply is, when we ask the questions about membership, we asked it for a reason. It does not mean we hold someone accountable for everything, every position that a committee or organization took that they belong to. No. We weigh the totality of the circumstances, and we try to be fair. But the evidence is overwhelming of her leadership positions.

Frankly, quite candidly, this is not the first nominee who has come before our committee who has been involved with amicus briefs, who has been in an organization that files these briefs, who has held a leadership position, and who then says, "Oh, no, really, I didn't have anything to do with the formulation of those briefs or the decision about filing them." That is a troubling position. And it is a position that we keep hearing from nominee after nominee.

Let me put future nominees on notice that, at least for this U.S. Senator, that type of response is not acceptable.

Mr. President, considering all of these factors, I oppose this nomination. I recognize the reality that this nominee would have been approved if a vote had been taken on the floor. One of the things we learn to do in this business, Mr. President, is to count. And I can count. Therefore, I do not want to put my colleagues, as we begin to leave for the August recess, through the necessity of a rollcall which would slow this process down or inconvenience them. But I felt I had to come to the floor this morning and state my position.

Mr. President, before we consider future ninth circuit nominees, I urge my colleagues to take a close look at the evidence—evidence that shows that we have a judicial circuit that each year moves farther and farther from the mainstream and more and more in a confrontational role with the U.S. Supreme Court and with Supreme Court precedents.

For that reason, Mr. President, I intend in the future to seek rollcall votes on all nominees for the ninth circuit. Until we reverse this disturbing trend, I believe the Senate needs to be on the record as either part of the problem or part of the solution.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

POSTAL EMPLOYEES SAFETY ENHANCEMENT ACT

Mr. ENZI. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 501, S. 2112.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

A bill (S. 2112) to make Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. I ask unanimous consent the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 2112) was considered read a third time and passed, as follows:

S. 2112

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 "Postal Employees Safety Enhancement Act".

SEC. 2. APPLICATION OF ACT.

(a) DEFINITION.—Section 3(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5)) is amended by inserting after "the United States" the following: "(not including the United States Postal Service)".

(b) FEDERAL PROGRAMS.—

(1) OCCUPATIONAL SAFETY AND HEALTH.—Section 19(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668(a)) is amended by inserting after "each Federal Agency" the following: "(not including the United States Postal Service)".

(2) OTHER SAFETY PROGRAMS.—Section 7902(a)(2) of title 5, United States Code, is amended by inserting after "Government of the United States" the following: "(not including the United States Postal Service)".

SEC. 3. CLOSING OR CONSOLIDATION OF OFFICES NOT BASED ON OSHA COMPLIANCE.

Section 404(b)(2) of title 39, United States Code, is amended to read as follows:

"(2) The Postal Service, in making a determination whether or not to close or consolidate a post office—

"(A) shall consider—

"(i) the effect of such closing or consolidation on the community served by such post office;

"(ii) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

"(iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

"(iv) the economic savings to the Postal Service resulting from such closing or consolidation; and

"(v) such other factors as the Postal Service determines are necessary; and

"(B) may not consider compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).".

SEC. 4. PROHIBITION ON RESTRICTION OR ELIMINATION OF SERVICES.

(a) IN GENERAL.—Chapter 4 of title 39, United States Code, is amended by adding after section 414 the following:

"§ 415. Prohibition on restriction or elimination of services

"The Postal Service may not restrict, eliminate, or adversely affect any service provided by the Postal Service as a result of the payment of any penalty imposed under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end the following:

"415. Prohibition on restriction or elimination of services.".

SEC. 5. LIMITATIONS ON RAISE IN RATES.

Section 3622 of title 39, United States Code, is amended by adding at the end the following:

"(c) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.".

Mr. ENZI. Mr. President, this bill that was just passed by the Senate will dramatically improve workplace safety and health for more than 800,000 U.S. Postal Service employees. Senate bill 2112, the Postal Employees Safety Enhancement Act, will bring the Postal Service under the full jurisdiction of the Occupational Safety and Health Administration. It is my firm belief that government must play by its own rules, that all Federal agencies must comply with the 1970 occupational safety and health statute. They are not required to pay penalties issued to them by OSHA. They will be under this bill. The lack of any enforcement tool renders compliance requirements for the subsector ineffective, at best.

My first look at this occurred when I noticed that Yellowstone National Park had been cited for over 600 violations. Ninety of them were serious. One of them was failure to report a death.

It occurred to me, though, that they may not be the worst violators, so I checked on the Federal Government and found that the agency that we needed to start with was the U.S. Postal Service.

What is most troubling about the Postal Service's safety record is its annual workers' compensation payments. From 1992 to 1997, the Postal Service paid an average of $505 million in workers' compensation costs, placing them once again at the top of the Federal Government's list. Moreover, the Postal Service's annual contribution to workers' compensation amounts to almost one-third of the Federal Government's $1.8 billion price tag.

In 1970, Congress passed the Postal Reorganization Act, eliminating the old Postal Department status as a Cabinet office. Twelve years later, the Postal Service became fiscally self-sufficient and is to be congratulated on that.

After carefully listening to the perspectives of the Post Office and the unions representing its employees, I have concluded that the Postal Employees Safety Enhancement Act is necessary legislation. S. 2112 addresses specialized problems in a specialized business by permitting OSHA to fully regulate the Postal Service the way it does private businesses. In addition, the bill would prevent the Postal Service from closing or consolidating rural post offices or services simply because it is required to comply with OSHA. Service to all areas in the Nation, rural or urban, was made a part of the Postal Service's mission by the 1970 Postal Reorganization Act. The quality of service it provides should not decrease because of efforts to protect and ensure employee safety and health.

Along this same premise, the bill would prevent the Postal Rate Commission from raising the price of stamps to help the Postal Service pay for potential OSHA fines. Rather, the Postal Service should offset the potential for the fines by improving the workplace conditions. That is what we have been trying to do on all OSHA work that we have done—to get more safety and health in the workplace. That would decrease the Postal Service annual $505 million expenditure on workers' comp claims, and, more importantly, it would keep those employees safe. That is why the money won't have to be spent.

I do not believe that this incremental bill should be looked on as an expansion of regulatory enforcement. For years OSHA has been inspecting the Federal work sites and issuing citations to those who are not in compliance. This will continue, whether this bill is signed into law or not. S. 2112 would simply require the Postal Service to pay any fine issued by OSHA to the General Treasury, expediting abatement of safety and health hazard.

Abating occupational safety and health hazards should be a top priority of any employer. Now, the U.S. Postal Service recently announced a $100 million program to entice kids to collect stamps. I don't question the validity of such a program or the benefit it would have on the Nation's kids. However, I do question whether this program should be a priority while workers' compensation claims and injuries, illness, lost time, and fatality rates remain so high.

We must ensure the safety and health of all employees because they are the most important asset of any business. The success or failure of any business, including the Post Office, rests on their ability to provide efficient care and service to their customers.

In my capacity as a Senator, I have committed much of my time to the advancement of workplace safety and health by advocating commonsense, incremental legislation. While it is important for OSHA to retain its ability to enforce the law and respond to employee complaints in a timely fashion, the agency must also begin to broaden its preventive initiatives in an effort to bring more workplaces into compliance before accidents and fatalities occur.

I want to extend my sincere thanks to Senator BINGAMAN for coauthoring the Postal Employees Safety Advancement Act. I believe all stakeholder meetings have paid off—producing a balanced, incremental piece of legislation. Chairman JEFFORDS of the Senate Labor Committee and ranking member, Senator KENNEDY, are to be commended for their steady commitment to advancing occupational safety and health. I also thank their staffs for all of the time that they spent on it. I particularly congratulate and express my appreciation to Chris Spear of my staff, and the other people on my team in the

office who have been helping on a day-by-day, grind-it-out basis to work on all occupational safety and health. I am thankful for all the time that everyone has spent discussing this important issue with me.

I also want to thank all of the cosponsors. This is a very bipartisan bill. Their support is greatly appreciated.

Finally, I want to thank Congressman GREENWOOD for authoring the House version and subcommittee chairmen BALLENGER and MCHUGH for their careful consideration in their respective subcommittees. Their work has helped to make this a real team effort.

Mr. KENNEDY. Mr. President, I am proud to join Senator ENZI and the other original cosponsors of this bill, Senator JEFFORDS, Senator BINGAMAN, and Senator BROWNBACK, in celebrating the final passage of the Postal Employees Safety Enhancement Act. I especially want to commend Senator ENZI for his leadership on this bill. His tireless devotion to the safety and health of the nation's workers has resulted today in passage of significant improvements for employees of the United States Postal Service. I am pleased to have worked with him on the passage of this important legislation, which will extend coverage of the Occupational Safety and Health Act to employees of the United States Postal Service. The bill has broad bipartisan support, and it is supported by the Administration as well.

Few issues are more important to working families than health and safety on the job. For the past 28 years, OSHA has performed a critical role—protecting American workers from on-the-job injuries and illnesses.

In carrying out this mission, OSHA has made an extraordinary difference in people's lives. Death rates from on-the-job accidents have dropped by over 60% since 1970—much faster than before the law was enacted. More than 140,000 lives have been saved.

Occupational illnesses and injuries have dropped by one-third since OSHA's enactment—to a record low rate of 7.4 per 100 workers in 1996.

These numbers are still unacceptably high, but they demonstrate that OSHA is a success by any reasonable measure.

Even more lives have been saved in the past two places where OSHA has concentrated its efforts. Death rates have fallen by 61% in construction and 67% in manufacturing. Injury rates have dropped by half in construction, and nearly one-third in manufacturing. Clearly, OSHA works best where it works hardest.

Unfortunately, these efforts do not apply to federal agencies. The original OSHA statute required only that federal agencies provide "safe and healthful places and conditions of employment" to their employees. Specific OSHA safety and health rules did not apply.

In 1980, President Carter issued an Executive Order that solved this problem in part. It directed federal agencies to comply with all OSHA safety standards, and it authorized OSHA to inspect workplaces and issue citations for violations.

President Carter's action was an important step, but more needs to be done. When OSHA inspects a federal workplace and finds a safety violation, OSHA can direct the agency to eliminate the hazard. But OSHA has no authority to seek enforcement of its order in court, and it cannot assess a financial penalty on the agency to obtain compliance.

The situation is especially serious in the Postal Service. Postal employees suffer one of the highest injury rates in the federal government. In 1996 alone, 78,761 postal employees were injured on the job—more than nine injuries and illnesses for every hundred workers. The total injury and illness rate among Postal Service workers represents almost half of the rate for the entire federal government, even though less than one-third of all federal workers are employed by the Postal Service. Fourteen postal employees were killed on the job in 1996—one-sixth of the federal total. Workers' compensation charges at the Postal Service are also high—$538 million in 1997.

This legislation will bring down these unacceptably high rates. It permits OSHA to issue citations for safety hazards, and back them up with penalties. This credible enforcement threat will encourage the Postal Service to comply with the law. It will save taxpayer dollars currently spent on workers' compensation costs.

Most important, it will reduce the extraordinarily high rate of injuries among postal employees. Ever worker deserves a safe and healthy place to work, and this bill will help achieve that goal for the 860,000 employees of the Postal Service. They deserve it, and I am pleased to join my colleagues in providing it.

ROBERT C. WEAVER FEDERAL BUILDING

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 486, S. 1700.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

A bill (S. 1700) to designate the headquarters of the Department of Housing and Urban Development in Washington, the District of Columbia, as the "Robert C. Weaver Federal Building."

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, I rise to speak in favor of the unanimous passage of S. 1700, a bill to designate the headquarters of the Department of Housing and Urban Development, located at 451 Seventh Street, SW, as the "Robert C. Weaver Federal Building." I am proud to offer my tribute to a brilliant and committed public servant the late Dr. Robert C. Weaver, advisor to three Presidents, director of the NAACP, and the first African-American Cabinet Secretary. He was also a dear friend, dating back some 40 years.

A native Washingtonian, Bob Weaver spent his entire life broadening opportunities for minorities in America and working to dismantle America's deeply entrenched system of racial segregation. He first made his mark as a member of President Roosevelt's "Black Cabinet," an informal advisory group promoting educational and economic opportunities for blacks.

I first met Bob in the 1950s when we worked for Governor Averell Harriman. He served as Deputy Commissioner of Housing for New York State in 1955, and later became State Rent Commissioner with full Cabinet rank. Our friendship and collaboration would continue through the Kennedy and Johnson Administrations. By 1960, Bob was serving as President of the NAACP. President Kennedy, impressed with Bob's insights and advice, soon appointed him to head the Housing and Home Finance Agency in 1961—the highest Federal post ever occupied by an African-American.

When President Johnson succeeded in elevating HHFA to Cabinet level status in 1966, he didn't need to look far for the right man to head the new Department of Housing and Urban Development—Bob Weaver became the nation's first African-American Cabinet Secretary. Later, he and I served together on the Pennsylvania Avenue Commission.

Following his government service, Dr. Weaver was, among various other academic pursuits, a professor at Hunter College, a member of the School of Urban and Public Affairs at Carnegie-Mellon, a visiting professor at Columbia Teacher's College and New York University's School of Education, and the president of Baruch College in Manhattan. When I became director of the Joint Center for Urban Studies at MIT and Harvard, he generously agreed to be a member of the Board of Directors.

Dr. Weaver had earned his undergraduate, master's, and doctoral degrees in economics from Harvard; he wrote four books on urban affairs; and he was one of the original directors of the Municipal Assistance Corporation, which designed the plan to rescue New York City during its tumultuous financial crisis in the 1970s.

After a long and remarkable career, Bob passed away last July at his home in New York City. The nation has lost one of its innovators, one of its creators, one of its true leaders. For Bob

led not only with his words but with his deeds. I was privileged to know him as a friend. I think it is a fitting tribute to name the HUD Building after this great man.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill appear at this point in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1700) was considered read the third time and passed, as follows:

S. 1700

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

SECTION 1. DESIGNATION OF ROBERT C. WEAVER FEDERAL BUILDING.

In honor of the first Secretary of Housing and Urban Development, the headquarters building of the Department of Housing and Urban Development located at 451 Seventh Street, SW., in Washington, District of Columbia, shall be known and designated as the "Robert C. Weaver Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Robert C. Weaver Federal Building".

The PRESIDING OFFICER (Mr. GORTON). The Senator from Colorado.

Mr. ALLARD. What is the order of business?

The PRESIDING OFFICER. The Senate is in a period of morning business with a 5-minute limitation.

Mr. ALLARD. Mr. President, I request unanimous consent to address the Senate for 25 minutes in morning business.

Mr. BYRD. Reserving the right to object, I do not intend to, I think that I addressed the Chair ahead of the other Senator, but I wouldn't challenge the Chair on that point. I know the Chair has the discretion to recognize whomever he hears first, but I would like to make a statement.

Mr. ALLARD. Will the Senator yield?

Mr. BYRD. Yes.

Mr. ALLARD. How much time does the Senator need for his morning business remarks?

Mr. BYRD. I thank the Senator. I will require 20 or 25 minutes. But I will await my turn. I thank the Senator from Colorado.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. No objection.

Mr. ALLARD. Mr. President, I thank the Senator from West Virginia for yielding. I was in the Chair, and I had the podium put up much earlier this morning, but because a colleague next to me was going to speak, he wanted it removed.

Mr. BYRD. I didn't understand the Senator.

Mr. ALLARD. I had requested that my podium be put up on the Senate floor at 10 o'clock this morning when I was presiding so that I could be in proper order to be recognized as soon as I got out of the Chair. I certainly didn't intend to create a problem for the Senator from West Virginia. I apologize for any inconvenience.

Mr. BYRD. If the Senator will yield, I have no problem. The Senator is not creating a problem for me. I just call attention to the rules, that the Presiding Officer recognize the first person who addresses the Chair seeking recognition. I have no quarrel with the Chair. I have been in the Chair many times, and sometimes it is a little difficult to really determine which Senator spoke first. I just wanted to establish again—and once in awhile we have to do this—that it is a matter of following the rules of recognition, and that it doesn't matter what Senator came before or what Senator is seen standing first, or what Senator may have his name on a list at the desk. I do not recognize a list at the desk. Never have. I try to stick to the rules. I thank the Senator. I know I have delayed his speech.

Mr. ALLARD. I thank the Senator from West Virginia for his comments, and I respect the Senator.

COMMENDING SENATOR KYL ON HIS SPEECH ON THE RUMSFELD REPORT

Mr. ALLARD. Mr. President, first of all, I want to recognize and commend the Senator from Arizona, who spoke earlier today in morning business, for his good comments regarding the Rumsfeld report. Senator JOHN KYL has taken a particular interest in that report. I wanted to take a moment to recognize how important I think that report is. I think he was right-on in his comments. I think this Congress and this administration ought to look very seriously at the contents of that report. I serve on the Intelligence Committee with the Senator from Arizona and am privy to the same information to which he is privy.

EMPLOYEES OF THE 21ST CENTURY

Mr. ALLARD. Mr. President, during the 105th Session of Congress, my colleagues and I are addressing a broad range of high tech issues, including military, civilian, and commercial space issues. The industry supporting high technology products and services has become extremely important to our nation, and particularly in my home state of Colorado.

Today I would like to take a look at the high-tech industry through global, national, state, and local perspectives, and relate the broader examples to Colorado. Colorado is a microcosm of the nation when you look at high-tech and the future of the industry. The prosperity, trends, and needs within the Colorado community are prime examples of what the entire nation is faced with.

The growth-inducing power of technology at the industry level has been astonishing. In the United States, research-intensive industries, such as aerospace, chemicals, communications, computers, pharmaceuticals, scientific instruments, semiconductors, and software-have been growing approximately twice the rate of the U.S. economy as a whole the past two decades. The high-tech world has also become extremely competitive. High-tech firms are now facing global competition, regional competition, and competition for jobs. There is every reason to believe that this trend will continue for at least the next decade.

As competition increases locally and globally, we must field an educated workforce that can also be competitive. America's future economy depends on sustaining a competitive edge through greater development and knowledge. But there is growing concern that America is not prepared for this new economy.

I would like to share some startling statistics revealing the serious lack of education in this country.

Forty percent of our 8 year-olds cannot read.

A Department of Education study concludes that 90 million adult Americans have limited information and quantitative skills. According to the American Society for Training and Development's 1997 "State of the Industry Report," 50 percent of organizations now have to provide employee training in basic skills.

U.S. students do not perform well in comparison with students in other countries. According to the Third International Mathematics and Science Study—a study of half a million children in 41 countries—U.S. eighth-graders had average mathematics scores that were well below those of 20 other countries. Although U.S. eighth-graders performed better in science, they were still outperformed by students in nine other countries.

We are experiencing phenomenal growth in jobs for highly skilled information technology workers, yet there are mounting reports that industry is having great difficulty recruiting adequate numbers of workers with the skills in demand.

We, as a society, need to find ways to counter these serious problems and work towards filling all of our employment needs.

Due to increasing global competitiveness, our economy is creating millions of new jobs—more than 15 million new jobs since 1993. Employees are in demand due to this increased competitiveness, and of the 10 industries with

the fastest employment growth from 1996–2006, computer and data processing services are number one on the list, according to the Bureau of Labor Statistics Report of December 1997. In this field alone, there were 1. 2 million jobs in the United States in 1996. This number is projected to rise to 2.5 million jobs in 2006. That represents a 108 percent increase in the next 8 years.

Of the 10 occupations with the fastest employment growth from 1996–2006, the top three occupations have some connection to the high tech industry. Database administrators, computer support specialists, and computer scientists had a population of 212,000 jobs in 1996, and are projected to be needed in 461,000 jobs in 2006, a 118 percent change. Computer engineers will see a 109 percent increase in jobs and systems analysts a 103 percent increase by the year 2006.

This trend is representative of the high-tech employment needs of Colorado. We are facing a problem as the need for technical bachelors' degrees rises, because the number of students entering this field is not increasing at a rate to meet this need. In addition, the science and math scores needed to pursue technical degrees at higher education institutions are not being met by more and more students every year.

If the trend continues as we expect it to, we will see an increasing lack of skilled employees to meet the industry's demand. The consequences of not filling these jobs could mean several things. One being that high-tech industry in the United States will not be globally competitive. Another being that we will need to continually find workers from out of the country to fill high-tech jobs, instead of giving those jobs to Americans. Whatever the consequences may be, we know that they will be substantial if we do not fill the employment needs of the high-tech industry.

Colorado is seeing tremendous signs of growth in the technology arena. As an example, the City of Colorado Springs relies on high-tech for over 50% of its local economy. Complex electronics and information technology sectors support about 30% of the total local economy, and there is a strong defense sector presence which is heavily reliant on high tech employers and needs. 40% of the local economy in Colorado Springs is tied into the defense sector. Right now Colorado has effectively no unemployment in the engineering field. Between this year and 2006, information technology, telecommunications, information processing, software development, and systems engineering will all have employment needs that will more than double in the Colorado Springs area.

The proper role of the government in high-tech and space issues is an ongoing debate. For example, Congress is considering now what access the government should have to encrypted stored computer data or electronic communications, and how to facilitate commercial space businesses.

The United States is competing with several other countries in the high tech industry. There are five countries that we know have the ability to launch satellites, while many other countries have the technology to compete in other areas. Therefore, our workforce development must support the needs of our domestic industry to allow it to be competitive. Without growth in the United States technology industries, we will be surpassed by the technology of our competitors, and our commercial industry will ultimately rely on foreign companies for technology.

One of the major debates in trying to fill the technology workforce needs deals with who should fill those needs when we cannot. The United States has come to depend on foreign-born engineers; we have reached the point where we import as many engineers as we graduate from our universities.

Recently, my colleagues in the U.S. Senate and I approved the American Competitiveness Act of 1998. It raises the ceiling on the number of visas designated for high-tech workers, or H1–B visas, from 65,000 to 95,000 in the fiscal year 1998, and then to 115,000 a year through 2002. This bill is partially in response to the "year 2000" problem and will help high-tech industries hire enough employees to effectively resolve the problem. But this is a short-term solution, and in the year 2002, Congress will reevaluate the number of H1–B applicants that this country allows in to work.

The competitive edge that America needs depends on the knowledge attributes of our workforce. Due to the rapid changes in the high-tech field, we must focus on educating our youth. Educating students about the high-tech needs and changes our society faces will allow for adaptation and innovation. The industry's growth depends on the students that are entering universities with high scores in math and science. Employers are desperate for students with bachelors and advanced degrees in computer engineering, computer information systems, computer science, chemical engineering, and electrical engineering.

We need to focus on improving the educational opportunities for every student, but we could especially make improvements by targeting under-represented minorities. While a small amount of high school graduates, 15%, have taken calculus and physics, only 6% of minority students have taken those classes, which are required for a college major in math, engineering or science. This year, universities graduated a record number African Americans, Latinos, and American Indians with engineering degrees, yet they constitute only 10% of all students with engineering degrees, and only 2.8% of doctorates. The number of female minorities in this category is even smaller. Only 2.8% of college engineering graduates and .6% of engineering doctorates went to minority women.

The solution begins with our youngest students, kindergarten through 12th grade. How do we more specifically improve our education system from K–12 so that children will eventually meet the standards that high-tech, and business in general, demand? It should be obvious that we first need to improve math and science interest and education, starting with increased teacher support. Knowledge of the subject matter and the ability to actually use technology need to be taught to our future teachers at universities across the country. Current teachers need access to continuing education and high-tech resources.

We also must increase the number of teachers who are teaching math and science subjects. Projections show that there is going to be a severe teacher shortage in the years 2010–2025. We are going to face yet another crisis in high-tech workers and leaders if we do not encourage more math and science graduates to become math and science teachers. Without more and better math and science teachers our high-tech teacher shortage will progressively worsen, and we will not be able to increase the number of students in math and science classes.

Industry partnerships, which are successful in many university settings, can be very beneficial to younger students as well. The U.S. Space Foundation, which is based in Colorado, has been especially successful in cooperative programs with schools across the country with their support for math and science programs. Kids find it more interesting and fun if real life entities are tied into the classroom, and the U.S. Space Foundation facilitates this for the students and teachers. Rotating high-tech specialists and resources in classrooms will keep our teachers current and motivated. In addition, high school students are eligible for job opportunities and student internships in the workplace that require scientific knowledge and will increase their excitement for the field. With increased attention to our students, especially in regard to math and science, we can interest students in the world of technology.

Another outstanding example of a partnership between school and industry is the Technology Student Association. The TSA is composed of over 150,000 elementary, middle, and high school students, in 2,000 schools spanning 45 states, including Colorado. It is supported by educators, parents, and business leaders who believe in the need for a technologically literate society. Through leadership and fun problem-solving, K–12 students are shown

why increased education in math and science can pay off and be exciting. These partnerships are successful, and demonstrate one way we can start now to fill the technology workforce needs of the 21st Century.

While it is imperative to encourage young students to be involved in math and science and to expose them to high-tech occupations, I am not suggesting support for school-to-work programs. School-to-work centralizes unprecedented powers at the federal level and requires federal standards and assessment testing which would be the basis of all our children's education, and this process would begin in kindergarten. Most importantly, school-to-work takes local elected officials of the states and local school boards out of the process of education. This alone could be devastating to businesses and specifically to high-tech industries. Local Boards and elected officials are well aware of the needs of their community in particular, and can adapt accordingly.

Government does not need to set "standards" for children to determine their career paths, but instead improve those standards of existing education policies in order to raise test scores, and more specifically science and math scores. If we do so, our children will be inclined to attend higher education institutions where cooperative education and internship opportunities will be available to them, and we will be on our way to building a workforce that can compete globally.

As more students graduate from high school with aptitude and interest in math and science we must have a college education system that will foster their interests and can propel them into the industry. Colorado's universities demonstrate how well-adapted programs can be to the regional industry.

The space industry, in particular, is a crucial part of Colorado's economy, and in turn our state is one of the nation's leaders in space industries. The National Space Symposium, held annually in Colorado Springs, emphasizes the importance of technology in our state and nation. Space Command, Air Force Academy, and NASA, are some of the major presences. In addition, four space centers tied in with NASA are based in Northern Colorado: the Center for Aerospace Structure, Colorado Center for Aerospace Research, Center for Space Construction, and Bioserve Technologies, which produces hardware for the space shuttle.

Our universities are aware of the need for high-tech education, and have focused on preparing students for this field. The University of Colorado at Colorado Springs offers a well established Master of Engineering Degree in Space Operations, and the Air Force Academy continually graduating students into this field. Graduates of the University of Colorado-Boulder, which offers the only aerospace degree in Northern Colorado, also support Colorado's space industry.

At the college level internship opportunities become significant. Employers see cooperative education programs and internships as real-world employment experience which lets college students become familiar with an organization and its work style. High-tech industries are seeing a trend toward expensive training costs and high employee turnover. By partnering with colleges and universities, high-tech industries will see a more highly trained workforce entering their industry and employees who are more committed to the organization.

The main idea behind cooperative education and internships are that they provide students the opportunity to apply theory learned in the classroom to the workplace. High-tech industries now consider the use of partnering with a university's cooperative education and internship programs as the number one recruitment tool for long-term commitments of regular employment.

For example, the University of Colorado at Colorado Springs recognized this as an important investment in students' futures. In addition to helping their own students with internships, the University itself provides internships to students from other universities without internship opportunities. The University has formed partnerships with community, junior, and 4-year colleges without engineering programs.

In conclusion, this is a critical time; we must start today if we want to solve the high-tech employment problem. The signs are everywhere that high-tech is booming, but high-tech employees are not. We must act fast, for studies show key math and science decisions are made by a student at the 5th to 7th grade level. This means that there can be up to a ten-year lead-time for bachelor degree level technology workers. There are four areas that I think we should focus on in order to help solve the problem.

No. 1, Clearly understand the challenge, communicate it to our teachers, parents and students, and consider the consequences of not acting on this issue immediately.

No. 2, Better connect education systems and industry.

No. 3, Find innovative ways to remove barriers to education in math and science, and continue improvement in higher education.

No. 4, Leverage government funding through greater collaboration among government agencies, educational institutions and the private industry.

We need to work together in order to solve this problem. Our universities need to increase engineering and computer sciences scholarships, improve distance learning, and expand their internship and cooperative education programs to meet the needs of the high-tech industry. Our government needs to upgrade training and outsource more work, education, and training. Our industries must increase recruiting, build higher retention rates, and offer on-site courses. And finally, our public schools must increase partnerships with outside entities, educate our teachers about technology, and make science and math fun for our students.

The examples I have given from my home state of Colorado demonstrate that through increased internships, partnerships, teacher training, and K–12 student programs, communities can do something to meet the employment needs of the 21st Century.

The United States will continue to be a global leader in the technology arena if these ideas are implemented tomorrow and we ensure that our schools are producing the best, most educated workforce in the world.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. WARNER. Mr. President, first, for the information of all Senators and others who are following the status of the conference between the Senate and the House on the annual authorization bill for the Department of Defense, the negotiations between the Senate and the House reached the final stage—and, indeed, concluded for all practical purposes—last night.

We had several meetings throughout the day, under the supervision of our able chairman, Mr. THURMOND, with Mr. SPENCE and Mr. SKELTON from the House, and Senator LEVIN and myself.

I wish to report that at the day's end we were far enough along in reaching a final conference agreement that a set of sheets—the traditional conference sheets—were signed by all 10 Republicans on the committee. I have to await any statement by Senator LEVIN with respect to participation by the Democrats. But I anticipate on behalf of Senator THURMOND that Senator THURMOND will soon send to the House a final conference proposal, as modified by such agreements as we were able to reach in the course of our negotiations yesterday. If the House is able to agree to that proposal, we have essentially concluded the conference. With 10 signatures on the conference sheets, we have enough Senate conferees in support of the conference agreement for the Committee to file a conference report.

Mr. DOMENICI. Mr. President, do we have a standing order with reference to time?

The PRESIDING OFFICER. There is a morning business limit of 5 minutes.

Mr. DOMENICI. Mr. President, I have about four items. I am not sure I can finish them in 5 minutes, but if there is no one here I will ask for an extension of time.

STEVE SCHIFF AUDITORIUM

Mr. DOMENICI. Mr. President, last night the Senate passed H. Res. 3731. This legislation designates a special auditorium at Sandia National Laboratories as the Steve Schiff Auditorium. Steve spoke in that auditorium on several occasions as part of his long service to the people of the State of New Mexico. I believe we all know, now that we have had a chance to look at Steve Schiff's life and his time in the House, before his unfortunate death from cancer, that he was in all respects a good public servant—he demonstrated integrity of the highest order, deep and fundamental decency, and an acute and open mind. He went about his business quietly but with efficiency. He was great at telling stories, usually about himself. He was a model for all politicians to admire.

Mr. President, I wish that we could do something more significant than naming this very, very fine auditorium at Sandia National Laboratories after him. We will have a ceremony when that takes place officially, and the people of his district and our State will join us in a celebration that I hope is a fitting tribute to our deceased colleague.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2395 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FRENCH UTILIZATION OF NUCLEAR ENERGY

Mr. DOMENICI. Now, Mr. President, Senator ROD GRAMS and I traveled to France to develop a better understanding of policies underpinning the utilization of nuclear energy for about 80 percent of their electricity. We visited several key French facilities, and Senator FRED THOMPSON joined us after the site visit and participated in several of the high-level meetings with elected and appointed Government officials.

Observations from our trip provide some important perspectives for consideration in the United States:

Nuclear energy has been implemented in France with strict attention to minimizing environmental consequences. Waste products are reduced at each step in their process.

The French nuclear energy system enables them to achieve world-class standards for minimal environmental impact from power generation. They are justifiably proud of their record. Their carbon dioxide emissions per capita are about one-third those in the United States.

French reliance on a "closed fuel cycle" has enabled recycle and recovery of the energy content of spent fuel while also dramatically reducing the volume and toxicity of waste products below those in the United States with our "open fuel cycle."

Transportation and interim storage of spent fuel are done carefully in France, with virtually no negative impacts. Interim storage is essential in implementing their fuel cycle.

At each site in France, attention to protection of the environment is outstanding. For example, while the United States left corrosive waste from uranium enrichment in tens of thousands of steel casks at places like Paducah, Kentucky and Portsmouth, Ohio, the French have routinely extracted commercial products from the same waste and stored only inert products.

The nuclear industry in France is structured around a closed fuel cycle, which recycles much of their spent fuel. This requires reprocessing of the fuel, a step that the U.S. banned in 1977. That decision by President Carter sought to avoid availability of separated plutonium with its proliferation concerns. The French, along with other countries, were equally concerned about proliferation; but they simply ensured careful safeguards on the plutonium and today are seeking to increase their reuse of plutonium to minimize plutonium reserves. Excellent security and international safeguards were obvious in their facilities.

When the French reprocess spent fuel, they reuse plutonium in mixed oxide or MO_X fuel, consisting of a mixture of plutonium and uranium oxides. Their reprocessing allows the plutonium and uranium to be reused and dramatically reduces the toxicity and volume of their waste below the U.S. open cycle. In contrast, we just plan to bury our spent fuel with no attempt to recycle the valuable energy content of the spent fuel or reduce its volume or toxicity. The resulting waste volume from 20 years of a family of four in France is about 2.5 cubic inches, about that of a pack of cards. And after 200 years, the radiotoxicity of their waste is only about 10% of the value of our spent fuel.

The French have gone to great lengths to educate their public about nuclear issues, and extensive environmental monitoring information is routinely shared with the citizens from all the activities we saw.

Transportation of spent fuel is required in the French system. But the French have never experienced a radioactive spill in any traffic accident. Simple interim storage is routinely used in France, without the political debates we face in the United States over this necessary step towards a credible fuel cycle.

A 1991 French law prescribed a 15 year period to assess options for disposition of their final waste products, whereas we precluded our options and focused on a permanent repository with the Nuclear Waste Policy Act of 1982. Under this program, they are actively studying further reductions in the toxicity of their waste. We learned that they would welcome strong collaboration in this field with the U.S. The Accelerator Transmutation of Waste program, funded for the first time in the current Energy and Water Appropriations Bill, is one program they singled our for enhanced cooperation.

The French do not justify their closed cycle with economic arguments, instead they point to its sensitivity to environmental issues and the minimal legacy left for future generations. In fact, with uranium prices currently extremely low, the closed cycle may be slightly more expensive than our open cycle, at least in the near term. Partly for that reason, partly because of the large investment required if the U.S. tried to now duplicate the French system, and partly because there are now alternative options to achieve a closed cycle, we do not recommend that the U.S. simply adopt the French closed cycle.

New closed cycle options should be considered driven by technological advances in the decades since the French initiated their system. We believe that these new options deserve evaluation here to enable the U.S. to consider the benefits of a closed fuel cycle. Some of these newer options would provide benefits similar to the French system, plus some would avoid proliferation concerns by never separating plutonium. Some of the new nuclear initiatives funded for next year should explore these attractive options. Almost any of these options, however, require interim storage of spent fuel—our trip only adds to the strength of current arguments for prompt implementation of this simple and important step.

In summary, there are important lessons from the French system for our use of nuclear energy. In the next session of Congress, we look forward to working with you to improve our system, drawing upon these lessons where appropriate.

SCHIZOPHRENIA

Mr. DOMENICI. Mr. President, I don't know how many Senators saw an article in the Washington Post today, in section B of the Washington Post, called "Tears Of Blood." I have the article in front of me. I ask unanimous consent it be printed in the RECORD.

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

[From the Washington Post, July 31, 1998]

TEARS OF BLOOD

(By Megan Rosenfeld)

First there was the gruesome and heartbreaking news of Russell Weston's attack on the U.S. Capitol. Then came word that he is a paranoid schizophrenic, information that resonated for one set of families with unsettling emotions: recognition mixed with horror, and in some cases thankfulness that it wasn't the faces of their sons or sisters flashing across the television screen.

The families of schizophrenics, like those of other seriously mentally ill people, suffer a particular kind of torment. Years of bewildering and sometimes destructive behavior usually precedes a diagnosis; years of false starts or abandoned treatment often follow. Even when a mother or father recognizes mental illness—as opposed to drug addiction, rebelliousness or eccentricity—discovering the legal barriers to involuntary commitment is yet another body blow.

"Parents always feel it's your responsibility to help your children, but we were powerless to help him," says Jacqueline Shannon, whose son Greg began behaving strangely in his last year of college. Now 35, Greg Shannon has been stabilized for more than six years with the drug clozapine—although it took four hospital commitments before that medication was prescribed.

A publication by the Canadian-based Schizophrenia Society lists some of the emotions family members are likely to feel: sorrow ("We feel like we've lost our child"); anxiety ("We're afraid to leave him alone or hurt his feelings"); fear ("Will he harm himself or others?"). They also list shame, bitterness, isolation, anger and "excessive searching for possible answers."

"You want not to be blamed that your family member has become deranged," says David Kaczynski, whose brother, Ted, is notorious as the Unabomber. "And you don't want people to hate your brother or son, to form judgments that are not based on compassion for the fact that this person is mentally ill." There are so many complicated emotions, he said. "You recognize this family member you love is also an enemy."

Kaczynski recalls taking some of his brother's letters to a psychologist in the early 1990s—before he knew that Ted had been mailing lethal bombs—and was told that his brother was very ill and needed treatment. And also that there was very little David could do about that.

For years Ted Kaczynski's primary method of communication with his family was through long, irrational letters, in which he blamed his parents for his loneliness and fears, and even for the fact that he was three inches shorter than David.

"I have got to know, I have GOT TO, GOT TO, GOT TO know that every last tie joining me to this stinking family has been cut FOREVER and that I will never NEVER have to communicate with any of you again," he wrote David in 1991. "I've got to do it NOW. I can't tell you how desperate I am. . . . It is killing me."

It was five years and hundreds of letters later that David, recognizing similarities between things his brother had written and the excerpts from the Unabomber manifesto printed in The Washington Post and the New York Times, went to the FBI, Ted Kaczynski had never agreed to treatment or to the idea that his mental state was out of his control.

David Kaczynski said he and his mother were greatly comforted by numerous letters they received from other families of the mentally ill—including one from the mother of abortion clinic assassin John Salvi. In fact, Wanda Kaczynski and Ann Marie Salvi had a long telephone conversation, commiserating over the mystifying madness that turned their sons into killers.

Remembering how grateful he was to the people who wrote and told him they knew he loved his brother, David has written Russell Weston's parents. It is not their fault, he told them; they did what they could. "I think they have shown great courage," he said, referring to the numerous interviews the Westons have given explaining the difficulties they had with Russell.

Shannon's son never became violent. Indeed, Kaczynski, Salvi and would-be Reagan assassin John Hinckley are rare explosions in a population of approximately 2 million schizophrenics who, if properly treated with medication and therapy, can lead peaceful if unorthodox lives.

Greg Shannon's problems, which became evident when he was 22, confounded his parents. (Schizophrenia generally surfaces between the ages of 16 and 25, according to reseach. The illness is characterized by hallucinations and delusions; schizophrenics are unable to differentiate their warped perceptions or obsessive thoughts from reality.) "We are considered educated people," said Shannon, a retired elementary school teacher in San Angelo, Tex. "But mental illness did not occur to us. We thought it had something to do with drugs or alcohol."

Their son would get into irrational arguments with them, stayed in his room for days on end (as did Kaczynski) and seemed to perspire a lot. His college roommate called to say Greg had talked about suicide. "It was a frightening time," his brother Brian recalls.

Like other families, they tried for a while to "normalize" Greg's behavior: He was different, he was going through a rough patch—let him stay in his room if he wants.

Because he was an adult, he could not be forced to see a counselor. But they couldn't get through to him themselves. Finally family members went to the county judge and began the legal process of getting Greg involuntarily committed to a private hospital, which involved affidavits from two doctors. Then one evening the sheriff and a couple of deputies arrived to take Greg Shannon away.

"It was awful," Jackie Shannon says. At the same time, there was some relief. And the process was only beginning.

"The family members are hurt, bewildered and confused," says Moe Armstrong, a paranoid schizophrenic who, with the help of medication and many therapeutic programs, works to help other patients in Massachusetts. Now 54, he had his first breakdown during his four-year hitch in the Marine Corps. His parents, he says, did not understand anything about mental illness. And he no longer blames them. "A lot of us defy rationality. The way our minds work are not the way people's minds work out there. . . . One day this person is all right and the next anything goes."

His advice: "It requires a lot of patience. You can make suggestions, but only one or two, and you have to make them over and over again. Most people want to say to A,B,C,D, tie your shoes, get a job and everything will be all right. They say things like 'take your meds,' but not 'What meds are you taking? What effect are they having?'" Life for the relatives of the chronic mentally ill is often filled with regrets, if not guilt, and the agonized wish they had known more, and sooner. "I wonder if we had started the commitment process earlier, or if they'd prescribed clozaphine earlier if he would have avoided permanent damage," says Brian Shannon, "Maybe not."

One thing all family members share: Having a mentally ill child or sibling changes your life forever. In some cases, as with the Shannons, it has led to volunteer work on behalf of people like Greg. Jackie Shannon is now president of the board of directors of the National Alliance for the Mentally Ill.

Brian Shannon knows that someday he will be responsible for his brother, and consulted a genetic counselor before having a child. David Kaczynski, who works with youthful runaways in a shelter in Albany, N.Y.—as he did before his brother was arrested—faces a lifetime of secondhand notoriety and residual pain.

"I still believe in some way he does love me," he says.

Mr. DOMENICI. Mr. President, this is an article that follows on the tragedy that happened here in Washington when a man, 41 years of age, obviously suffering from a very serious disease called schizophrenia, was off his medication and, because of his disease, did the kind of things that have shocked our country and shocked our Capitol. The story is about four or five people in the United States who have family members with the same disease, schizophrenia, and have suffered the consequences of their relative, son or daughter, being off the medication—because there is a propensity on the part of those with this ailment to not want to be on medication. Sometimes it offends them a bit. Sometimes it causes extreme obesity. Sometimes it causes some muscular jittering. But whatever the case, it is hard to keep them on their medication.

I believe we might turn this terrible incident into a constructive response to a very destructive event because, as this article points out, there is little that the parents and relatives can do in their communities to help when they begin to feel the desolation and absolute loneliness when a member of their family, a daughter or son who has this dread disease, decides not to stay on the medication or the medication needs to be changed to be effective. The loneliness is absolutely incredible. As a matter of fact, in this marvelous land of ours, it is fair to say that only in a few places is there any help at all for these people. I don't know how many Americans saw Russell Weston, Sr. and his wife when they met with the press and talked about their son, their son, the 41-year-old who burst through a door here in our Capitol. We all know about the events, and feel great, great sympathy and empathy for the family of the two fallen officers. We have almost been, as a nation, in mourning since that event occurred. And that is as it should be.

Mr. President, I am not going to say much more about this, other than to say that I have worked with the mentally ill in this Nation. I have worked hard to get more and more people to recognize that this is a disease and

that we ought to cover this disease with insurance just as we cover heart failure. That causes some difficulty. Nonetheless, today I don't rise on that score. I merely rise to say: Maybe, maybe this great land of ours, and maybe this institution called the U.S. Senate, and maybe groups across America that are worried about this, might just see if there is a way we can prevent this from happening, if we could prevent it from happening even a couple of hundred times. We frequently see schizophrenics committing acts of murder and degradation, and we all know why it is happening. As a matter of fact, we can almost say with certainty, I say to my friend, Senator BYRD, that if most of those people were on the right medicine they would not be perpetrating these kinds of acts. I hope we would use this to stimulate our collective thinking on what we might do about it.

I don't have the answers. But I have talked to a few Senators. I have talked, in particular, to Dr. FRIST, Senator FRIST from Tennessee, who concurs with me that there is little help available. For, you see, in the case of Mr. Weston, if they wanted him to be taken care of, they had very few options. They could call the police. I think across America it is pretty obvious, police will come by and they will say, "This is a medical problem. We can't help you." They could take him to a hospital. A normal hospital would say, "We can't help you." They could put him in an institution for a few weeks to try to get him back on board and on the medication, but they had already done that.

So this Washington Post article called "Tears of Blood; For Families of Schizophrenics, a Gunman's Shots Strike at Their Hearts" is something we should all take cognizance of.

I hope by these remarks—and some others in this community, I understand, are interested in this—that we will find a way to start meeting together in groups, trying to figure out what should an American response be? Maybe it is a State response. Maybe it is not a Federal response. But we might be the ones to stimulate some real thinking about a responsibility. In this case, we could really be preventers, we could be preventers of serious, serious acts of violence because that can be prevented. It is just we do not help at the time they need help. And we don't have a system set up to provide such help.

I thank the Senator for listening, and, in particular, for giving me a few extra moments this morning. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I note on the floor the distinguished Senator from Oklahoma, Mr. NICKLES, who is the assistant majority leader. I wonder if he has a plane to catch? I am sure he may have some Senate business. If he does, I will be happy to defer. I have no particular time problem myself. I will be glad to defer to the Senator.

Mr. NICKLES. Mr. President, the Senator from West Virginia is so courteous, as usual. I have about a 10- or 15-minute speech, but I will be happy to listen to my colleague and then I will follow my colleague from West Virginia and I thank him, again, for his courtesy.

Mr. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that I may be recognized immediately after Mr. NICKLES is recognized, at which time I will proceed with the remarks. I ask unanimous consent that at that time I may consume such time as I may desire, but not to exceed 25 minutes.

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

Mr. NICKLES. Mr. President, again to my colleague, I am more than happy to defer. He is so kind and gracious, as he always is. He sets an example in the Senate, which I think all of us should follow and makes all of us proud to have the title of "Senator."

The PRESIDING OFFICER. Does the Senator from Oklahoma wish more than 5 minutes?

Mr. NICKLES. Mr. President, I ask unanimous consent to speak as in morning business for not to exceed 15 minutes.

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

Mr. NICKLES. Again, I thank my colleague from West Virginia for his courtesy. I doubt I will take 15 minutes.

THE ROLE OF THE ATTORNEY GENERAL OF THE UNITED STATES

Mr. NICKLES. Mr. President, I come to the floor today with a very sober, very serious discussion. That concerns the role, the effectiveness, and the job that the Attorney General of the United States is currently doing. The Attorney General, under title 28 of the U.S. Code, section 515, is vested as the chief law enforcement officer of the country. That is a very important vesting of power. She is the chief law enforcement officer of the country. She has the responsibility of making sure the laws are carried out, as part of the executive branch.

Congress, some time ago, realized that every once in a while there might be a conflict of enforcing the law strictly, if there are allegations of impropriety with members of the executive branch, so the independent counsel statute was passed. It was passed as a follow-up to Watergate. Can you really investigate your own boss? Can the Attorney General investigate the President or Vice President or some other Cabinet official because they are serving with those individuals at their pleasure? As a matter of fact, Attorney General Reno was appointed and confirmed by the Senate in, I believe, 1993; and then there was some speculation she would be reconfirmed or reappointed by the President, and subsequently she was.

Since that time, I think all of my colleagues, and certainly all the country, know that this administration has had a lot of legal conflicts and problems. One of the biggest issues was the issue of campaign finance. Both the House and Senate have conducted hearings. I presently serve on the Governmental Affairs Committee that conducted an investigation all of last year over alleged campaign finance abuses. The committee, at least amongst the majority of the committee, albeit mostly Republicans, said, yes, there should be an independent counsel appointed. We made that recommendation to the Attorney General. She has ignored that recommendation, and regrettably so.

Mr. President, I might mention a few things. I said she is in charge of making sure the laws are enforced. I am looking at one, and I could spend hours going through the law and stating allegations that I think this administration was in violation of, that she has not enforced, or to give reason for the appointment of an independent counsel so there would not be this conflict of interest. I will mention a couple of laws.

Title 18, section 607, United States Code, states in clear and unequivocal terms:

> It should be unlawful for any person to solicit or receive any contribution in a Federal building.

I could go on and mention the conflict of covered persons. Covered persons under this statute are the President, the Vice President. Vice President GORE has now admitted to making 52 fundraising calls from the White House. And the so-called coffees: There were 103 coffees in the White House attended by 1,241 people. They raised $26.4 million and I think are in direct violation of the statute. President Clinton hosted an average of two coffees per week during the reelection cycle; Vice President GORE attended over 100 coffees in 22 months before the election; 92 percent of the coffee attendees contributed to the DNC in the 1996 election cycle.

I could mention the overnighters. President Clinton, in a handwritten note to a memo on January 5, 1995, told his staff he is "ready to start the overnights right away" and asked for a list of $100,000 and $50,000 contributors. Altogether, there were 178 guests who were listed as long-time friends, public officials or dignitaries, or Arkansas friends, who contributed over $5 million to the DNC. Overnight DNC donors

paid an average of $44,000 per family to sleep in the Lincoln Bedroom. The White House was for sale, I think in clear violation of the law, Mr. President.

I will mention a statement that Attorney General Reno made to the House Judiciary Committee on October 15, 1997. I ask unanimous consent that excerpts of Attorney General Reno's statement be printed in the RECORD.

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

Since they began their work, I have met with them regularly to hear what they have found and to ask them questions. I check on their progress several times a week, discussing with them what evidence they have found and how they are proceeding. Most important of all, I have told them from the start that they are to contact me immediately if they ever believe that the evidence and the law justified triggering the Independent Counsel Statute. I and Director Freeh check with them regularly to insure they have adequate resources.

* * * * *

As I stated then, the fact that we don't trigger a preliminary investigation under the Act does not mean we are not investigating a matter. We are fully prepared to trigger the Independent Counsel Act and pursue any evidence that a covered person committed a crime, if any should arise in the course of our investigation. We continue to investigate every transaction brought to our attention. We will not close the investigation of a matter without Director Freeh and I signing off on its closure.

Mr. NICKLES. Mr. President, keep in mind that was last year, when the campaign investigation was going, and going very strongly. She had this to say concerning the investigation. She was talking about the investigators:

Since they've begun their work, I have met with them regularly to hear what they found and to ask them questions. I check on their progress several times a week discussing with them what evidence they have found and how they are proceeding. Most important of all, I told them from the start that they are to contact me immediately if they ever believe that evidence and law justify triggering the Independent Counsel Statute. I and Director Freeh check with them regularly to ensure they have adequate resources.

Later in her statement:

As I stated then, the fact that we don't trigger a preliminary investigation under the act does not mean we are not investigating the matter. We are fully prepared to trigger the Independent Counsel Act and pursue any evidence that a covered person committed a crime if any should arise in the course of our investigation. We continue to investigate every transaction brought to our attention. We will not close the investigation of a matter without Director Freeh and I signing off on its closure.

She made a commitment that basically the major decisions would be made by the Attorney General and the FBI Director, former Federal judge, Mr. Freeh. I mention that because evidently Mr. Freeh made a detailed report, evidently a 27-page report, to the Attorney General in November of 1997 calling for an independent counsel. I am not inserting that report in the RECORD. I am going to read a couple of excerpts that Senator THOMPSON made before the Judiciary Committee, where Attorney General Reno testified on July 15 of this year, where he outlined several things that were in Director Freeh's memo.

I will be very quick and maybe I will insert several pages of this in the RECORD. This is Senator THOMPSON talking about Director Freeh's investigation. He pointed out that the FBI's investigation has led them to the highest levels of the White House, including the Vice President and the President, and that the Department of Justice must look at the independent counsel statute. He pointed out there are two sections; one is a mandatory section where the Attorney General is required to appoint, and another one is a discretionary section. The ultimate conclusion by Mr. Freeh is that the statute should be triggered under both the mandatory and the discretionary provisions of the statute.

I ask unanimous consent that the entire section of this dialog be printed in the RECORD.

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

[Mr. THOMPSON.] On Friday, June 19th Larry Parkinson, the General Counsel of the FBI, presented to Senator Glenn and myself an oral summary of a 27-page legal memorandum that was written in November 1997 from Louis Freeh. You might recall when Mr. Freeh and General Reno were testifying before the House Committee on Governmental Operations, Mr. Freeh declined to present the memo he had recommending the independent counsel, but he agreed to give an oral briefing to the chairman and ranking member of the committee. He did the same thing with regard to our committee. I think that I have a fair summary of what his position was on those matters and I would like to lay that on the record and have some discussion about it if we have time.

Basically, Mr. Freeh's memo is in seven sections. In the first section, he deals with the purpose of the independent counsel statute and points that it was to ensure fairness and impartiality in an administration's investigation of its own top officials, and highlights several reasons for the enactment of the statute. The top three listed were the Department of Justice difficulty in investigating a high-level official; secondly, the difficulty in investigating a superior. And, third, even the appearance of a conflict of interest is dangerous.

He pointed out that their investigation, the FBI's investigation, had led them to the highest levels of the White House, including the Vice President and the President, and therefore the Department of Justice must look at the independent counsel statute. He pointed out there are two sections. One is a mandatory section where the Attorney General is required to appoint, and another one is a discretionary section.

The ultimate conclusion by Mr. Freeh is that the statute should be triggered under both the mandatory and the discretionary provisions of the statute, and then he goes in some detail to state why. He points out that there are unprecedented legal issues. There has been a lot of discussion as to whether or not soft money contributions that are totally coordinated out of the White House were legal or illegal, for example.

The memorandum points out the legislative history. And, of course, lest we forget, Director Freeh is a former Federal judge as he opines on these matters. He points out the congressional intent was that where there were unprecedented legal issues or differences in legal opinion that an independent counsel is to be sought. That was his interpretation of the clear legislative history.

He discussed in some detail Vice President Gore's telephone solicitations, the President's telephone solicitations, the need for the independent counsel in both cases. And it was the Director's ultimate conclusion that it should be referred to appointment of an independent counsel as part of a broader scheme to circumvent campaign finance law under either the mandatory or the discretionary provisions of the statute. He held the same conclusion with regard to the White House coffees, the overnights, and the other perks.

He also says that with regard to soliciting contributions from foreigners, nevertheless, there is an additional question of whether DOJ should be resolving these issues. The legislative history is such that the Department of Justice is not to undertake an elaborate legal analysis when a covered person is involved, a legal analysis with regard to the questions of law that we mentioned before.

Then he refers to the discretionary provision. After having decided on all counts, on all instances of matters in controversy, that it called for the activation of the mandatory portion of the independent counsel law, he then turned to the discretionary portion of the law. And I think this is an accurate quotation from the briefing that we got, quote, "It is difficult to imagine a more compelling situation for appointing an independent counsel," as he discussed the reasons that caused him to reach that conclusion.

He said, for several reasons. He said, first, is the fact that the Department of Justice investigating the President and the Vice President. The independent counsel statute is based on the fact that it is a conflict for the Attorney General to investigate her superiors. Secondly, Director Freeh said that the cumulative effect of all of the fund-raising-related investigations going on should activate the discretionary provision of the statute.

Thirdly, he said the Department of Justice is investigating other persons in addition to covered persons who, because of the nature of their relationship with the President and the Vice President, give the appearance of a conflict of interest. In other words, when someone who is being investigated and in one case has already been indicted who was in the White House 49 times, that although that person is not covered, he is a close associate of covered people. And if you are trying to get information from someone you have just indicted, or you are in negotiations with regard to plea bargaining or immunity or any of those other instances, how can you do that effectively when the answers that he may give may have to do with the covered person, who is the Attorney General's superior?

Fourth, the independent counsel statute arose from Watergate and thus has a unique relationship to the campaign finance laws. In other words, the Attorney General—according to his reading of the legislative history

of this, there is a unique relationship between the independent counsel law and campaign finance laws, which is, of course, what we are dealing with.

Lastly, the section provides factual information about in comparison to the Attorney General's previous discretionary appointments. In other words, there are many instances where the Attorney General has activated or relied upon the discretionary provision of the law. He discussed Filegate, discussed Whitewater, discussed Mr. Nusbaum's situation.

In Whitewater, the Attorney General invoked the discretionary provisions because of a political conflict of interest from McDougal and others who were close to the President. Nusbaum was a former senior member of the White House staff, although not a covered person, who also had a close relationship with the President. It is consistent with those precedents to treat this investigation as a discretionary independent counsel matter as well.

The Director also points out the fact that it is the FBI and the DOJ's obligation to keep the President informed on national security information while investigating those same issues. And, also, as he says, simply the appearance or public perception of a conflict can invoke the discretionary clause. It is absolutely essential for the public to have confidence in its investigators and this is consistent, of course, with the Attorney General's confirmation testimony.

Director Freeh also says that contrary to her testimony before the Senate, Attorney General Reno replied to Senator Hatch that she had to actual conflict instead of the appearance of a conflict. Director Freeh says the 1994 Congress rejected a DOJ proposal that the Attorney General would have a relevant conflict of interest only with a matter rather than a person as the standard for invoking the statute. And he concludes the Attorney General can consider appearance as well as actual conflict that might weaken public confidence.

According to the memorandum, it makes no sense for appearance to be relevant for covered persons, but not for the discretionary provision, since conflict is presumed for covered persons and appearance is more relevant to non-covered persons.

Lastly, Director Freeh points out as a reason for invoking the discretionary provision of the independent counsel law that the Attorney General's chief investigator has concluded that there is a political conflict of interest. This does not change the fact that the Attorney General makes the final decision, but in Director Freeh's view, it should be pursued under the discretionary clause.

So here we have a really remarkable and unprecedented situation where you have been investigating matters concerning covered people at the highest levels. You have been investigating matters concerning people who are not covered people, but are close associates of covered people who have had very extensive visitations to the White House.

You have, at best, a mixed interpretation of the law concerning campaign finance. No one thought up until this last Presidential election, for example, that a President or a Presidential candidate could take public money, certify that that is all he would spend, and then go get on the phone and raise unprecedented amounts of soft money which he coordinated out of the White House. No one thought they could do that up until your interpretation, and now we are seeing, in Ohio, I think both the Democratic and Republican Party are in court saying there are no limitations anymore because of this. Their position is even foreign money, under the Attorney General's interpretation, cannot be regulated because it is soft money and soft money is not regulated.

In addition, you have had a troubled investigation from the start in which you have made changes, I think, to the benefit—now, Mr. LaBella, who came in, also recommends an independent counsel, and now he is leaving. Now, you have the Director of the FBI, who is the chief investigator, saying from his investigation we should have an independent counsel. And yet we don't have that acted upon by the Attorney General.

Mr. NICKLES. He discussed in detail Vice President GORE's telephone conversations, the President's telephone solicitations, the need for independent counsel in both cases.

It is the Director's ultimate conclusion it should be referred to an appointment of an independent counsel as part of a broader scheme to circumvent campaign finance law under either the mandatory or the discretionary provisions of the statute. He held the same conclusion with regard to White House coffees, the overnights, and other perks, and that would include Air Force One.

He also talks about the scheme to evade the law. When the President agrees to take public funding of a Presidential campaign, he says: Here is how much money we are going to raise and spend. Clearly, the White House, and Mr. Harold Ickes and other people, tried to circumvent the law and say: We are going to raise lots and lots of money, the White House will do it, and we will basically get around these limits. Director Freeh obviously thinks that should be investigated and may well think it should be investigated for both parties. I am not making any aspersions. I am just saying that we should have an independent counsel.

If Director Freeh has studied this as long as he has—he is the chief investigative officer of the country as head of the FBI—if it is his strong conclusion, with a 27-page memo, that we should have an independent counsel, then we should have an independent counsel. He gave that memo evidently in November of last year, and the Attorney General has yet to appoint an independent counsel.

I could go on. I have already inserted most of this into the RECORD. I will skip and just make the comment that if you have the Director of the FBI—I think his concluding comment, and I will quote this from Senator THOMPSON's statement:

It is difficult to imagine a more compelling situation for appointing an independent counsel.

That is from Director Freeh. That is not a partisan Republican. That is from a former Federal judge who is now Director of the FBI, who made that analysis after conducting a very extensive investigation. He says we need an independent counsel. I think the Attorney General should follow his advice.

Now we have, evidently, the chief investigator that the Attorney General appointed in the Justice Department making the same recommendation. Again, I haven't read his memo. Evidently, he just issued a memo—this is prosecutor Charles La Bella. This is according to news reports. I will insert this in the RECORD. This is July 23, 1998—recently—written by David Johnson. It says:

Prosecutor Charles La Bella delivered a report to Reno last Thursday as he prepared to return to San Diego this week to take over as interim U.S. attorney. La Bella has marked his department by challenging her to replace him with an outside counsel.

I will read one section:

But he contends only that their fundraising activities warrant outside investigation, and in the legal analysis La Bella concluded that Reno misinterpreted the law, creating an artificially high standard to avoid invoking the independent counsel statute.

It also goes on in the article to say that, last fall, La Bella urged her to seek appointment of an independent counsel to investigate fundraising telephone calls by President Clinton and Vice President GORE but she rejected that recommendation. In summary, La Bella concluded there was sufficient information to warrant appointment based on mandatory and discretionary provisions in the independent counsel statute, meaning he found enough specific information to justify outside investigation of high officials. He found that the Justice Department could not objectively investigate them on his own, the official said.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the New York Times, July 23, 1998]

CAMPAIGN INVESTIGATOR URGES RENO TO NAME INDEPENDENT PROSECUTOR

(By David Johnston)

WASHINGTON.—After a 10-month inquiry, the departing chief of the Justice Department's campaign finance unit has concluded in a confidential report to Attorney General Janet Reno that she has no alternative but to seek an independent prosecutor to investigate political fund-raising abuses during President Clinton's re-election campaign, government officials said Wednesday.

The prosecutor, Charles La Bella, delivered the report to Reno last Thursday as he prepared to return to San Diego this week to take over as interim U.S. attorney. In effect, after being chosen by Reno to revive an investigation that she had been criticized for neglecting, La Bella has marked his departure by challenging her to replace him with an outside counsel.

La Bella's report does not suggest that prosecutors are ready, or even close, to bringing a case against any top Democrats or administration officials, but contends only that their fund-raising activities warrant outside investigation. And in a legal

analysis, La Bella concluded that Reno had misinterpreted the law creating an artificially high standard to avoid invoking the independent counsel statute, officials said.

La Bella's conclusions, coming from a seasoned federal prosecutor with full access to all grand jury evidence in the case, represents a serious internal fracture within the Justice Department. And the report seemed certain to provide Republicans with considerable leverage to intensify their demands that Reno step aside and let an outside prosecutor take over.

So far, she has refused to budge in her refusal to refer the case to outside counsel, and Wednesday there was no indication that Reno seemed likely to reconsider her position. Last fall, La Bella had urged her to seek the appointment of an independent prosecutor to investigate fund-raising telephone calls by Clinton and Vice President Al Gore. But she rejected that recommendation.

Reno has said she carefully weighed the facts and the law before determining that the appointment of an independent prosecutor was not justified under the independent counsel law. She has defiantly blocked the appointment even in the face of a recommendation last fall from FBI Director Louis Freeh, who urged her to seek an independent counsel.

Her unwillingness to seek the appointment has exasperated Republicans in Congress who have accused the Justice Department of a politically motivated effort to subvert the independent counsel law to protect upper level Democratic Party and White House officials from searching scrutiny.

The report follows a tempestuous hearing last week, in which she faced withering questions by senators on the Judiciary Committee. Sen. Fred Thompson, R-Tenn., who led Senate campaign finance hearings last year, confronted Reno by quoting a confidential memo that Freeh sent to Reno in November 1997. He quoted Freeh has concluded, "It is difficult to imagine a more compelling situation for appointing an independent counsel."

Justice Department officials said Wednesday that Reno and Deputy Attorney General Eric Holder had received the report and were reviewing it. But they would not discuss specifics. La Bella would not discuss the report.

Labella's report has been guarded closely. He produced only two copies, the officials said. He gave one copy to Reno and sent another to the home of Freeh, an ally whose top agent on the case, James Desarno, approved Labella's findings.

Tuesday, Reno assembled several of her top advisers to discuss the report, but they apparently reached no conclusions about how or whether to respond. She has already named a successor to La Bella. He is David Vicinanzo, a prosecutor from New Hampshire.

The report casts possible new light on La Bella's decision on leaving his job as the top campaign finance prosecutor, suggesting that he could be stepping down in the middle of the inquiry because he believed that the case should not be handled by the Justice Department but by an outside prosecutor.

So far, the campaign finance inquiry has produced only several low-level fund-raisers. But there has been no indication that the inquiry was likely to move up the chain of command at the Democratic National Committee or the White House.

In his report, the officials said, La Bella concluded that there was sufficient information to warrant the appointment based on the mandatory and discretionary provisions of the independent counsel statute, meaning that he found enough specific information to justify an outside investigation of high-level officials. Moreover, he found that the Justice Department could not objectively investigate them on its own, the officials said.

Still, it was not clear whether La Bella recommended whether an independent prosecutor should be named to investigate specific officials although he assessed the activities of several senior officials, including Clinton and Gore and others like Harold Ickes, a former deputy chief of staff, who played an important role in supervising the campaign from the White House.

The report also suggests that an independent prosecutor should examine how the Democrats and Republicans used party funds to pay a massive blitz of television ads that were thinly veiled election messages for Clinton and Republican nominee Bob Dole.

Mr. NICKLES. Mr. President, we have the House Judiciary Committee, we have the Senate Judiciary Committee, we have the Governmental Affairs Committee all saying we should have an independent counsel. That was all done last year. We have the head of the FBI saying we should have an independent counsel, and we have the special prosecutor, brought in by Attorney General Reno herself to head up the investigation, saying we should have an independent counsel. They all came to the same conclusion that there was enough campaign abuse or alleged violations of the law that we should have an independent counsel to avoid the conflict of interest to investigate this matter further.

It is unanimous, with one exception—Attorney General Reno. In her comments, following Mr. La Bella's remarks, since that was made public, she says, "Well, we want to discuss this with all of our attorneys. He was just one attorney." He was the lead attorney. He was the chief investigator. And Director Freeh is not just an attorney, he happens to be the Director of the FBI. And if he issued a 27-page report calling for an independent counsel, I think she should adhere to it.

I am bothered by the fact that if we had the chief law enforcement officer of the country not enforcing the law, not listening to the recommendations of her chief investigator, Mr. La Bella, not following the recommendations of the Director of the FBI, then I do not think she is enforcing the law. And that bothers me.

So, Mr. President, it is with some regret—I do not do this very often—but I think if Attorney General Reno does not appoint a special counsel under the independent counsel statute to investigate campaign abuses by this administration, I think she should resign. I do not think she is doing her job. I think she is involved in more of a coverup of the President's activities or the White House's activities than she is enforcing the law.

I hope she will change her mind. I hope she will review the memo that Director Freeh and Mr. La Bella have given her and follow their advice. Those two individuals are not partisan Republicans. They are not the chairman of the Republican Judiciary Committee or the House Judiciary Committee or they are not Senator THOMPSON or other members on the Governmental Affairs Committee. They are appointees by this administration. I give them great credibility. I hope that she will follow their advice. Mr. President——

Mr. SPECTER. Will my distinguished colleague——

Mr. NICKLES. I am almost finished.

Mr. President, I also ask unanimous consent that three editorials be printed in the RECORD, one of which is dated July 21, a New York Times editorial. The headline of it is "Reno Flunks Law School." And just the last line says:

Ms. Reno didn't get it. She comes not to expose political corruption, but to bury it.

There is also a New York Times editorial from July 23 that says—I will just read this one paragraph——

The two people in the American Government who know most about this case—the lead prosecutor and the top investigator—are convinced that the trail of potentially illegal money leads so clearly toward the White House that Ms. Reno cannot, under Federal law, be allowed to supervise the investigation of her own boss. When it comes to campaign law, this is the most serious moment since Watergate.

I ask consent that one additional editorial be printed in the RECORD. I will just read one paragraph. This is an editorial, dated July 27, from the Washington Times. It says:

Like Mr. Freeh, Mr. La Bella has concluded that his investigation has satisfied both the provisions of the independent counsel law. Both have concluded that it is a conflict of interest for Ms. Reno to investigate these matters. Mr. La Bella also joined Mr. Freeh in concluding that Ms. Reno—for that matter, Mr. Radek—have misinterpreted the statute by establishing too high of a standard for the implementation of the independent counsel statute. FBI agent James Desarno, who was named to the task force as the highest ranking agent at the time Mr. La Bella was appointed, has also concurred with the recommendation for the independent counsel.

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

[From the New York Times, July 21, 1998]

RENO FLUNKS LAW SCHOOL

By studying the transcript of last week's Senate Judiciary Committee hearing, it is possible to reconstruct one of the more remarkable internal documents of the Clinton administration. That is the tightly reasoned, 27-page legal memorandum in which Louis Freeh, the director of the Federal Bureau of Investigation, told Attorney General Janet Reno that she was failing in her duty to appoint an independent counsel to investigate President Clinton's fund-raising.

Republicans (believe) Ms. Reno is allowing the Justice Department's investigation of foreign contributions and Chinese government meddling in the 1996 election to crumble.

That accounts for Senator Orrin Hatch's by-the-numbers tone in lecturing Ms. Reno last week. "You have conflicts of interest. There may have been crimes committed," he said. "And that's why the independent counsel statute was passed to begin with, and that is to take it out of your hands, so you don't have to be accused of conflict of interest."

Ms. Reno didn't get it. She comes not to expose political corruption, but to bury it.

[From the New York Times, July 23, 1998]

THE FIRESTORM COMETH

Charles La Bella, who has been leading the Justice Department's campaign finance investigation, has now advised Attorney General Janet Reno that under both the mandatory and discretionary provisions of the Independent Counsel Act she must appoint an outside prosecutor to take over his inquiry. The other important figure of this investigation, Federal Bureau of Investigation Director Louis Freeh, has already recommended an independent counsel. Ms. Reno can give her usual runaround about being hard-headed, but she cannot hide from the meaning of this development.

The two people in the American Government who know most about this case—the lead prosecutor and top investigator—are convinced that the trail of potentially illegal money leads so clearly toward the White House that Ms. Reno cannot, under Federal law, be allowed to supervise the investigation of her own boss. When it comes to campaign law, this is the most serious moment since Watergate.

These are not the judgments of rebel subordinates or hot-headed junior staff members. Mr. Freeh, a former Federal judge, has been if anything too loyal to Ms. Reno during the nine long months that she has ignored his advice. Mr. La Bella was handpicked by Ms. Reno on the basis of experience and skill to run this investigation. Either she has to come forward and make the impossible argument that they are incompetent or bow to the law's requirements.

Ms. Reno may grumble about leaks of supposedly confidential advice. But the fact is that the American people need to know that two top law enforcement officers believe the Attorney General is derelict. Moreover, Mr. Freeh and Mr. La Bella are right to separate themselves from Ms. Reno, because if her attempt to protect Presidential fund-raising from investigation continues, it will go down as a blot against Justice every bit as enduring as J. Edgar Hoover's privacy abuses. Firestorm is an overused word in Congress, but if Ms. Reno does not make the appointment, the Republican Senate leadership ought to ignite one—today.

[From the Washington Times, July 27, 1998]

CHARLES LA BELLA SPEAKS

When Attorney General Janet Reno beseeched federal prosecutor Charles La Bella last September to come to Washington to rescue her department's clueless investigation of campaign-finance abuses during the 1996 election, her request was clearly an act of desperation.

Rather than seek an independent counsel to replace her department's demonstrably incompetent task force, Miss Reno convinced Mr. La Bella to lend his considerable credibility to the task force, which had been thoroughly politicized by its leader, Lee Radek, chief of the Justice Department's Public Integrity Section. By the time Mr. La Bella arrived, the FBI agents assigned to the task force had been bitterly complaining for months about the snail-like pace, believing Mr. Radek was far more interested in controlling the investigation than advancing it. Mr. Radek, of course, had been intensely, and successfully, lobbying Miss Reno against seeking an independent counsel.

It didn't take Mr. La Bella long to conclude that Mr. Radek's arguments against naming an independent counsel amounted to "pablum." Last November, both he and FBI Director Louis B. Freeh advised Miss Reno to seek the appointment of an independent counsel to investigate charges that President Clinton and Vice President Gore had made illegal fund-raising calls from the White House. In a confidential 27-page legal memo to the attorney general, Mr. Freeh concluded, "It is difficult to imagine a more compelling situation for the appointment of an independent counsel," arguing that the investigation had satisfied both the discretionary and the mandatory options governing such an appointment. Siding yet again with Mr. Radek, Miss Reno rejected the advice of Messrs. Freeh and La Bella last fall.

Mr. La Bella is now returning to San Diego, where he will become interim U.S. attorney, an appointment he received from Miss Reno. On July 16, he filed his final report, and it was revealed late last week that Mr. La Bella once again strongly recommended that Miss Reno seek an independent counsel. Like Mr. Freeh, Mr. La Bella has concluded that his investigation has satisfied both the provisions of the independent-counsel law. Both have concluded that it is a conflict of interest for Miss Reno to investigate these matters. Mr. La Bella also joined Mr. Freeh in concluding that Miss Reno and, for that matter, Mr. Radek, have misinterpreted the statute by establishing too high a standard for the implementation of the independent-counsel statute. FBI agent James Desarno, who was named to the task force as the highest-ranking agent at the same time Mr. La Bella was appointed, has also concurred with the recommendation for an independent counsel.

Given that Mr. La Bella was Miss Reno's hand-picked prosecutor to lead her department's faltering investigation, his views ought to carry great weight, as, of course, should those of FBI Director Freeh. But Miss Reno has already displayed her trademark obstinacy and has failed to act in the 11 days she has had the benefit of Mr. La Bella's latest recommendation.

The Justice Department frequently reminds us that Miss Reno has sought more independent counsels than any previous attorney general. But it's worth recalling that she steadfastly refused to name an independent counsel to investigate Whitewater until after President Clinton instructed her to do so. And Kenneth Starr was appointed by a special three-judge panel, which rejected Miss Reno's recommendation that a more pliable, less independent prosecutor be reappointed.

By seeking independent counsels to investigate matters far less important than the massive campaign corruption that subverted the democratic process, Miss Reno has conveniently built a defense against having to seek an appointment that actually threatens the president. It's a brilliant tactic, but she cannot be allowed to get away with it.

The PRESIDING OFFICER. The Chair informs the Senator that his time has expired.

Mr. NICKLES. I thank the Chair. I now believe I have inserted in the RECORD all the subsequent statements that I have, including Attorney General Reno's statement before the Judiciary Committee, or at least excerpts of that.

I thank my friend and colleague. I also thank my colleague from West Virginia for his patience and courtesy, that he always extends. I appreciate that.

To my colleague from Pennsylvania, my time has expired.

Mr. SPECTER. For a question—I know the distinguished Senator from West Virginia is waiting. I will be just a moment or two.

Mr. BYRD. I will be happy to wait.

Mr. SPECTER. I appreciate that very much.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. My question, I say to Senator NICKLES, relates to the consequences of a resignation. I commend you for the statement which you have just made. I have joined others in the call for an independent counsel. And, in fact, when questioning Attorney General Reno on July 15 of this year—2 weeks ago on Wednesday—I asked her about specific cases and had an extensive chart which showed the justification for an independent counsel.

Then, because of the limitation of time, I mentioned only two cases, one where a memorandum had come from the Democratic National Committee to the White House identifying five people who were identified as being good for $100,000 each. The President initialed it. The Democratic National Committee called for a coffee. It was held in the Oval Office. Within a few days thereafter, four of the five contributed $100,000—specific and credible evidence. And the Attorney General responded she would get back to me, which I said surprised me because it was a well-known matter.

The second matter that I called to her attention—of only two because of the limitation of time—involved John Huang, where the photograph appeared and Carl Jackson, formerly of the NSC, National Security Staff, commented that Huang, in the presence of the President in the White House had said "Elections are expensive, and we expect people to contribute." I have pressed for a mandamus act which I will not discuss now. I have on prior occasions.

The question that I have for my distinguished colleague from Oklahoma—and I thank my colleague from West Virginia—is, What will be accomplished with a resignation? Is there any expectation that the President will appoint somebody who will be tougher on the campaign irregularities in which he is so deeply involved, at least by allegation? Wouldn't the better course be to move on the legal front, recognizing that it is a very tough case, candidly, an uphill fight—a long shot, in common parlance—contrasted with the resignation where we are going to have a

lengthy delay before a nomination is made—confirmation hearings—familiarity would be a matter of months—before a substitute attorney general would be in a position to respond to this issue about appointment of an independent counsel?

Mr. NICKLES. I appreciate the question by my friend and colleague. As I stated in my statement, one, I hope—I prefaced, I said if she does not appoint, if she does not appoint an independent counsel, then I think she should resign. And it is my hope that she will follow the wisdom of Director Freeh and Mr. La Bella, follow their advice and appoint an independent counsel. I hope she will enforce the law.

As my colleague from Pennsylvania is aware, I think the law is very clear. The one you mentioned with the coffees, the statute says: It shall be unlawful for any person to solicit or receive any contribution in a Federal building. The statute is pretty clear. It just has not been enforced.

I appreciate your statement. I think if she resigned—whoever is acting—before any person would be confirmed by the Senate, we would try to have a very clear understanding that the law would be enforced.

I would also mention—you mentioned John Huang. John Huang was in the White House 164 times. That is a lot of visits for a person who was primarily a fundraiser. I think clearly the law was abused; campaign abuses were very flagrant. And the law should be enforced.

Hopefully, the Attorney General will take heed of the advice that the Senate Judiciary Committee, the House Judiciary Committee, the Governmental Affairs Committee, the investigative committee in the House, and as well as the FBI Director and her chief prosecutor, Mr. La Bella, have given, and follow that advice with the appointment of an independent counsel. I think it would help relieve her of a lot of criticism. And I think it would be the right thing to do. I think it would be enforcing the laws as the law is written.

Mr. President, I again thank my colleague from West Virginia for his courtesy and also for his patience.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for 25 minutes.

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

MILITARY RELATIONSHIPS: NEW MARCHING ORDERS FROM THE PENTAGON

Mr. BYRD. Mr. President, last week, I took the Senate floor to call attention to reports that the Secretary of Defense was prepared to offer a proposal that would ease the penalties for adultery in the military. The report set off alarm bells in my own mind because moral responsibility in the military cannot be compromised without undermining the core values of the services—values such as honor, integrity, and loyalty.

As a result of my remarks, Secretary Cohen called me at home on Sunday—I believe it was Sunday—to assure me that he had no intention of watering down the Defense Department's policies concerning adultery and fraternization. In fact, he said, the new rules he was considering would strengthen those policies.

I appreciate the seriousness with which Secretary Cohen views this matter, and I applaud his efforts to come to grips with policies that have precipitated uneven treatment of military personnel and have resulted in morale-damaging charges of double standards.

The proposed new Pentagon policies were announced earlier this week, and I commend Secretary Cohen for upholding the military code of justice and resisting pressure to reduce the penalties for adultery. I wish I could have confidence that the new policies are sufficient and will fulfill Secretary Cohen's intent of ensuring even-handed treatment of adultery in the military. Unfortunately, I fear that the new policies fall short of the mark in that respect. Moreover, I fear that these new guidelines send conflicting signals to commanders in the field: Yes, on the one hand, adultery is still a crime in the military; but no, on the other hand, it will not be criminally prosecuted unless it is so flagrant that it disrupts or discredits the military.

I fear that some could read into these guidelines a message to the troops that lying and cheating are okay as long as you don't get caught. I do not for a moment believe that that is the message the Defense Department intends to communicate.

The stated intent of the new policies is to standardize good order and discipline policies among the Services, and to clarify guidance on the offense of adultery under the Uniform Code of Military Justice. In the case of fraternization, the new guidelines seem clear cut—they will impose a military-wide ban on fraternization, bringing the Army into line with the fraternization policies currently enforced by the Navy, Air Force, and yes, the good old Marine Corps.

The impact of the guidelines as they apply to the handling of adultery cases in the military is where the message gets muddled. The new guidelines, according to the Pentagon, do not change the Uniform Military Code of Justice. They do not lower the standards of conduct demanded of America's military forces. They do not preclude a court martial or dishonorable discharge for adultery. That's what the guidelines don't do. What they do accomplish, in my opinion, is much harder to quantify.

Under these guidelines, adultery would remain a crime in the military, but it would only be criminally prosecuted if it brought discredit to the military or disrupted the good order and discipline of the armed services. That caveat, while currently an element of proof of the offense of adultery under the Uniform Military Code of Justice, is given added weight and emphasis under the new guidelines.

Now, I have been accused, from time to time, of being old-fashioned, straitlaced, and of wearing 19th century clothes and a stickler for the rules and a stickler for propriety. I plead guilty on all counts, other than the 19th century business with respect to my clothing, but I do not believe that one has to be old-fashioned to recognize that adultery is a dishonorable act that intrinsically brings discredit to the offending party and, in the case of the military, to the uniform that he or she wears. I do not believe that honor and integrity anywhere, especially in the military, have ever gone out of fashion. And I do not believe that one has to be straitlaced to recognize that lying, cheating, and deceiving—all elements of adultery—intrinsically subvert good order and discipline.

Yet it seems to me that these guidelines shift the emphasis of adultery in the military from the crime to the consequences. Rather than clarifying the offense of adultery, it seems to me that these guidelines confuse the issue. What constitutes "discredit to the armed forces" if not a crime—and adultery is a crime in the military? What constitutes the disruption of "good order and discipline" if not lying, cheating, and deceiving in the commission of a crime?

Honor, integrity, and decency are universal values and principles. They are absolute. They do not fade with the passing of time or cease to matter behind closed doors. When a person takes an oath before God and country, as the military do, that oath is taken without qualification or reservation. It is not limited by time or place or who knows about it.

Mr. President, I believe that Secretary Cohen is dedicated to maintaining the high standards of the United States military. I know that he has put a great deal of time, thought, and effort into restoring consistency to the application of the military code of conduct. I commend him for his efforts, and I urge him to continue working on this extremely important and sensitive aspect of military service.

The men and women who serve in the United States military are remarkable individuals. They willingly endure the hardships that military life imposes on them and their families. They willingly sacrifice personal freedoms for the good of the nation. They willingly take an oath to preserve, protect, and defend this great nation, with their lives if necessary.

For the life of me, I cannot square that level of total commitment with official guidelines whose recommended remedies for the crime of adultery include "counseling" or "an adverse fitness report."

I cannot square the core values of the United States military with a guidance regarding adultery that appears to encourage commanding officers to overlook the crime of adultery if it is "remote in time."

Mr. President, how remote is remote? What kind of clarity does that guidance impart? Is last month remote enough in time to avoid a criminal prosecution for adultery? How about last week—is that enough?

Last month? Last year? Would this "clarification" have salvaged Air Force General Joseph Ralston's nomination to be Chairman of the Joint Chiefs of Staff? Would this guideline let Army Major General David Hale off the hook for abruptly retiring while he was under investigation for alleged sexual misconduct?

Is discretion what we are really talking about here? Do these guidelines send a signal to our troops that the crime of adultery is not really that bad as long as you are discrete and don't disrupt your unit? Are we giving a whole new meaning to the sentiment, "The better part of valor is discretion"?

I do not for a moment believe that this is Secretary Cohen's intent. I do not for a moment believe that our Nation's military leadership wishes to erode the standards of conduct for the military. But I do express a warning that these guidelines, well-intentioned though they may be, will not solve any problems. These guidelines will not erase the perception that the military applies a double standard to senior officers and enlisted personnel. And most important, these guidelines will not strengthen the necessary trust and cohesiveness that help to make America's military forces the finest in the world—we think.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HEALTH CARE DELIVERY IN ALASKA

Mr. MURKOWSKI. Mr. President, this is a picture of a gentleman, Walter Samuelson. Walter Samuelson was 60 years old when he died February 1, 1992, as a consequence of a heart attack from complications he suffered in February of that year. Because of the weather in King Cove, AK, Samuelson waited 3 days after his heart attack before he could be removed out of King Cove to a hospital in Anchorage. By that time, his heart had been so severely damaged he eventually had to have a heart transplant. The Samuelson family believes that had Walter been able to get out of the village of King Cove a little earlier, he would not have had the major complications that led to his heart transplant.

Mr. Samuelson was born and raised in King Cove, AK. He served in the military in the Korean war. He was a fisherman all his life, fishing with his father and brothers while growing up. And after serving in the military, he moved to Sitka and married. He and his wife, Freda, had four boys. During the summer, he would fly his plane 1,000 miles back to King Cove where his boat was and where he could continue his livelihood, fishing for salmon. He later moved back to King Cove to live and later remarried. He and his second wife, Tanna, had two more children.

Mr. Samuelson was a dedicated patron of the school in King Cove and devoted much of his time and effort there, so much so that he was honored in the dedication of the school's yearbook to him as "a great friend of King Cove schools," an honor which he certainly cherished.

He is survived by his wife Tanna and children: Carl, Walter, Jr., Charles, John, Axel, and Tanna. His surviving brothers and sisters are: Anna Poe, Marion Walker, Thelma Hutton, Christine Christiansen, and Alex, Eugene, John, Frank, and Eric Samuelson.

Mr. Samuelson required a heart transplant and died because there is no road between King Cove and Cold Bay.

We wonder how many more people have to die before we do something about it. Eleven residents have perished in aircraft accidents being medevaced out of King Cove a short distance to Cold Bay, where there is a year-round crosswind runway, as opposed to the gravel strip in the village of King Cove, where sometimes the windsock is blowing at opposite ends of the runway in opposite directions because of the severe turbulence in what is classified as one of the three worst weather areas identified in the world.

The point is the people of King Cove have an alternative, and that is a short, 7-mile road connection which would necessitate a gravel road of 7 miles on the edge of a wilderness area. The people of King Cove are willing to give approximately 700 acres of their land to enlarge the wilderness for access through 7 miles of wilderness. This is being objected to by the Department of Interior and by many of the environmental community.

I hope, as we return from our recess, we can reflect on the human merits, so we do not have to address additional obituaries of people who died because of their inability to get medical care and have simple access that every American enjoys with the exception of people in the village of King Cove, AK.

Mr. President, let me take this opportunity to wish you a very pleasant recess, and the other officials who are here in the Senate Chamber.

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

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

SELF-DETERMINATION FOR PUERTO RICO

Mr. MURKOWSKI. Mr. President, I would like to advise my colleagues that today, as Chairman of the Energy and Natural Resources Committee, I submitted to both the Democratic and Republican members of that committee, a chairman's mark specifically on the issue of self-determination for Puerto Rico. It is certainly a responsibility of my committee to provide and address the eventual disposition of the status of the American citizens in Puerto Rico, and the purpose of the draft is to provide them with an opportunity to express their dispositions on future political aspirations of the choice among commonwealth, independence, or statehood.

Also, I advise my colleagues, this is the centennial anniversary of Puerto Rico under U.S. sovereignty—100 years that Puerto Rico has been under the U.S. flag. The people of Puerto Rico, as U.S. citizens, have been in a process of transcending to something that would focus in on certainty. There is a growing effort to try to bring some finality to the disposition of the status of Puerto Rican Americans because they do not participate as other U.S. citizens in the election of representation in the House and Senate. As a consequence, many of them are looking towards a definitive alternative.

We have had hearings. We have listened to individuals from all sides of the debate. We have reviewed all testimony. We have had input from three political parties, certainly, as well as the Governor. I have directed the chairman's mark in the hopes that it will provide a brief, accurate and neutral definition of the status of the options. The mark is drafted to advance the process of self-determination for our fellow citizens of Puerto Rico. It is strictly advisory in its legislation. It does not mandate introduction of future legislation. It does not require any fast track.

I grew up living in a territory—my State of Alaska. We had taxation without representation. Many people in the

State of Alaska, filing their income tax returns, used to write in red, "filed in protest." It made them feel a little better. It didn't do any good. But the point is these people living in Puerto Rico are entitled to certainty, and it is an obligation of the Congress to address a final resolution.

I think our committee has a moral and constitutional responsibility to address the situation in Puerto Rico, but we don't want to get involved in the politics of Puerto Rico. That is not our business. I know the Governor intends to call a plebiscite this December. He may or may not choose to use the definitions that we provide him. Whether or not the Senate acts is another story. We have a short time left, but in my view this is an ongoing effort of the committee, a systematic progression. The definitions we have come up with and the structure in the previous bills, either the House bill or the Senate bill, have not been as neutral as we would have liked and would have involved, I think, more activity in local politics. We have attempted to be more objective.

It is my hope the measure that eventually comes out of our committee will provide the Governor language that is accurate and neutral. The draft chairman's mark clarifies citizenship under each option. That was very important, in our conversations with all groups. The classification and clarification of citizenship was very important. Under commonwealth, citizenship provided by statute will continue to do so. Under separate sovereignty, citizenship would end. Under Statehood, citizenship is, of course, provided under the Constitution, so there is no question about that.

Finally, I want to make it clear so long as Puerto Rico remains under U.S. sovereignty its residents, of course, will be U.S. citizens. If Puerto Rico wants separate sovereignty then, of course, U.S. citizenship would end.

I provided members of the Energy Committee a copy of this mark for their review over the recess. After receiving members' comments, members of the committee, again, will discuss this matter in September.

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. 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. The Senator is recognized.

THE PRESIDENT'S OATH OF OFFICE

Mr. ASHCROFT. Mr. President, the oath of office taken by the President of the United States is majestic and simple; as a matter of fact, it is eloquent. The President simply swears that he will faithfully execute the office, the highest office of the land, and that he will preserve, protect and defend the United States Constitution.

In its enumeration of his duties, the Constitution of the United States directs that the President "take care that the Laws be faithfully executed." So the President is directed by the Constitution to "take care that the Laws be faithfully executed." The core values of American self-government are concentrated in the Presidency.

Do we expect the President of the United States to be a patriot? Of course. Not only do we expect that from the structure of our government, we have grown to expect it because that has been established as a precedent by President after President after President.

Do we expect the President to love freedom? To serve the people rather than to serve himself? To act with respect for the rule of law? To uphold the idea in America that there are no kings, that the highest rank in this culture is the rank of citizen? To put the institution of the Presidency above his own personal interests? I think it is fair to say that all of us would respond to those inquiries with a resounding "Yes." We do expect that. We have high expectations.

Do we expect the President to be truthful? Yes. To keep his solemn oath of office? Yes. Certainly. These are qualities—the love of country, the commitment to public service, the obedience and supremacy of the law—that we expect in the behavior of the President. He or she is to be a national model for honesty, integrity, and respect for the law.

It has been shocking to me that defenders of President Clinton have begun to suggest, however, that such is not the case, that our aspirations are without foundation, that somehow we are dreaming an impossible dream to think that the President would be a model. Indeed, we are told he is not even responsible for telling us the truth. Some of his defenders have begun to suggest that lying under oath can be acceptable conduct in a President or that the President is generally above the law and that the President would not need to honor, for instance, a lawful subpoena to a grand jury—the idea that somehow the President's power is so substantial that the President would not have to respond in the event that he were called.

Jack Quinn, former White House counsel and a friend of many in this Chamber, argues in the pages of the Wall Street Journal that the President simply is not the subject of law in the same way as other citizens in an article entitled "Clinton Can Avoid the Starr Chamber." He argues that the President does not have to comply with a grand jury subpoena.

As new evidence comes to light, all the President's men work to keep America in the dark. And I believe that is wrong. I believe the concept of self-government carries with it an implicit need of citizens to know what is happening in government, what the circumstances are, what the conditions are. And certainly if a person is called upon by a part of our Government to provide truthful testimony, the failure to do so is a very serious offense.

I believe that perjury is unacceptable conduct and that it is an impeachable offense. How can it be otherwise? It is not possible to—and I am quoting the Constitution—"take care that the Laws be faithfully executed" while deliberately slighting the law against perjury. It is that simple.

I, for one, am fascinated by the prevailing conventional wisdom that Presidential perjury would be harmless error, while suborning perjury or obstructing justice would be much worse and an impeachable offense.

The suggestion is shocking—that somehow it is OK for the President to lie but it would not be OK for him to tell someone else to lie, that the act itself would be OK and permissible, but telling someone else to do it would be an infraction. That is an utterly false dichotomy.

Since when is it worse to try to get someone else to lie than to tell a lie yourself? Is it worse to try to convince someone else to steal than to steal yourself? Is it worse to convince someone else to cheat on their taxes than to cheat on your own taxes?

Being under oath and lying under oath or convincing someone else to tell a lie under oath is criminal in either case and irreconcilable with the President's constitutional oath to take care that the laws of the land be respected, honored, and enforced.

Terrible events appear to be engulfing the Clinton Presidency. The investigation of the President raises fundamental questions about the standards we should expect from a Chief Executive of the United States. If the House of Representatives begins an impeachment inquiry, the momentous machinery of the Constitution will raise the issue of Presidential conduct and misconduct to their highest levels.

Because the prospect of Presidential impeachment seldom troubles this blessed Nation—and we can be grateful for that—there are fundamental questions about the President's standing under the law that have never been answered definitively.

If we had impeachment processes going on every month, month by month, year by year, in virtually every Presidency, we would have a great body of law that told us exactly how things are to be done in this situation. That is how the rules of behavior in the

legal system are developed, through precedent and experience. But we really do not have major impeachment experience.

As a matter of fact, there has been one President who has undergone that kind of inquiry in the Senate, and that was well over 100 years ago. Moreover, in more recent times, when this body has considered impeachments for a variety of other, lesser officials, we have not conducted full-scale impeachment proceedings. So there are lots of issues that surround the potential of illegal activity by a President that have not been answered; some probably have not even been asked.

It is time to clarify these issues, I believe, before the House addresses the momentous decision of whether to open a formal inquiry. I think the questions need to be answered, and I believe that we can begin this important discussion about the President's obligations to comply with the normal criminal process.

I think we can begin to develop an understanding of how this should be conducted by holding hearings over the recess in the Constitution Subcommittee of the Senate Judiciary Committee. I believe we can invite scholars in to answer questions about whether the President is subject to prosecution; whether, indeed, the President is responsible for appearing before a grand jury in response to a subpoena; what level of conduct the President must compare to; what standard can he be measured by; in the absence of measuring up, are there things that can, should, or ought to be done?

I might point out that very shortly we will be called to reevaluate the independent counsel statute which provides a basis for individuals being investigated when the normal investigatory process would be replete with conflicts of interest.

I noted with interest that the assistant majority leader was on the floor here in the Senate Chamber earlier today talking about the fact that the Attorney General has been implored by the Director of the FBI to appoint an independent counsel to look into, investigate, and prosecute possible violations of the criminal laws regarding political contributions. Not only has she been asked to do that by the Director of the FBI, she has been asked to do that by the person she appointed in the Justice Department to look into the matter. His recommendation to her is, according to the reports is, that she ought to appoint an independent counsel, yet she has refused. I noted that the assistant majority leader indicated that her refusal and her continued refusal would become the basis for her resignation, in his view.

I think all of these serious questions about the accountability of high-ranking executive branch officials beg resolution and they demand discussion. It is important that we resolve them and begin to have a full awareness of these potentials as we move toward the responsibility of reauthorizing or otherwise adjusting or dealing with the concept of the independent counsel's office in the independent counsel statute.

Perhaps there is a single open question that is more demanding than any other of the open questions, and is certainly more relevant now, it appears, more than at any other time in history: whether a sitting President is subject to the regular compulsory criminal process.

I think, as I indicated, former White House counsel Quinn's article in the Wall Street Journal says no. When we mean regular criminal process, we have to say up to and including prosecution. So the question becomes, Can a sitting President be prosecuted if he violates the law, or is the sitting President above the law? Or is the only remedy to remove him from office through the impeachment process, and then would he be liable for prosecution or is he liable for prosecution if the Congress decides to sit on its hands?

You can imagine a situation in which a President was favored by a group of individuals in the Congress who simply didn't want to get involved or were allies of the President politically who said, "No, there are a sufficient number of us to stop an impeachment procedure, so we won't allow it to happen." If the President were to persist in criminal behavior, it seems to me, there is a question in that setting about whether there is any remedy. Would a President be subject to prosecution if the House turned its back on obvious—obvious—criminal infractions, simply saying, "We don't want any part of an impeachment proceeding?"

There is a pretty high level of political discussion now that says, even in the President's opposition party, that says the Republicans might not want this President to leave office to give his Vice President a jump-start on the next election. That is something that I don't buy. I don't believe in that. I believe that if there has been a serious infraction that merits impeachment, the inquiry must take place. Even if it is on the last day and the last 20 seconds of the Presidential term—Americans ought to do what is right. But there is a lot of discussion in the culture now that even an opposition party might not want to remove a particular official. So if there isn't any other remedy, does that mean that a person is free to violate the law? I think these are important questions.

The question, then, is whether a sitting President is subject to the regular compulsory criminal process—up to and including prosecution—or whether impeachment is the only avenue available for addressing Presidential wrongdoing?

It is a serious question. It is a question that has been commented on by a number of individuals hypothetically in the past. In commenting on the options available to address Presidential crimes, many people seem to proceed on the assumption that the impeachment process is the exclusive avenue for addressing Presidential misconduct. Judge Bork reached this conclusion many years ago when the Justice Department considered the options for prosecuting Vice President Agnew. But Judge Bork's view is hardly the unanimous view of legal scholars.

For example, Professor Gary McDowell has argued that the independent counsel does have the capacity to indict a sitting President. In the Wall Street Journal of March 9, 1998, Professor McDowell, who is a director of the Institute of the United States Studies at the University of London, says yes, in a rather well-written piece, yes, you can indict the President. Jack Quinn says, "Clinton can avoid the Starr Chamber," basically saying you can't.

Perhaps the most well-known constitutional scholar in America with whom I sometimes agree and with whom I often disagree is Professor Larry Tribe. Now, Lawrence Tribe, in his "American Constitutional Law" text, admits that the question must be regarded as an open one, saying that, with respect to whether or not you can proceed against a President in a criminal proceeding, "the question must be regarded as an open one, but the burden should be on those who insist that a President is immune from criminal trial prior to impeachment and removal from office."

Interesting. That is one of the most noted constitutional legal scholars in the United States saying that while he thinks the question is an open one, that those who want to say that there is immunity here have the real burden of making the case.

This is a constitutional question of the highest order. The answer provides insights into whether the President is subject to the criminal laws applicable to the citizenry of America. The answer also informs whether a popular President—or a President whose party has a secure congressional majority or a President whose value to other individuals in office would make them reluctant to involve themselves in impeachment proceedings—could ever be held accountable for violations of the law.

Perhaps early in a term a President is alleged to have done something, does the statute of limitations run, and if it runs before the term is over and the Congress decides to turn its head, does that mean there is absolutely no requirement that the President adhere to the law, respond to the law, be involved and uphold the law in the same way as other citizens are?

I think these questions are very serious questions, and they are questions that demand resolution. I think an inquiry is important to begin the process of resolving these questions.

There are also important subsidiary questions about whether the President is subject to a criminal process that should be examined. On August 17, the Nation will witness the spectacle of a sitting President providing grand jury testimony.

He is going to do it pursuant to a negotiated agreement. The President will appear, but he is going to be available for questions for a single day and will have the benefit of legal counsel. By doing so, by agreeing, he has deferred a legal resolution of these issues. I am, frankly, happy that the President has decided, at least in this measure, to make himself available. This negotiated agreement for the President to appear for a single day has deferred a confrontation over the ultimate constitutional question of whether a sitting President must comply with a grand jury subpoena. But this question may not go away.

In the event that a single day proves insufficient, for example, to resolve all the questions that Judge Starr has for the President, this unresolved question could resurface.

The importance of this question also goes beyond the context of this particular dispute over alleged Presidential perjury, or a series of other alleged Presidential acts relating to perjury and obstruction of justice. I have here an opinion piece by one of President Clinton's former White House counsels, Jack Quinn—to which I have referred already—in which Mr. Quinn argues that the President is not obligated to comply with the ordinary criminal process and is free to ignore a grand jury subpoena—to simply say: I don't participate in enforcing the law. If I have information about a crime that might have been committed, or evidence about it, I don't have to do that, I am the President.

That is a sweeping proposition, and I think it is one that the Congress should examine, particularly as we move toward the possible reauthorization of the Independent Counsel Act. I plan to bring in a number of constitutional scholars to address these critical issues and these yet unanswered questions.

Frankly, I do not mean to prejudge these issues. However, they are too important to leave unexamined. The answers to these questions may well inform the progress of Judge Starr's investigation and shape the difficult question of what the House should do if a report from Judge Starr does not arrive until the eve of adjournment.

The events of the past 6 months have raised many novel questions about the scope of the powers and privileges of the President. These are important questions and they are not easy to resolve. And in our system of separated powers, the answers to these questions also determine the scope and the power of Congress, and they will also determine, in some measure, the scope and the power of protection offered to the people. The answers will determine whether the people deserve to be protected by virtue of prosecuting those who offend the law even if Congress chooses not to be involved in proceedings which it had the opportunity to pursue, like impeachment. Congress cannot be a mere bystander in these debates. Congress has an important responsibility to use its investigatory functions to shed light on these important and unresolved questions. It is time for Congress to stop looking at the polls and to start looking at the Constitution.

I hope these hearings will provide important insights into the extent to which the President must comply with criminal process. I believe every other American has the responsibility to comply, and it is a serious question to determine whether or not the President has the responsibility of being a citizen, as well as being the President. So I look forward to sharing this discussion with other members of the Constitution Subcommittee and to chairing these hearings to help clarify these issues at a time when we need this clarity, either in reformulating our view on the independent counsel statute, or as it relates to events that are unfolding at the other end of Pennsylvania Avenue. I believe that a discussion of these issues will advance our capacity to understand the appropriate balance that is necessary for the maintenance of freedom and the responsibilities that come with the privileges that we enjoy as free people.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota, Mr. GRAMS, is recognized.

Mr. GRAMS. Mr. President, I ask unanimous consent to be able to speak for as much time as I may consume.

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

THE CRISIS IN SUDAN

Mr. GRAMS. Mr. President, as an original cosponsor of the sense-of-the-Senate on providing humanitarian relief to the Sudan, I believe it is important that we focus on the tragedy that is unfolding before our eyes. The people of southern Sudan are starving. Khartoum is using the denial of food as a weapon in its war against the rebels in the south—and we are letting the government of Sudan get away with this odious practice by allowing Khartoum to have a veto over aid deliveries.

Sudan has been torn by a devastating civil war between the Muslim north and the predominantly Christian and animist south for most of history since independence. The current phase of the war started in 1983 when the then-President embarked on an Islamization program. Recurring famine is just one of the tragic outcomes of Khartoum's brutal method of warfare where women, children, and livestock are taken as prizes of war. It has also resulted in institutionalized slavery, more than 4 million internally displaced people, and more than 1.5 million casualties in the past 14 years.

Our State Department lists Sudan as a terrorist state. We have sanctions on Sudan which prohibit American investment. But we respect the right of the National Islamic Front regime in Khartoum to veto the delivery of humanitarian relief to the south. That just doesn't make sense.

Most of the aid flowing to southern Sudan is through non-governmental organizations (NGOs) participating in a United Nations relief program, Operation Lifeline Sudan (OLS). While traveling through east Africa in December, I had the opportunity to visit the OLS Southern Sector headquarters and see firsthand the efforts of the NGOs. These NGOs are on the ground, along with UNICEF, mounting a heroic effort to distribute aid to these starving people. And I know that many of them share my frustration with the UN's political agreement with the government of Sudan which allows Khartoum to have the final say in the distribution of aid to the south. This has resulted in the starvation of citizens and soldiers alike when Khartoum decides it is advantageous to halt the delivering of aid.

For the past few years, Khartoum has restricted flights during the planting season so that aid organizations cannot deliver the seeds and tools necessary to help the people of southern Sudan feed themselves. This year Khartoum went a step further. Khartoum didn't just restrict flights. It banned relief flights in the Bahr el Ghazal region. It should be no surprise that another poor harvest is predicted in the Fall. According to the UN World Food Program, 2.6 million people in Southern Sudan are in imminent peril of starvation. Quite frankly, until we can find a way to deliver seeds and tools to southern Sudan during planting season, I see this cycle of famine continuing indefinitely. This is a warfare tactic of cowards.

The flight ban wasn't the only problem that OLS had in delivering aid effectively. When the flight ban was lifted and aid could once again be provided, OLS faced another barrier put in its way by Khartoum. OLS was forced to wait for Khartoum's permission to add four Ilyushin cargo planes to the handful of C–130s that deliver relief supplies to southern Sudan. Any agreement by the United Nations which permits Khartoum a veto over the number

of relief planes as well as when and where they can fly is fatally flawed. The President should aggressively seek to change the terms of this agreement which restricts the ability of Operation Lifeline Sudan to distribute aid effectively to southern Sudan.

As chairman of the International Operations subcommittee, I have to say I hold little hope that the United Nations will take any significant steps in this direction. That leaves, of course, the option of unilateral action by the United States to bypass Khartoum's veto. Currently, U.S. AID funnels aid to Sudan almost exclusively through OLS-affiliated groups. That must change if we are to have any chance to effectively combat the use of starvation as a tactic of war. The United States government shouldn't just cooperate with these non-OLS groups when Khartoum institutes restrictions on the delivery of aid—as we did during the Bahr El Ghazal flight ban. The United States should actively assist and develop relief distribution networks outside of Operation Lifeline Sudan's umbrella which are not subject to the whims of Khartoum. If we don't, yet another planting season will pass without seeds being sown, and hundreds of thousands or more people will starve.

SOLUTIONS TO THE SOCIAL SECURITY CRISIS

Mr. GRAMS. Mr. President, during the past few weeks, I have made a series of remarks on the Senate floor concerning Social Security. I discussed the history of Social Security, the program's looming crisis, the old-age insurance reform efforts taken by other nations, and the financial gender and race gaps created by the current Social Security system.

Today, I will sum up the major points I have made so far and then move on to speak about possible solutions to Social Security's problems, and the principles of reform we must uphold as we move forward.

The concept of "social security" originated in Europe in the 1880s. It was devised supposedly to correct the problems created by laissez faire capitalism, to avoid a Marxist-led revolution. Social Security was not an American experience. In fact, a very small group of intellectuals promoted and designed the Social Security program in this country. Congress hastily passed the Social Security Act less than seven months following its introduction in 1935. The public never got the chance to participate in the debate.

At the time, many Members of Congress from both sides of the aisle raised serious questions about the program. Unfortunately, many of their prophecies have become reality today. Senator Bennett Clark, a Democrat from Missouri, recognized the non-competitive nature of Social Security and offered an amendment to allow companies with private pensions to opt out of the public program. Workers would be given the freedom to choose either the federal Social Security program or a private pension plan offered by their employers.

The Clark amendment received popular support in the Senate, but was dropped from the conference report with the promise it would be reconsidered immediately the following year. It was not—that promise was broken, the first of many broken promises that plague us today.

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

In 1964, Ronald Reagan was among the first to suggest investing Social Security funds in the market. But no one took his advice seriously.

Then, in 1977 and 1983, Social Security ran into major crises, and Congress had no choice but to pass Social Security rescue packages that significantly increased taxes. Washington promised that Social Security would remain solvent for another 75 years. Today, another Social Security crisis is imminent. Unlike the previous two crises, however, the coming crisis will have a profound and devastating impact on our national economy, our society, and our culture.

The Social Security program's $20 trillion—that is a large number—$20 trillion—in unfunded liabilities have created an economic time bomb that threatens to shatter our economy. Beginning in 2008, 74 million baby-boomers will become eligible for retirement and the system will begin to collapse.

The problem begins with the fact that the current Social Security system is a "pay-as-you-go" entitlement program. The money a worker pays in today is used to support today's retirees—there are no individual accounts waiting for future retirees to dip into. This was not a problem in 1941, when there were 100 workers to support every beneficiary. It is a tremendous problem in 1998, when only two workers support each beneficiary.

These factors all lead to the conclusion that the Social Security Trust Fund will go broke by 2032 if we continue on our present course. If the economy takes a turn for the worse, or if the demographic assumptions are too optimistic, the Trust Fund could go bankrupt even earlier. Without real reform, the Congressional Budget Office and the General Accounting Office estimate the debt held by the public will consume up to 200 percent of our national income within the next 40–50 years.

A national debt at this level would shatter our economy—and shatter our children's hopes of obtaining the American dream.

Mr. President, retirement security programs worldwide, not just here in the United States, will face a serious challenge in the 21st Century due to a massive demographic shift that is now underway. The World Bank recently warned that, across the globe, "old-age systems are in serious financial trouble and are not sustainable in their present form."

While Congress has yet to focus on this problem, many other countries have moved far ahead of us in taking steps to reform their old-age retirement systems. Some of these international efforts are extremely successful. Chile and Great Britain are excellent examples.

Back in the late 1970s, after Chile realized that its publicly financed, pay-as-you-go retirement system would go broke, it replaced it with a system of personalized Pension Savings Accounts. Nearly two decades later, pensions in Chile are between 50 to 100 percent higher than they were under the old government system. Real wages have increased, personal savings rates have nearly tripled, and the economy has grown at a rate nearly double what it had prior to the change.

When facing bankruptcy in the early 1980s, the United Kingdom reformed its system to allow individuals to choose the option of a new, self-financing private pension plan. The success of the English system has been overwhelming. Today, nearly 73 percent of the workforce participates in private plans, with a total pool worth more than $1 trillion. The United Kingdom will pay off its national debt by 2030, about the same time experts estimate our Social Security Trust Fund will go bankrupt.

Mr. President, we can learn a great deal from our global neighbors. As we pursue reform, we must also address the issue of why the current Social Security system puts women and minorities at a greater financial risk and disadvantage than other retirees face today. For women and minorities, average income remains low. This means they have less money available to save for their retirements. Therefore, a growing number of women and minorities are becoming increasingly dependent upon their Social Security checks. Today, the average female retiree earns approximately $621 per month, compared to her male counterpart at $810 per month. But marriage alone does not always improve a woman's situation. In fact, 64 percent of all elderly women living in poverty are widows. This is because when a spouse dies, the widow's benefits are reduced by up to one-half.

Race also continues to be an important factor in determining the level of

retirement security for some Americans. As Social Security approaches bankruptcy and the rate of return diminishes, Hispanic and African-Americans will be forced to bear a disproportionate share of the financial burden.

In an economic model prepared by the Heritage Foundation, a hypothetical Hispanic community of 50,000 lost $12.8 billion in 1997 dollars over what it could have earned had they invested their Social Security funds in a conservative portfolio. The findings within the African-American community are similarly troubling. Like single Hispanic males, single African-American males have a lower life expectancy and are especially disadvantaged by the current Social Security system. A low-income, African-American male born after 1959 can expect to receive less than 88 cents back on every dollar he contributes to the Social Security trust fund.

Mr. President, Congress and the public itself have begun to focus on the inequities of the current system, with an eye toward the rapidly approaching crisis. To date, a number of Social Security reform proposals have been introduced by Members of Congress of both parties, by think tanks, and by individuals in the private sector. This is very encouraging. It appears to me there are wrong and right approaches to reforming the Social Security system. The wrong approaches are to tinker with the current system by either increasing the payroll tax or reducing benefits, or letting the government invest Social Security Trust Funds for the American people. Mr. President, let me take a few moments to discuss why.

There are two points to consider in whether the federal government itself should invest the Social Security Trust Funds in the equity markets. The positive aspect of this approach, in my view, is that the authors of this proposal have admitted the insolvency of Social Security and have recognized the power of the markets to generate a better rate of return, and therefore improved benefits for retirees. The negative side is that direct federal involvement in the markets has the potential to do great harm.

In the last week's Humphrey-Hawkins hearing, I asked Federal Reserve Chairman Alan Greenspan whether we should allow the government to invest the Social Security Trust Funds in the markets, and if this is right direction to go. Here are his exact words:

> No, I think it is very dangerous. . . I do not know of any way that you can essentially insulate government decision-makers from having access to what will amount to very large investments in American private industry. . . I am fearful that we are taking on a position here, at least in conjecture, that has very far-reaching, potential dangers for a free American economy and a free American society. It is a wholly different phenomenon of having private investment in the market, where individuals own the stock and vote the claims on management, (from) having government (doing so).
>
> I know there are those who believe it can be insulated from the political process, they go a long way to try to do that. I have been around long enough to realize that that is just not credible and not possible. Somewhere along the line, that breach will be broken.

Perhaps no one in the country is more knowledgeable about the American economy than Chairman Greenspan. He was among the first to raise the issue of Social Security's unfunded liabilities and warned Congress a few years ago about the consequences if we fail to fix Social Security. Chairman Greenspan has been consistent in his position. But last week was the first time he spoke so clearly, forcefully, and persuasively against the idea of letting the government invest the Social Security Trust Funds. Mr. President, we should never venture out onto what Chairman Greenspan called "a slippery slope of extraordinary magnitude.

We hear some argue that Social Security is not in crisis, it is not broken, and all we need to do is make a few "minor adjustments," such as raising the payroll tax by 2.2 percent. History has already proved that this approach will not work.

If we were to adopt this plan, the tax hike would cost roughly $75 billion in fiscal year 1998, which is the equivalent of a 10 percent increase in everyone's personal income taxes. Such an increase would not only represent an impossible hardship for America's already overtaxed, hard-working families, but it would not fix Social Security either.

This 2.2 percent figure is based only on what is called actuarial balance, not operating balance. This calculation itself is problematic because actuarial balance counts accumulated surpluses, which are nothing but IOUs that can only be redeemed by raising taxes or borrowing from the public. Even if Congress adopted the 2.2 percent solution, Social Security would still face large and steadily growing deficits starting in 2020.

When I asked Chairman Greenspan about this proposal, he told me that increasing taxes will not create the savings, the investment, nor the production of real assets required for retirees, because: First, it is the same failed remedy we have turned to repeatedly, and second, it does not change a pay-as-you-go system to a fully funded one. The right approach, according to Chairman Greenspan, is to allow private retirement accounts which he believes will "far more readily move toward full funding" of the system. He believes a fully funded system will provide the savings and investment, and thus increased productivity, needed for retirement security. I fully agree with him.

You don't have to go far to find empirical evidence supporting this approach. Employees of Galveston County, Texas opted out of Social Security in 1981 to set up a private retirement plan. Let me offer some comparisons. Under Social Security, the death benefit is only $253 while under the Galveston plan, the average death benefit is $75,000 and the maximum benefit can reach $150,000. Disability benefits under Social Security are $1,280 per month, compared with $2,749 for Galveston employees. The maximum Social Security retirement benefit is $1,280 per month, while the average retirement benefit for Galveston employees is $4,790 per month.

Mr. President, it is obvious which plan is superior.

Those who argue passionately for preserving Social Security's status quo insist that personal retirement accounts are too risky and too expensive to operate. This is not true. Any investment involves risk, but in my view, Social Security is even riskier than other long-term market investments. Social Security has already had two crises in the last two decades. The coming crisis will wipe out a worker's entire lifetime of Social Security investments. With today's well regulated and matured markets, risk can be managed to the minimum for long-term investment. In addition, workers do not necessarily have to invest in stocks. In fact, they can invest in low-risk bonds, and even Treasury bills, and still do better than Social Security.

Actual fees and administrative costs for existing investments in the markets are generally well below 1 percent. With much higher yields, a market-based system still results in much better benefits than are realized under Social Security.

Supporters of the status quo also argue that a personalized retirement security system will hurt lower-income workers. Again, this is untrue. Under the Galveston plan, a 25-year-old worker, making $20,000 a year and retiring at age 65, will receive $2,740 in retirement benefits per month. That's more than three times greater than Social Security's $800 per month benefit.

A personalized retirement system is the best retirement system for today's and tomorrow's American workers because, not only will it make Social Security solvent, it will produce maximum retirement benefits and a sustainable economy. In fact, I believe this is the only solution to the Social Security crisis. We should move in this direction as soon as possible, and we should allow workers to use as much of their payroll tax as possible to set up their personal retirement accounts. There are existing proposals to allow workers to set aside two, three, or four percent of the payroll tax for their personal retirement accounts. These are all well-analyzed proposals, and each has its own merits. We should take a close look at them.

However, if a personalized retirement system will generate the best outcome, why do not we allow workers to put all their payroll taxes into the new system? That would allow workers to accumulate more savings, enjoy higher returns, generate additional benefits for their retirement in a shorter time, and pass the savings on to their children. By so doing, we can shift to a fully funded retirement system much more quickly. This will have an enormous, positive impact on our savings and investment, and our economy—while providing the retirement security we have pledged to deliver. I soon will offer legislation to achieve this goal.

Clearly we have no choice but to pursue real reform of Social Security. What remain are the difficult questions of how we should proceed, which principles should guide us, and which options offer Americans the best opportunities for retirement security.

In my view, the primary principle in reforming Social Security is to protect current and future beneficiaries who choose to stay within the traditional Social Security system. The government must guarantee their benefits. Any change that reduces their benefits, or adversely affects those Americans, is not acceptable. Let me repeat: it is not acceptable if any reform results in a reduction of benefits, or harms in any way those Americans who are depending—or who want to depend—upon Social Security.

I emphasize this principle not so much because we want to gain the support of seniors—although their support is essential to the success of our efforts—nor to neutralize their opposition to Social Security reform, but because of the sacred covenant the federal government has entered into with the American people to provide their retirement benefits. It is our contractual duty to honor that commitment. It would be wrong to let current or future beneficiaries bear the burden of the government's mistakes in creating a poorly-designed program and failing to foresee demographic changes.

The second principle we must uphold is to give the American people freedom of choice in pursuing retirement security. The purpose of Social Security is to provide a basic level of benefits for everyone in case of misfortune. So if social insurance is a safety net to catch those who fall, it does not make sense to penalize those who are quite able to stand on their own two feet. Freedom is the cornerstone on which this nation is built—taking away freedom will lower the standard of living we enjoy today. Allowing workers to control their own funds and resources for retirement will strengthen our constitutional democracy and put individuals in charge of their own savings.

The third principle is to preserve a safety net for unlucky or disadvantaged Americans, so that no covered person is forced to live in poverty. Today's Social Security program has 44 million beneficiaries: we must ensure that the safety net will continue to be there for them. But we must also separate the retirement function from the welfare function and make them transparent, so that we can better manage and improve old-age retirement programs and welfare programs.

The fourth principle is that reform should provide better or improved retirement security for American workers than is currently available. We can do that by enabling them to build personal retirement savings, improve the rate of return on their savings, increase capital ownership, and pass their savings on to their children.

More and more people are relying on Social Security as their only source of retirement income. As that number grows, however, the rate of return for Social Security contributions is diminishing.

And so it is becoming ever more difficult to juggle the increased dependency on Social Security with the expectations for a decent retirement. Any reform of the current system must meet this challenge and provide better benefits for every American, regardless of their income, than are available under the current system.

The fifth principle should be to replace the current pay-as-you-go system with a fully funded program. The fundamental flaw of the Social Security system is the PAYGO finance mechanism, which has been very vulnerable to changing demographics, and hardly remains actuarially balanced.

It has created enormous financial burdens for our children and grandchildren. Moving to a fully funded system will not only reduce inequality among generations, it will also greatly increase our nation's savings and investment rates, and therefore prosperity.

The sixth principle is that any reform of the current system should not increase the tax burden of the American people. The taxpayers are already paying an historic 40 percent in federal, state and local taxes out of every paycheck they earn.

Although Congress has increased payroll taxes more than 51 times in the past 63 years, Social Security still faces a crisis. Hiking taxes yet again to fix Social Security would be unfair and unjust to working Americans, and would only pave the way for additional, future tax increases.

We must neither increase taxes to tinker with the current system, nor to finance a transition from a PAYGO system to one that is prefunded. Instead, we should look for a more innovative and more appropriate way to finance reform, such as reducing government spending and selling government assets, to achieve the goal.

Although the degree to which the various reform proposals being discussed meet the core principles I have outlined varies greatly, the fact that we are openly debating this subject at all is heartening.

In conclusion, Mr. President, the looming Social Security crisis is real. The threat to our economy is devastating. The best solution to avoiding this imminent crisis is to move from Social Security's PAYGO-based system to a personalized retirement program that is fully funded and offers each American the security they seek—and deserve—in their retirement years.

Congress has the power to create this brighter future for all. Congress has the responsibility to act before the coming danger is irreversible. All Congress needs now is courage.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. I thank the chair.

(The remarks of Mr. D'AMATO pertaining to the introduction of S. 2419 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PROGRESS TOWARD A MORE EFFECTIVE RCRA

Mr. LOTT. Mr. President, I rise today to acknowledge and commend the Members and staff of the Environment and Public Works Committee for their tireless work towards producing a targeted RCRA reform bill this Congress.

Mr. President, what the Committee has undertaken is no easy task. Although the bill we are crafting only deals with a narrow part of the Resource Conservation and Recovery Act, the drafting process has been a difficult and long road. RCRA is the most complex and technical environmental statute in existence, and to fix a piece of it, one must understand the whole. The Committee has spend many months educating themselves—and this determined effort is paying off.

The majority and minority committee staff have been exchanging language and ideas in intense negotiations over the last several weeks. They are not debating principles, Mr. President, they are getting down to brass tacks. They are refining the language so that it reflects a consensus position on the issues. After all, we all agree—the Administration, the EPA, Republicans, Democrats and stakeholders—that RCRA needs to be fixed. The challenge now is putting the agreed-upon remediation waste reforms into legislative language.

Mr. President, Congressional Republicans and Democrats are working with the Administration and the agencies as a team. Our team is closer than ever to producing a bill that is fiscally and environmentally responsible. Our team is on the brink on introducing a bill that will be embraced by Congress and the

Administration. Our team is within striking distance of a win for everyone.

The biggest winners, Mr. President, will be those affected by our bill. Industry, the states and the environmental community support our efforts towards reform because they know our goal is to speed up site cleanup and reduce agency bureaucracy.

When setting out to craft a targeted RCRA remediation waste bill in 1996, this same team focused on three primary goals. Today, my goals and that of the team are still the same.

First, I want to make RCRA work. I want it to work faster. I want it to work more cheaply. A RCRA reform bill is worthless if it does not clear these basic hurdles.

Second, I want to remove regulations that are counterproductive to cleanup and streamline decision-making. This will give EPA the flexibility it needs to get the job done. Current law keeps the EPA from removing some of the largest obstacles to clean-up, and the only way to fix the problem is by fixing current law.

Third, I want to give the states more authority over the management of these cleanup programs. States not only have the ability to do the job right, they have the resources and talent. These officials know how best to deal with the communities and counties impacted by the site and its cleanup.

Mr. President, I believe we are on the way to a final product that keeps faith with these goals.

I must take a moment now to commend the good work being done by the House Commerce Committee. Certainly the Senate could not have come so far so fast were it not for the efforts in the House. Our colleagues on the other side of the Capital have done a remarkable job, through stakeholder meetings and dialogs, to educate us all as to the potential implications of our actions. I know Senators CHAFEE, SMITH, BAUCAS, and LAUTENBERG join me in commending the efforts of Chairmen BLILEY and OXLEY and their staff on this issue.

Mr. President, environmental cleanup programs only work if sites are truly being cleaned up. With over 5,000 RCRA sites nationwide, our work is cut out for us. I look forward to returning to the Senate floor in September to join my Senate colleagues in introducing our RCRA remediation waste reform legislation—a first step towards an effective and responsible RCRA program. Thank you.

TRIBUTE TO JEROLD KENNEDY

Mr. LOTT. Mr. President, today I join several of our colleagues in cosponsoring a bipartisan bill which will strengthen the manufactured housing industry. This legislation will benefit the fastest growing segment of the housing industry, while establishing a balanced process for the development, revision, and interpretation of Federal construction and safety standards. This legislation also focuses on the consumer.

In addition to announcing my cosponsorship, I want to pay tribute to Jerold Kennedy, a native Mississippian, entrepreneur, a business owner, and advocate for manufactured housing. Jerold championed reforms of the regulations controlling this segment of the marketplace. He worked for many years to advance legislation that would modernize the National Manufactured Housing Construction and Safety Act of 1974. Today, I honor Jerold's efforts. S. 2145 reflects those efforts, and Mr. Kennedy would be proud of S. 2145.

This segment of the industry, to which Jerold dedicated his life, plays a vital role in making affordable, unsubsidized housing available for a wide range of Americans. First time home buyers, single parents, and senior citizens are just a few groups who greatly benefit from manufactured housing. This industry is responsible for one out of every three single-family homes sold last year. One-third! For less than $40,000, millions of Americans can realize their dream of owning a home. This is an appealing alternative compared to the 5.3 million Americans who pay more than 50 percent of their income in rent.

In order for this industry to sustain such phenomenal growth and make affordable housing available, it is necessary to update the laws which regulate this industry. The Manufactured Housing Improvement Act (MHIA) will do just that, creating a process for keeping construction standards current, and enforcing the federal authority on those standards. S. 2145 will be the first step in fixing the inadequacies which confront the manufactured housing industry today.

This bill will also create a private consensus committee made up of all interested parties. They will submit recommendations to the Secretary of Housing and Urban Development (HUD). Recommendations which will serve as a valuable tool in revising the Federal Manufactured Home Construction and Safety Standards in a timely manner. Additionally, this legislation will authorize HUD to use industry labeling fees to pay for any additional staff needed to do the new work. This user fee mechanism will remove a need for additional federal funding.

This legislation pays tribute to Jerold Kennedy, who passed on before S. 2145 was introduced. I want Mrs. Kennedy, and their three children, to know that Jerold's legacy lives within this bill. Jerold Kennedy founded Belmont Homes, Inc., and dedicated 28 years of his life to the manufactured housing industry. Congress owes a great deal to Jerold Kennedy. His common sense approach to update the standards which regulate the industry are the foundation of S. 2145. I hope this Congress can make his dream a reality. This legislation pays tribute to a man of integrity. His honesty, trustworthiness, and professionalism helped both the profession of which he was a part and the efforts to reform its public policy.

Mr. President, this legislation will address the recognized and acknowledged problems in HUD's manufactured housing program. S. 2145 will provide real-world, viable solutions enabling the manufactured home industry to prosper, while providing consumers with even more benefits and protection.

PASSING OF BUCK MICKEL

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who was a friend, a leading businessman, and one of the most public spirited South Carolinians I have ever had the honor to know, Buck Mickel, who passed away last week.

Buck is best known and remembered for his leadership of the Fluor Corporation, one of the leading construction companies in the world. Buck began his career with Daniel Construction Company, which would later merge with Fluor, in 1948 and he very quickly began his climb up the corporate ladder. By the beginning of 1965, he was elected President and General Manager, and in 1974, he was elected as Chairman of the Board, a position he retained until he retired in 1987.

Not surprisingly, a businessman who possessed the talents Buck did was respected and admired throughout the corporate community. As a result, he was asked to participate in many different ventures. He held more than twenty directorships and served on numerous boards. He was recognized with honors that included being named the 1983 "Businessman of the Year" by the South Carolina Chamber of Commerce, and being inducted into the South Carolina Business Hall of Fame.

In his role as a corporate executive, Buck certainly helped to make significant contributions to South Carolina by creating jobs and generating revenues for the Palmetto State, but his efforts to benefit our home state went far beyond what he was able to accomplish as a businessman. Buck was a tireless and enthusiastic advocate for education, and served as a life trustee of both my alma mater Clemson University, and of Converse College, as well as on the boards of the Georgia Institute of Technology, Furman University, Presbyterian College, and Wofford College. Furthermore, he was a member of the Advisory Boards of the South Carolina Foundation of Independent Colleges, the University of South Carolina Business School, and

the National Advisory Council. His efforts to promote higher education in South Carolina not only earned him the respect and admiration of citizens, educators, and government officials, but helped to create a better education system in the Palmetto State.

Buck's sense of service certainly must have been instilled in him at a very young age as he served in the United States Merchant Marine during World War II, and then in the Army during the Korean War. This desire to contribute continued throughout his life and manifested itself in many ways, including his commitment to education, and through his philanthropic actions, both as a private citizen and as the Chairman of the Daniel/Mickel Foundation.

On a more personal note, Buck was a devoted friend and supporter who was always ready to help me however he could. He served as an officer on several of my re-election campaigns and played an important role in helping to get the Strom Thurmond Institute built at Clemson University.

Mr. President, it is never easy to summarize the accomplishments of a man such as Buck Mickel who has given so much of himself and achieved so much. That he passed at such a young age only compounds the sadness all who knew him feel at his death, but we all take consolation in the fact that he leaves behind an enviable record of successes as a businessman and of helping others. My condolences go out to his widow, Minor Herndon Mickel; their children Minor Shaw, Buck, and Charles; as well as their five grandchildren. They can be proud of the work their husband, father, and grandfather did, as well as the reputation he leaves behind.

MAJOR PRESTON JOHNSON

Mr. THURMOND. Mr. President, even those who possess essentially no knowledge of military affairs or military history understand the significance of the green beret worn by those who serve in the United States Army Special Forces, as well as what that headgear indicates about the soldier wearing it.

Established in the early days of the cold war, the Green Berets were intended to be a versatile, unconventional force that could do everything from serve as instructors and advisors to carryout both humanitarian and direct action missions. Over the past almost fifty years, those who have served in the Special Forces have established a well deserved and well respected reputation for bravery, dedication to duty, and patriotism. There is ample reason that so many people, not only in the United States but throughout the world, know just how special an individual the man who wears the Green Beret is. Today, I rise to pay tribute to one of those men. Major Preston Johnson, who has left his assignment at the Special Operations Command Office of Legislative Affairs to attend the Marine Corps Command and General Staff College.

Major Johnson began his military career the tough way, by enlisting in the United States Army following his 1985 graduation from Rice University. His ability and leadership skills were obviously apparent from his early days in the Army as a recruit going through basic training, as he was selected to attend Officer Candidate School. A little more than one year after graduating from basic training, Preston Johnson pinned on the gold bar of a Second Lieutenant and the crossed rifles brass of the Infantry and began what has been a career dedicated to not only the Army, but to special operations.

Over the past thirteen years Preston Johnson has accumulated a resume of impeccable credentials in Army special operations. He began his career as an Infantryman in the 3rd Ranger Battalion, in Fort Benning, Georgia, and continued it after OCS as both a Rifle Platoon Leader and Long Range Reconnaissance Platoon leader in Fort Lewis, Washington where he served with the 2nd Battalion/47th Infantry and the 1st Squadron/9th US Cavalry. The Rangers are well known for their toughness, expertise in small unit tactics, and for an impressive record in battle. Certainly, the lessons Preston Johnson learned when he wore the black beret of the Regiment served him well not only as an Infantryman in the deep woods of Fort Lewis, but when he volunteered for Special Forces training in 1990 and in the years he has served in the Green Berets as well.

Over the past eight years Preston Johnson has held a number of assignments in the Special Forces that have led him around the world and have included serving as: Detachment Commander of Special Forces Operational Detachment A–363 in the 3rd Special Forces Group (Airborne); Company Commander of the Special Forces Selection and Assessment Company; Aide-de-Camp to Major General William Garrison, the Commanding General of the John F. Kennedy Special Warfare Center and School; and as the Battalion Operations Officer of the 2nd Battalion, 1st Special Warfare Training Group (Airborne). Additionally, he has earned recognitions that reflect that Major Johnson is truly a member of one of the nation's most elite military forces.

Of course, many of us know him from his last assignment with the Special Operations Command Office of Legislative Affairs, where he has worked hard, especially with members of the Senate Armed Services Committee, to assist us with our efforts to create a military force capable of meeting the security challenges of the post-Cold War era. If we are going to protect the citizens, borders, and interests of our nation, we must be prepared to counter possible threats that include nuclear, biological and chemical warfare; ethnic warfare; intranational warefare; and, regional conflicts. Furthermore, we must build strong bilateral ties with the militaries of other nations, and there is no question that we will have to rely increasingly upon those who serve in special operations units to meet these goals. The skills and unique capabilities the special operations community possess will be invaluable in ensuring that the United States enjoys peace and stability into the 21st Century.

On almost every continent around the world, members of the United States Special Operations Command are carrying out missions that help to protect American security and vital national interests. They operate in a world that requires that they rarely acknowledge their purpose, and they almost never receive credit for a job well done. Recognition, however, is not what motivates these "quiet professionals", and we are indeed fortunate to have such selfless individuals who are willing to serve our nation and make the sacrifices they do. Major Johnson is an excellent example of the caliber of individual who volunteers for a career in special operations. He has represented the Special Operations Command well on Capitol Hill and I have every confidence that he will continue to distinguish himself in the years to come.

NATIONAL AIRBORNE DAY

Mr. THURMOND. Mr. President, a few hundred miles south of here, stands Fort Bragg, a sprawling military installation that is the home of the 82nd Airborne Division, and where thousands of paratroopers are ready to go anywhere in the world, "stand in the door", and jump into harm's way in order to protect the national security and vital interests of the United States. Today, I am pleased to remind my colleagues that August 16, 1998 has been designated "National Airborne Day" as a way to honor all those who have worn the winged parachute badge on their uniform.

Though the concept of using airborne troops in warfare is only a little more than fifty years old, the versatility and effectiveness of these forces is above question. In particular, "America's Guard of Honor", the 82nd Airborne Division, has established an especially proud record over the past five decades.

During World War II, the paratroopers of the 82nd Airborne Division participated in the campaigns of Anzio, Normandy—where I landed with the 325th Glider Infantry Regiment—, and the Battle of the Bulge. In the years that have passed since the surrender of the Axis powers, the 82nd Airborne Division has been involved in almost

every major military operation undertaken by the United States. Among other places, paratroopers have deployed to the Dominican Republic; Vietnam; Grenada; Panama; and Southwest Asia in order to protect the security, interests, and citizens of the United States. In each and every instance, those who wear the "Double AA" patch on their shoulder have distinguished themselves as brave soldiers, determined warriors, and great Americans.

Mr. President, we are indeed fortunate to have the 82nd Airborne Division as an integral part of the United States Army. That the paratroopers of the 82nd are ready to deploy anywhere in the world with just a few hours notice is testament to the bravery, professionalism, and patriotism of these soldiers. I think it is only fitting that we honor all those who have ever served in the 82nd Airborne Division, or who have ever worn the parachutist badge, by remembering them on August 16, "National Airborne Day". This is a small, but worthy, way to recognize the contributions that the Airborne Soldiers of our Army have made to keeping the United States free and safe.

IN HONOR OF KENTUCKY STATE POLICE 50TH ANNIVERSARY

Mr. FORD. Mr. President. In 1948, back in my home state of Kentucky, Governor Earle C. Clements made the Commonwealth the 38th state to enact a State Police Act. Kentucky was changing rapidly, and Governor Clements saw a need for a statewide police force to support the local authorities. With this measure, Kentucky kicked off fifty proud years of state police enforcement.

For each twist and turn through the last half century, the Kentucky State Police have responded by continuing to push themselves to provide the best service they can to protect Kentuckians. The police motto is "To Serve and Protect," but the Kentucky State Police have another slogan as well—"A Proud Past . . . A Prouder Tomorrow." That says it all about this group of men and women so committed to Kentucky.

The first decade of the agency brought the very first pay raise to state police officers. Their pay went from $130 to $150 a month. In the Fifties, the state police took to the air with the first aircraft purchase while they still patrolled the highways in "incognito squads," as they called them, checking for speeders and overweight trucks.

The Sixties put the officers in gray cars just like their gray uniforms, creating an instantly recognizable presence in person and on the roadways. The Kentucky State Police responded to a need they perceived statewide by creating Trooper Island, a cost-free summer camp for underprivileged boys on a former Army Corps of Engineers island in Dale Hollow Lake. To this day, boys and girls who otherwise would be unable to attend a camp come for a wonderful week of fun dedicated to the development of their self-images.

The Seventies brought massive upheaval to the entire country, and Kentucky was no different. A drug enforcement unit became necessary for the agency, and the first female trooper was hired. A computerized network was set up linking state and local law enforcement to crime information.

In the Eighties, the Kentucky State Police coordinated with the Kentucky National Guard to begin a full scale marijuana eradication effort. In response to a national movement, a toll-free hotline for reporting drunken drivers was established. And this decade brought video cameras installed in patrol cars, a centralized laboratory with state-of-the-art equipment, and the 911 phone system in local communities was linked to the statewide network. Today there are sixteen field posts distributed throughout the state, 1,000 officers, and comprehensive law enforcement resources. The Kentucky State Police have responded to each and every change, continually making themselves to be the best force they could be.

In light of recent events at the Capitol, I am more aware than ever of the ways police put themselves on the line to protect our safety each and every day. It takes a special calling and an extraordinary commitment to choose police work as your life's work. They have chosen to get up every day and protect us. They do it even though we often take them for granted, even though the work can be thankless, even though they could lose their life. I am so appreciative of those men and women who serve this country in such a noble way, and today I want to honor the men and women of the Kentucky State Police who have served Kentucky in their own noble way for fifty years.

SURFACE TRANSPORTATION BOARD AND THE CONRAIL ACQUISITION DECISION

Mr. HOLLINGS. Mr. President, I rise today to commend the Surface Transportation Board (Board) for its recent actions approving the application of CSX and Norfolk Southern to acquire Conrail. As the Board's 424-page written decision of July 23, 1998, explains in great detail, this merger transaction as approved will bring railroad competition into the East like no merger has ever done before, and it will provide the opportunity for economic growth and more jobs both on and off the rail system throughout the Northeast and the South, including my state of South Carolina. I appreciate the way in which the Board acted in this proceeding in the public interest, promoting more competition while preserving the strength of the transaction as proposed.

The Board is the independent economic regulatory agency that oversees the nation's rail transportation industry. Under the leadership of Linda Morgan, the Board's Chairman, who was with us on the Commerce Committee for many years, the Board, with its staff of 135, puts out more work than much larger agencies, issuing well-reasoned, thoughtful, and balanced decisions in tough, contentious cases. In particular I would like to commend the efforts of Linda Morgan, the Chairman of the Surface Transportation Board. Prior to assuming the Chairmanship, Linda worked for the Senate Commerce Committee. Her tireless efforts were integral in completing difficult work in a relatively small time frame. When we eliminated the Interstate Commerce Commission, I think that we underestimated the degree of work and the complexity of issues that continue to be brought before the Board, and in hindsight I believe that we cut personnel too deeply. The Board has recently issued decisions dealing with the rail service emergency in the West; several difficult rail rate cases; matters involving Amtrak; and proceedings initiated at the request of Senator MCCAIN and Senator HUTCHISON to review the status of access and competition in the railroad industry. In each of these matters, it has taken on hard issues and has resolved them fairly and competently.

The CSX/Norfolk Southern/Conrail proceeding is the most recent example of the Board's ability to address difficult issues with broad ramifications and reach a result under the law that promotes the public interest by best addressing the needs of all concerned. In that case, the Board was presented with a merger proposal that was inherently procompetitive. The railroads themselves brought to the Board a transaction that overall would create two strong, balanced competitors in the East with the ability to provide improved and more competitive rail service opportunities throughout the Northeast and the South. The transaction contemplates substantial investment in railroad infrastructure, which we desperately need to accommodate the Nation's expanding economy, and it is expected that, over time, the merger should produce over $1 billion annually in quantifiable public benefits and numerous other benefits.

Although the overall competitive and other benefits of the merger proposal, which were reflected in several negotiated settlements, were well recognized, various interests wanted the Board to impose conditions to address environmental and safety issues or to

modify the competitive balance reflected in the original proposal. It was in addressing these requests that the Board represented the public the best. The Board encouraged CSX and Norfolk Southern to work further with the various rail users and other interested parties and see if they could resolve the remaining issues themselves. As a result of this process, many settlements were reached, which undoubtedly produced resolutions better than the Government could have directed from Washington, DC. Where settlements could not be reached, however, the Board acted responsibly and fairly. After two long days of oral argument, it issued a decision that smartly balanced the competing interests and imposed various conditions to mitigate environmental impacts; to preserve and improve the competitive posture of affected shippers and regions without upsetting the integrity of the procompetitive merger transaction that the railroads originally presented; to promote balanced regional economic development by assuring that smaller railroads that provide essential services will be viable and will continue to be able to compete; to recognize the legitimate interests of rail employees; and to promote a safe and smooth transition to a more competitive and efficient rail system in the East.

The Board's action on this merger application will preserve and promote competition throughout the Nation; will ensure an improved transportation network that will connect the North and the South in historic ways; and will provide that, overall, shippers will be better off after the merger than they were before, and that none will have fewer service options than they had before. I congratulate the Board on its action in this matter, and on its other significant work since its creation in 1996.

On Wednesday, July 29, the Commerce Committee overwhelmingly approved a one-year reauthorization of the Board, which I joined Chairman MCCAIN in sponsoring. I want to reemphasize here today my commitment to seeing that the Board will be in business for a long time and will be given the resources that it needs to continue its vital work.

At this point, I ask unanimous consent that the full text of the commenting opinion by Chairman Morgan, included in the Board's decision in the Conrail matter, be printed in the RECORD.

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

COMMENTING OPINION BY CHAIRMAN LINDA J. MORGAN

Our job in assessing rail mergers is to balance a variety of factors and issue a decision that advances the public interest. The decision we are issuing today, which approves with conditions the Conrail merger application, will advance the public interest in many important ways. The application promotes competition, and our decision applies the authority of the Board to enhance competition even further.

The Strength of the Merger Application. The merger application we are approving today, as enhanced by the many conditions we are imposing, will result in a procompetitive restructuring of railroad service throughout much of the Eastern United States. When the hard work is done, and this complex transaction is fully consummated, both CSX and NS will provide vigorous, balanced, and sustainable competition, each over approximately 20,000 miles of rail line in the East.

Most notably, CSX and NS are prepared to aggressively compete with each other in many important markets where Conrail now faces limited or no competition from other major railroads. Shippers will benefit from new head-to-head rail competition within shared assets areas and joint access areas. And this merger will enhance competition for many localities outside of these areas as well. In Buffalo, for example, while not every shipper will have direct service by two carriers, the transaction will create a two-carrier presence that will benefit shippers; and CSX's activities in the New York City area will face more competitive discipline than Conrail's do now, from the nearby presence of the New Jersey shared assets area. Finally, this transaction will enable both CSX and NS to compete more effectively with motor carrier service, which is a dominant mode of freight transportation throughout the East.

In short, shippers throughout the East will have more transportation options than they have had in decades. And they will have more competitive service, at reasonable rates, than they have ever had before.

Additionally, the transaction, when it is fully in place, will have a broad positive economic effect. It will produce an impressive $1 billion annually in quantifiable public benefits and numerous other benefits. The capital that will be invested in expanded rail infrastructure will benefit all shippers, not just those that are served by the applicants, and it will create new jobs both on and off of the rail system. The support of more than 2,200 shippers from a broad spectrum of commodity groups, 350 public officials, 80 railroads, many state and local government interests throughout the East, and various rail labor employees attests to the overall strength of the proposal.

This merger will promote competitive balance throughout an entire region of the country. And it will create a strong rail network in the East that can handle the transportation needs of an expanding economy and advance important economic growth and development in the region. These benefits clearly and significantly advance the public interest.

Preservation of the Fundamental Integrity of the Transaction. Our decision, while imposing important additional procompetitive conditions, recognizes the operational and competitive integrity of the proposal and the importance of preserving and promoting privately negotiated agreements. Government should not be in the business of fundamentally restructuring private-sector initiatives that are inherently sound, and the conditions that we are imposing add value, but not in a way that undermines the transaction itself. They reflect a respect for the carefully crafted structural soundness of the merger proposal, including its shared assets and joint access areas, and for the numerous settlement agreements that we encouraged and that the applicants and the other parties have worked hard to reach—agreements like the National Industrial Transportation League (NITL) settlement, the United Transportation Union (UTU) and Brotherhood of Locomotive Engineers settlements, the Cleveland area environmental settlements, and so many more. These private-sector agreements have clearly added value to the transaction that was initially proposed, from a competitive perspective and in other ways, and the parties are to be commended for furthering the public interest in this way. There is a strong public interest in encouraging private parties to negotiate procompetitive transactions such as this one, and government action that discourages such private-sector initiative is not in the public interest.

The Procompetitive Use of the Board's Authority. While our decision preserves the strength and integrity of the proposal, it also applies the Board's authority fully and reasonably to further promote competition to the benefit of many geographic regions. The additional conditions, which go beyond the already regionally procompetitive effect of the original transaction and the further procompetitive effect of the many settlements, enhance the railroad alternatives for areas in New York State and New England that had lost carrier options through the creation of Conrail.

Our decision also applies the Board's authority to further enhance the positions of many users. Our decision imposes the NITL settlement and expands in a logical way the procompetitive aspects of that settlement. By giving shippers the opportunity to exercise any antiassignment clauses or other similar provisions in their existing contracts after 6 months following the division of Conrail's assets, our decision preserves the operational integrity of the transaction, but still gives those shippers, including many chemical, coal, and intermodal shippers, the opportunity to use the contract terms they have bargained for to take advantage of their new competitive options sooner rather than later. By preserving the settlements of many railroads and shippers such as coal and utility shippers, while imposing conditions to assist others such as aggregates shippers, and smaller railroads that provide important services, our decision ensures that, overall, shippers will be better off after the merger than they were before, and that none will have less service than they had before.

In this regard, our decision recognizes the important role of smaller railroads in providing essential and competitive services in various regions affected by this transaction. By assuring that smaller railroads that provide essential services in such areas as the Ohio region and New England will remain viable and will continue to be able to compete, the conditions promote important competitive options and further regional economic development.

Operational and Implementation Success. Our decision, with its significant operational reporting and monitoring, recognizes the operational challenges that the transaction presents. Its monitoring elements will provide the Board with the tools to further a smooth implementation of the merger in a way that utilizes the Conrail Transaction Council and the Labor Task Forces and does not unduly burden the parties. And it appropriately focuses on specific areas of concern, such as the shared assets areas and the Chicago gateway. Having been given the personal commitment of the Chief Executive Officers of both applicant railroads to make

the merger work, I am confident that this merger will be implemented smoothly and will result in overall service improvements in relatively short order. The conditions we are imposing, however, will make sure that we are on top of the situation in case it does not.

Protection of the Environment. Our decision appropriately protects the environment. The transaction has many environmental benefits, including the anticipated removal of over 1 million truck trips a year from our Nation's highways. At the same time, the proposal raised environmental concerns. In response, for the first time ever in a merger, the Board issued a full environmental impact statement. We also have encouraged the railroads and local communities to meet and attempt to address issues privately, and several have been able to successfully resolve their concerns. In Cleveland, for example, a key traffic center for this merger, the parties, after months of discussion, have reached mutually acceptable agreements that preserve the operational integrity of the transaction while addressing important community life concerns. I am pleased that we are able to give effect to win-win settlements such as this one, and others in the area surrounding Cleveland and in so many other places. At the same time, for the communities that could not reach agreement with the carriers, our decision does provide necessary and appropriate conditions pertaining to grade-crossing safety, hazardous materials, traffic delay and noise, among others. And, with the recommended mitigation that the applicants have agreed to carry out, the transaction will not have, and cannot be viewed as having, a disproportionately high and adverse impact on minority and low-income areas.

The Promotion of Safety. Our decision clearly promotes safety. More than half of the environmental conditions involve safety. For the first time ever in a merger, the applicants were required to submit safety integration plans. And, as part of the merger implementation oversight, the implementation of these plans will be carefully monitored through a memorandum of understanding between the Board and the Department of Transportation, which clearly represents a cooperative governmental initiative in the public interest.

Recognition of Employee Interests. As previously discussed, the proposal before us will mean more jobs overall in the long run. And, by adopting the UTU proposal in mandating the creation of Labor Task Forces to focus on issues such as safety and operations, our decision will help promote safety and quality of life for employees. Also, our decision provides the protections of New York Dock, and it reaffirms the negotiation and arbitration process as the proper way to resolve important issues relating to employee rights. Thus, the Board has made clear in its decision, as requested by rail labor, that the Board's approval of the application does not indicate approval or disapproval of any of the involved CBA overrides that the applicants have argued are necessary.

Overall Benefits. The package we are approving should clearly promote the public interest. The original transaction, with its subsequently negotiated agreements, and with the conditions we are imposing, will provide many benefits to many people. The extensive oversight and monitoring will help us to ensure that these benefits will materialize, and the private mechanisms in place for oversight will provide a vehicle by which the important and constructive private-sector dialogue, initiated prior to the Board's decision today among the applicants, other railroads, shippers, employees, and affected communities, can continue.

Our decision promotes private-sector initiatives that are in the public interest and represents good, common sense government. It provides a resolution that is best for the national interest at large, and for the East in particular. Approval of this merger as conditioned is an historic moment for the Board, for transportation, and for the Nation as a whole.

HONORING THE 15TH ANNIVERSARY OF THE NICKEL SOLUTION

Mr. SPECTER. Mr. President, I come before the Senate today to recognize the 15-year anniversary of a unique partnership between labor and management in the glass container manufacturing industry. This highly successful program in the glass container industry is called the "Industry Union Glass Container Promotion Program" or Nickel Solution. This effort is a fine example of workers and employers joining together during a time of change and transition in America's oldest industry. Since the 1700s, the men and women who make glass containers have demonstrated a steadfast commitment to produce the best in glass packaging. The Nickel Solution is one shining example of that dedication.

The State of Pennsylvania is home to six glass container manufacturing plants—more than any other state except California. These facilities mean good paying jobs for approximately 3,000 Pennsylvanians and are major employers in Brockway, Clarion, Connellsville, Crenshaw, Glenshaw and Port Allegany, Pennsylvania.

The Nickel Solution was based originally on voluntary contributions of a nickel per hour of pay from glass container industry employees to support a national fund to promote glass packaging and safeguard jobs. In turn, employers matched the contributions, setting the stage for joint cooperation and promotion.

Through glass plant public relations committees, staffed by employee volunteers, the glass container industry's interests are well monitored and protected. Employees educate communities about glass recycling, conduct "buy in glass" promotions, and act as the front line for local, regional, and state advocacy. The Nickel Solution has enabled both labor and management to accomplish their goals of relative stability and secure employment for thousands of people in some 60 plants in 24 states throughout the country.

The Nickel Solution is simple and works, proving its value time and again. The Nickel Solution has enabled the glass container industry to march forward to a brighter future.

Mr. President, the U.S. Department of Labor has recognized this program as a "model for the 21st century." In addition, Labor Secretary Herman has recognized this anniversary in the form of a letter congratulating the men and women of the U.S. glass container industry. I ask unanimous consent that the Secretary's letter be printed in the RECORD and I salute the great success of the Nickel Solution and the workers and management of the glass container industry.

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

SECRETARY OF LABOR,
Washington, May 4, 1998.

Mr. JAMES RANKIN,
International President, Glass, Molders, Pottery and Allied Workers International Union, Media, PA.

DEAR MR. RANKIN: On the occasion of the 15th anniversary of the Industry-Union Container Promotion Program, I want to compliment the men and women of the North American glass container industry for their continued dedication to the well being of America's oldest industry. I also want to compliment the unique labor-management partnership for its tradition of cooperation, environmental stewardship and job preservation.

The Industry Union Glass Container Promotion Program—or Nickel Solution—is a fine example of workers and employers joining together to strengthen an important U.S. industry during a time of transition and transformation. Working together, you have made sure that the glass container industry will continue to thrive well into the 21st century.

Congratulations and best wishes,

Sincerely,

ALEXIS M. HERMAN.

RECOGNITION OF THE AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS (OSI)

Mr. SPECTER. Mr. President, I have sought recognition to recognize the Air Force Office of Special Investigations on its 50th anniversary, August 1, 1998.

The Office of Special Investigation was created in 1948 at the suggestion of the 80th Congress. Then Secretary of the Air Force Stuart Symington consolidated and centralized the investigative services of the United States Air Force to create an organization that would conduct independent and objective criminal investigations. Since 1948, the Office of Special Investigations has evolved into an organization that not only conducts criminal and fraud investigations, but investigates and thwarts terrorism and espionage, pursues military fugitives, and maintains the security of the Air Force's computer systems. The Office of Special Investigations has truly adapted to fulfill the needs of the United States Air Force in the 21st Century.

At present, 2,000 men and women serve in the Office of Special Investigations. In more than 150 offices across the United States and in a dozen offices overseas, these men and women perform the investigative work of the

United States Air Force wherever and whenever they are needed. I am proud to be among the 11,000 alumni of the Office of Special Investigations. I served as a lieutenant in the OSI from 1951 through 1953 and was assigned to the Pennsylvania, West Virginia, and Delaware District. My experience allowed me to serve my country, hone my investigative skills, and better prepare me for a career in the law and in government.

It gives me great pleasure, Mr. President, to stand before you and salute the Office of Special Investigations on the occasion of its 50th anniversary. Its legacy of service, integrity, and excellence continues today. A better motto could not have been chosen to commemorate OSI's 50th anniversary: "Preserving Our Legacy, Protecting our Future."

TRIBUTE TO DETECTIVE JOHN GIBSON, OFFICER JACOB CHESTNUT, AND THE UNITED STATES CAPITOL POLICE

Mr. AKAKA. Mr. President, today Capitol Police Officer Jacob J. Chestnut was laid to rest at Arlington National Cemetery, concluding a week that has saddened and shocked every American and touched the hearts of millions of people around the world. I rise to express my profound sorrow over the death of Officer Chestnut and Detective John Gibson, and to extend my sympathy to the families, friends, and fellow officers of these two brave men. The tremendous outpouring of grief and respect we have experienced and witnessed during the Congressional ceremony and honors on Tuesday, and in the requiem services for Detective Gibson and Officer Chestnut over the past two days are fitting tribute to the courage and selfless sacrifice of these fallen heroes.

The deaths of Officer Chestnut and Detective Gibson, killed in the line of duty as they defended all of us who are privileged to work and visit the Capitol, is a testament to the fidelity and valor of these men, as well as a reminder of the exceptional bravery and courage of the men and women of the Capitol Police who protect the Capitol complex and grounds. We are fortunate to have these officers on the job, protecting all of us, willing to confront the dangers and violence that too often afflict our world today, so that our Capitol can remain open and accessible to the public. The professionalism, pride, and good-natured courtesy which these officers bring to their duties, day in and day out, serves our democracy by keeping the Capitol open to the people and safeguarding, with their lives if necessary, the freedom and liberty we cherish.

On the Capitol dome, looking across the Capital City, stands the Statue of Freedom Triumphant in War and Peace, an emblem of democracy and hope, a symbol of America's promise that every citizen has the freedom and opportunity to realize their God given potential. In her right hand Freedom holds an olive branch, in her left, a sword, a reminder that the preservation of freedom and democracy often requires sacrifice.

Over the course of our history, the Capitol has witnessed stirring oratory and the passage of landmark legislation which have inspired us, strengthened our nation, restored hope, preserved our Republic, and maintained our resolve. The heroic actions of Officer Chestnut and Officer Gibson, who acted to preserve and protect life without regard to their own safety, bonds deeds to the ideals and values we celebrate and honor here at the heart of our democracy. The President said it best when he stated that the actions of these brave men sanctified the Capitol. May God bring comfort and peace to the families, friends, and colleagues of Detective John Gibson and Officer Jacob Chestnut.

RETIREMENT OF FEDERAL ELECTION COMMISSIONERS JOAN D. AIKENS AND JOHN WARREN McGARRY

Mr. WARNER. Mr. President, as Chairman of the Committee on Rules and Administration, which has jurisdiction over the Federal Election Commission, I seek recognition to join with my colleague, Senator FORD, our distinguished Ranking Member, to acknowledge the dedicated service of two public servants who will be leaving the Commission upon confirmation of their replacements.

These two individuals, Joan D. Aikens and John Warren McGarry, have served as Commissioners of the Federal Election Commission for a total of 43 years. Senator FORD and I believe that their departure from the agency, after such distinguished service, should not go unnoticed. I have come to know and respect Commissioner Aikens and Commissioner McGarry first as a member of the Committee and now in my capacity as Chairman, and I can honestly report that these two individuals have served this agency, and their country, well.

Commissioner Aikens is a native of Delaware County, Pennsylvania. She was appointed to her first term by President FORD and has served 23 years at the Commission. Mrs. Aikens is an ardent believer in the First Amendment and its importance in interpreting federal election law. Her qualities of fairness and impartiality will be missed by her colleagues in the election law community.

Commissioner McGarry is a native of Massachusetts. He was appointed to this first term by President Carter. During his 20-year tenure at the FEC, he worked tirelessly for full public disclosure and uniform enforcement of campaign finance laws. Mr. McGarry believes that agency deliberations and decisions should take into consideration not only fundamental First Amendment interests, but also the government's interests in ensuring elections free from real or apparent corruption.

Mr. President, I salute Commissioners Aikens and McGarry for their service to our nation and wish them the best of luck as they begin a new chapter in their lives.

Mr. FORD. I wish to associate myself with the remarks of my distinguished colleague and Chairman, Senator WARNER. I, too, would like to express my appreciation to Commissioners Aikens and McGarry for their many years of service at the Federal Election Commission. I have enjoyed working with them and especially admired their commitment to the fair and impartial enforcement of election law. To both of them and their families I extend my sincere congratulations and best wishes for many happy, healthy, and fulfilling future years.

TRIBUTE TO MR. ERNEST A. YOUNG

Mr. SHELBY. Mr. President, I rise today to honor Mr. Ernest A. Young on the occasion of his retirement from the Department of the Army. Throughout his 40 years of Federal Service, culminating in his current position as Deputy to the Commanding General, U.S. Army Aviation and Missile Command, Mr. Young has distinguished himself time and time again as an individual of the utmost integrity, capability, and foresight.

Mr. Young began his career as an Army civilian employee in 1958, as a technical program specialist. He held managerial positions for various missile programs, including the very successful HAWK missile. Twenty-three years later, in September 1981, he was appointed to the Senior Executive Service where he held several key command and staff positions with the U.S. Army Missile Command.

Mr. Young continued to rise through the ranks, and in June 1993, he was the first civilian to be selected as the Deputy to the Commanding General of the U.S. Army Missile Command (MICOM). In this position, Mr. Young was responsible for achieving all of the command's missions. Due in large part to his leadership, MICOM maintained a high state of readiness by adhering to procurement schedules and successfully executing weapons development programs despite the enormous challenge posed by shrinking annual defense budgets. Mr. Young's dedication to efficiency was recognized as MICOM became the first major subordinate

command of the Army Materiel Command to be designated as a Reinvention Laboratory. Though faced with funding shortages, his skills also enabled him to implement several human resource initiatives that obviated the need for a reduction in force during his tenure as Deputy to the MICOM Commander.

Mr. Young, however, may best be remembered for his personal attention to the implementation of the 1995 Base Realignment and Closure decision to consolidate the U.S. Army Aviation and Troop Command (ATCOM) with MICOM at Redstone Arsenal. The fact that 55 percent of ATCOM's aviation managerial workforce successfully moved to Redstone serves as a testament to Mr. Young's leadership and professionalism during this transition.

Since the formation of the Aviation and Missile Command, Mr. Young has continued in his role as Deputy to the Commanding General. While the AMCOM formally merged the various aspects of aviation and missile program management into a single commodity command, Mr. Young diligently worked to integrate the aviation and missile cultures. He continued to work closely with the Commanding General to ensure the uninterrupted accomplishment of the procurement, readiness, and materiel development missions and functions of the command.

In addition to Mr. Young's exemplary career, his frequent participation in seminars and workshops designed for senior government executives demonstrated his continual desire to better himself and improve his technical and managerial capabilities. Moreover, Mr. Young's involvement in such noteworthy associations as the American Society of Military Comptrollers, American Institute of Physics, Society of Logistics Engineers, the American Society for Public Administration and Rotary Club, exemplify his steadfast commitment to professional improvement and civic duty.

Mr. President, for 40 years, Ernest Young has been an asset to the U.S. Army, Alabama, and the nation. On behalf of the United States Senate and a grateful nation, I thank Mr. Young for his dedicated service as he closes one chapter in his life and begins another.

MICROSOFT

Mr. GORTON. Mr. President, the U.S. Senate is the world's greatest deliberative body. The U.S. economy is the world's greatest free market. Lately, it seems my friend and colleague from Utah, Senator HATCH, the distinguished chairman of the Senate Judiciary Committee, would like to use the one to squash the other.

As my colleagues and most Americans know, Senator HATCH has joined forces with the success-busters of the Antitrust Division of the Department of Justice to carve out a special place in the market for companies that cannot compete on their own merits. All of this is being done at the expense of one of America's most successful and innovative companies—Microsoft.

Last week, the Judiciary Committee, for the third time this year, served as a forum for frustrated business executives who have been outsmarted and out-innovated by Microsoft.

I have continually voiced my objections at the Senate Judiciary's Committee's insistence on inserting itself into battles that should be fought in the free market, not in the Halls of the U.S. Senate or in the Justice Department. I have asserted my opinion that U.S. antitrust laws were written with the intent of protecting consumers, not inferior companies. And I have stood up against those who would like to see the federal government, not the free market, decide which companies are successful in this country and which are not.

But Senator HATCH has offered his committee as a haven for the unwashed masses of corporate America, sheltering the weak and wary from the harsh brutality of the free market.

This debate has been just that, Mr. President, a debate between two Senators with very different opinions on a matter of importance to both Senators and to the nation as a whole.

Earlier this week, however, I learned of something that troubles me deeply, both as a Senator and as an American.

In the July 29, issue of Investor's Business Daily Senator HATCH was interviewed about his views on Microsoft. As my colleagues will recall, one of the witnesses at last week's hearing was Rob Glaser, CEO of a company in my home state called RealNetworks, a Microsoft competitor. Allegations arose at the hearing, supported by an affidavit from a senior Microsoft executive, that Mr. Glaser had attempted to use his testimony as a negotiating tool in his ongoing battle with Microsoft.

According to the affidavit, Mr. Glaser, the night before he was to testify before the Judiciary Committee, called a senior Microsoft executive and offered to "negotiate all night if that's what it takes" to come to terms with Microsoft. The affidavit states that "Mr. Glaser said that if the negotiations he proposed . . . resulted in an agreement between the two companies, he would not testify the next day.

These allegations are disturbing to me, and I had hoped, to Senator HATCH as well.

But Senator HATCH, in his interview with Investor's Business Daily seems to support Mr. Glaser's attempt to use the Judiciary Committee as a tool in his negotiations with Microsoft.

When asked about the allegations, Senator HATCH said, "Glaser said he did not (use the testimony as a negotiating weapon), but what if he did? He's a guy trying to save his business. . ." The distinguished Senator from Utah goes on to say of witnesses that testify before his committee, "if they gain something by coming, all the better as far as I'm concerned, as long as they tell the truth."

It may be incidental to this attitude, Mr. President, but important in the public's mind that it turns out that Microsoft Media Player 5.2 did not disable RealNetworks' new G–2 player—in fact, the culprit was a bug in the player itself—not only in Microsoft's tests, but in those of a number of independent experts as well. So far, Senator HATCH has ignored this unpleasant news.

Our founding fathers must be turning over in their graves, Mr. President. The United States Senate was never intended to be, and should never be, used as negotiating tool for companies trying to compete in the free market. In fact, the United States Senate was designed, among other things, to protect that very free market. That should continue to be our goal.

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 a withdrawal and one nomination which was referred to the Committee on Environment and Public Works.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT CONCERNING THE ARAB LEAGUE BOYCOTT OF ISRAEL—MESSAGE FROM THE PRESIDENT—PM 154

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:

In accordance with the request contained in section 540 of Public Law 105–118, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998, I submit to you the attached report providing information on steps taken by the United States Government to bring about an end to the Arab League boycott of Israel and to expand the process of normalizing ties between Israel and the Arab League countries.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 30, 1998.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on July 31, 1998, during the adjournment of the Senate, received a message from the House of Representatives announcing that House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4354. An act to establish the United States Capitol Police Memorial Fund on behalf of the families of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 114. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

The message further announced 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. 1835) to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.

MEASURES PLACED ON THE CALENDAR

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

S. 2393. A bill to protect the sovereign right of the State of Alaska and prevent the Secretary of Agriculture and the Secretary of the Interior from assuming management of Alaska's fish and game resources.

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–6295. A communication from the Librarian of Congress, transmitting, pursuant to law, the annual report on the activities of the Library of Congress for fiscal year 1997; to the Committee on Rules and Administration.

EC–6296. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation regarding appropriations for motor vehicle safety and information programs; to the Committee on Commerce, Science, and Transportation.

EC–6297. A communication from the Acting Director of the Office of Management and Budget and the Chairman of the President's Council on Year 2000 Conversion, transmitting, a draft of proposed legislation entitled "The Year 2000 Information Disclosure Act"; to the Committee on the Judiciary.

EC–6298. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule regarding disadvantaged business status determinations received on July 23, 1998; to the Committee on Small Business.

EC–6299. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Payment for Non-VA Physician Services Associated with Either Outpatient or Inpatient Care Provided at Non-VA Facilities" (RIN2900-AH66) received on July 28, 1998; to the Committee on Veterans' Affairs.

EC–6300. A communication from the Acting Director of the Bureau of the Census, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding foreign trade statistics regulations (RIN0607-AA22) received on July 28, 1998; to the Committee on Foreign Relations.

EC–6301. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "Long-Term Care Patient Protection Act"; to the Committee on Finance.

EC–6302. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Child Care and Development Fund"; to the Committee on Finance.

EC–6303. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Reporting Requirements for Risk/Benefit Information" (FRL6016-2) received on July 29, 1998; to the Committee on Environment and Public Works.

EC–6304. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the Bay Area Air Quality Management District of California (FRL6131-4) received on July 29, 1998; to the Committee on Environment and Public Works.

EC–6305. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary and Secondary Drinking Water Regulations: Analytic Methods for Regulated Drinking Water Contaminants" (FRL6132-2) received on July 29, 1998; to the Committee on Environment and Public Works.

EC–6306. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the Medocino County Air Quality Management District in California (FRL6129-5) received on July 29, 1998; to the Committee on Environment and Public Works.

EC–6307. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of D.C. Act 12-403 approved by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6308. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of D.C. Act 12-410 approved by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6309. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of D.C. Act 12-411 approved by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6310. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of D.C. Act 12-412 approved by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6311. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of D.C. Act 12-413 approved by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6312. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of D.C. Act 12-414 approved by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6313. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of D.C. Act 12-415 approved by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6314. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of D.C. Act 12-417 approved by the Council on June 16, 1998; to the Committee on Governmental Affairs.

EC–6315. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Information Collection Budget of the United States Government Fiscal Year 1998"; to the Committee on Governmental Affairs.

EC–6316. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Civil Service Evaluation: The Evolving Role of the U.S. Office of Personnel Management"; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 2400. An original bill to authorize the negotiation of reciprocal trade agreements, implement certain trade agreements, extend trade preferences to certain developing countries, extend the trade adjustment assistance programs, and for other purposes (Rept. No. 105-280).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 263. A bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes (Rept. No. 105-281).

S. 361. A bill to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes (Rept. No. 105-282).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 659. A bill to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Restoration Study Report (Rept. No. 105-283).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with amendments:

S. 1970. A bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds (Rept. No. 105–284).

S. 2094. A bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items (Rept. No. 105–285).

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. DOMENICI (for himself and Mr. STEVENS):

S. 2395. A bill to provide grants to strengthen State and local health care systems' response to domestic violence by building the capacity of health care professionals and staff to identify, address, and prevent domestic violence; to the Committee on Labor and Human Resources.

By Mr. LUGAR:

S. 2396. A bill to amend the Agricultural Adjustment Act to require the Secretary of Agriculture to establish a pilot program under which milk producers and cooperatives will be permitted to enter into forward price contracts with milk handlers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM (for himself, Mr. COVERDELL, Mr. TORRICELLI, and Mrs. FEINSTEIN):

S. 2397. A bill to amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes; to the Committee on Finance.

By Mr. THOMPSON:

S. 2398. A bill to provide for establishment of a memorial to sportsmen; to the Committee on Energy and Natural Resources.

By Ms. MOSELEY-BRAUN:

S. 2399. A bill to suspend temporarily the duty on certain drug substances used as an HIV antiviral drug; to the Committee on Finance.

By Mr. ROTH:

S. 2400. An original bill to authorize the negotiation of reciprocal trade agreements, implement certain trade agreements, extend trade preferences to certain developing countries, extend the trade adjustment assistance programs, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. SPECTER:

S. 2401. A bill to authorize the addition of the Paoli Battlefield site in Malvern, Pennsylvania, to Valley Forge National Historical Park; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2402. A bill to direct the Secretary of Agriculture to convey certain lands in San Juan County, New Mexico, to San Juan College; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANTORUM:

S. 2403. A bill to prohibit discrimination against health care entities that refuse to provide, provide coverage for, pay for, or provide referrals for abortions; to the Committee on Labor and Human Resources.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2404. A bill to establish designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City, and Miami, Florida; to the Committee on Governmental Affairs.

By Mr. FAIRCLOTH:

S. 2405. A bill to amend the Fair Labor Standards Act of 1938 to exempt licensed funeral directors from the minimum wage and overtime compensation requirements of that Act; to the Committee on Labor and Human Resources.

By Mr. HAGEL:

S. 2406. A bill to prohibit the Administrator of the Environmental Protection Agency from implementing the national primary drinking water regulations for copper in drinking water until certain studies are completed; to the Committee on Environment and Public Works.

By Mr. BOND (for himself, Mr. COVERDELL, Mr. DOMENICI, Mr. KEMPTHORNE, and Ms. SNOWE):

S. 2407. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to improve the programs of the Small Business Administration; to the Committee on Small Business.

By Mr. CHAFEE (for himself, Mr. ROCKEFELLER, Mr. DEWINE, Mr. LEVIN, Mr. BOND, Mr. MOYNIHAN, Mr. KERREY, Ms. LANDRIEU, and Mr. DORGAN):

S. 2408. A bill to promote the adoption of children with special needs; to the Committee on Finance.

By Mr. DODD (for himself and Mr. BENNETT):

S. 2409. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for business-provided student education and training; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. MOYNIHAN, and Mr. D'AMATO):

S. 2410. A bill to amend titles XIX and XXI of the Social Security Act to give States the options of providing medical assistance to certain legal immigrant children and to increase allotments to territories under the State Children's Health Insurance Program; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2411. A bill to expand child support enforcement through means other than programs financed at Federal expense; to the Committee on Finance.

By Mr. BURNS (for himself and Mr. HOLLINGS):

S. 2412. A bill to create employment opportunities and to promote economic growth establishing a public-private partnership between the United States travel and tourism industry and every level of government to work to make the United States the premiere travel and tourism destination in the world, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself and Mr. KYL):

S. 2413. A bill to provide for the development of a management plan for the Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona reflecting the current use of the tract as a public park; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 2414. A bill to establish terms and conditions under which the Secretary of the Interior shall convey leaseholds in certain properties around Canyon Ferry Reservoir, Montana; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM:

S. 2415. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. SPECTER, and Mr. BAUCUS):

S. 2416. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

By Mr. SESSIONS:

S. 2417. A bill to provide for allowable catch quota for red snapper in the Gulf of Mexico, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS (for himself, Mr. LEAHY, and Mr. WARNER):

S. 2418. A bill to establish rural opportunity communities, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S. 2419. A bill to amend the Public Utility Regulatory Policies Act of 1978 to protect the nation's electricity ratepayers by ensuring that rates charged by qualifying small power producers and qualifying cogenerators do not exceed the incremental cost to the purchasing utility of alternative electric energy at the time of delivery, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. HATCH, Mr. DASCHLE, Mr. CRAIG, Ms. MIKULSKI, Mr. D'AMATO, Ms. MOSELEY-BRAUN, Mr. GRASSLEY, and Mr. WELLSTONE):

S. 2420. A bill to establish within the National Institutes of Health an agency to be known as the National Center for Complementary and Alternative Medicine; to the Committee on Labor and Human Resources.

By Mr. CONRAD:

S. 2421. A bill to provide for the permanent extension of income averaging for farmers; to the Committee on Finance.

By Mr. MACK (for himself, Mr. D'AMATO, Mr. COVERDELL, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. GORTON, and Mr. NICKLES):

S. 2422. A bill to provide incentives for states to establish and administer periodic teacher testing and merit pay programs for elementary school and secondary teachers; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM:

S. 2423. A bill to improve the accuracy of the budget and revenue estimates of the Congressional Budget Office by creating an independent CBO Economic Council and requiring full disclosures of the methodology and assumptions used by CBO in producing the estimates; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. THOMPSON (for himself and Mr. FRIST):

S. 2424. A bill to provide for the reliquidation of certain entries of certain thermal transfer multifunction machines; to the Committee on Finance.

By Mr. SESSIONS (for himself, Mr. GRAHAM, Mr. MCCONNELL, and Mr. COVERDELL):

S. 2425. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. MURRAY (for herself, Mr. KEMPTHORNE, Mr. LAUTENBERG, Mr. SMITH of Oregon, Mr. KENNEDY, Mr. BAUCUS, Mr. SPECTER, Mr. ROBB, Mr. AKAKA, Mr. SARBANES, Mr. CHAFEE, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. JEFFORDS, Mr. GORTON, Mr. REID, Mr. D'AMATO, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. KERREY, Mr. LUGAR, Mr. FEINGOLD, Mr. ABRAHAM, Mr. CRAIG, Ms. COLLINS, Mr. WELLSTONE, Mr. COCHRAN, Mr. GRAMS, Mr. GRAHAM, Mr. DURBIN, Mrs. BOXER, Mrs. HUTCHISON, Mr. LEVIN, Mr. GLENN, Ms. MOSELEY-BRAUN, Mr. BIDEN, Mr. MOYNIHAN, Mrs. FEINSTEIN, Mr. DODD, Mr. BINGAMAN, Mr. TORRICELLI, Mr. JOHNSON, Mr. BREAUX, Mr. WARNER, Mr. FRIST, Mr. INOUYE, Ms. LANDRIEU, Mr. BURNS, Mr. KOHL, Mr. KERRY, Mr. WYDEN, Mr. CONRAD, Ms. MIKULSKI, and Mr. MCCAIN):

S. Res. 264. A resolution to designate October 8, 1998 as the Day of Concern About Young People and Gun Violence; to the Committee on the Judiciary.

By Mr. WARNER:

S. Res. 265. A resolution commending the Naval Nuclear Propulsion Program on its 50th Anniversary and expressing the sense of the Senate regarding continuation of the program into the 21st century; considered and agreed to.

By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):

S. Res. 266. A resolution honoring the centennial of the founding of DePaul University in Chicago, Illinois; considered and agreed to.

By Mr. FRIST:

S. Res. 267. A resolution expressing the sense of the Senate that the President, acting through the United States Agency for International Development, should more effectively secure emergency famine relief for the people of Sudan, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself and Mr. STEVENS):

S. 2395. A bill to provide grants to strengthen State and local health care systems' response to domestic violence by building the capacity of health care professionals and staff to identify, address, and prevent domestic violence; to the Committee on Labor and Human Resources.

THE PRESCRIPTION FOR ABUSE ACT

Mr. DOMENICI. Mr. President, with the passage of the Violence Against Women Act in 1994, Congress recognized domestic violence as a serious threat to the health safety of women in this country. We successfully created vital programs to train the law enforcement and judicial communities to respond to domestic violence, and further supported important intervention programs. In some respects, however, we left the job only partially addressed. We failed to train and support the professionals that face victims of domestic violence on a daily basis: health care professionals and staff.

Today, I am pleased that Senator STEVENS is joining me in introducing a bill to fill that gap: "The Prescription for Abuse Act—(Rx for Abuse Act)."

Health care professionals and staff are truly on the front lines of domestic violence work. Nearly four million American women are physically abused each year. While our shelters are always overwhelmed, not all women seek shelter. Not all victims call the police. But eventually, almost all victims seek medical care. Last year, the Department of Justice reported that more than one in three women who sought care in emergency rooms for violence-related injuries were injured by a current or former spouse, boyfriend, or girlfriend. And, while the impact on the health care system is immense, few health care settings have intervened in a comprehensive way to identify, treat, and prevent the violence that they see on a daily basis. Of particular interest reported to me by a New Mexico doctor, a significant number of office or emergency room visits are not detected as domestic violence-related because physicians and staff are not trained to properly identify the signs of a battered victim.

Domestic violence is repetitive in nature. According to 1993 data from the Bureau of Justice Statistics, one in five women victimized by their spouse or ex-spouse reported that they had been a victim of a series of at least three assaults in the prior six months. Unfortunately, the way the system currently works, the bones are set and the cuts stitched, but the patients are seldom asked about their injuries or referred to services that can help them stop the violence.

Health care providers, professionals, hospitals, emergency health care staff, physical therapists, and domestic violence organizations need to join forces to find ways to identify, address and document abuse. They need to work together to ensure the confidentiality and safety of victims, and to connect victims to available services.

Violence against women takes a tremendous toll on our health care system. Battering is a leading cause of injury to women and each year more than a million women seek medical attention because of it. Women who have been battered or sexually assaulted utilize the health care system at much higher rates than non-abused women, for a variety of health problems, including repeated injuries, stress-related disorders, depression, and other physical and mental illnesses. And battering during pregnancy increases the risk of premature, low birth weight, or stillborn babies. Health care providers and staff are often the first, and only, professionals to see a battered woman's injuries. They are in a unique position to identify abuse before it is reported and to intervene in a way that will result in a reduction in the morbidity and mortality caused by violence in the home. In far too many ways to enumerate, domestic violence is a health care issue. Training health care professionals and staff to recognize, intervene, and refer victims to additional assistance is the purpose of this bill.

As we are all aware, domestic violence knows no age, educational, economic, or socio-cultural barriers. It is evident in our smallest communities and our largest cities. In the sparsely-populated State of New Mexico, there are 26 domestic violence shelters that served more than 16,000 unduplicated clients last year. There were 11,400 non-resident shelter clients and 5,000 shelter residents, with 77,000 nights of shelter provided in one year alone. This represents a thirty-eight percent increase over a four-year period. The New Mexico Coalition Against Domestic Violence and the countless professionals who staff the shelters and clinics across the State know the extent and consequences of the horrific problem of domestic violence on children, women, and families.

I am proud to say that New Mexico is on the cutting edge of a strategy to begin the process of training health care professionals and staff to become more involved in this critical issue. Last month, a collaborative effort of the New Mexico Coalition Against Domestic Violence, the New Mexico Medical Society, and the New Mexico Department of Health, in partnership with the Family Violence Prevention Fund Health Initiative, pulled together teams from 15 hospitals across the State to train health care providers to identify and respond to the needs of domestic violence victims that they treat. Based on the ongoing work in my State, and similar work in Alaska, Senator STEVENS and I am introducing a bill to replicate such efforts around the country.

The bill establishes three and four-year demonstration grants to strengthen state and local health care systems' responses to domestic violence by building the capacity of health care professionals and staff to identify, address, and prevent domestic violence among their patients. It will give these health care professionals the training, tools, and support they need to confidently address the violence that affects their patients' health. The bill

authorizes ten grants up to two million dollars each for statewide teams to develop four-year demonstration programs and ten grants up to $450,000 each for local teams to direct three-year local level demonstrations. Eligible state applicants are state health departments, domestic violence coalitions, or the state medical or health professionals' associations or societies, or other nonprofit or governmental entities that have a history of work on domestic violence.

Mr. President, there is no question that early intervention on the part of health professionals can decrease the morbidity and mortality that results from violence in the home. I am pleased to join with Senator STEVENS in introducing the "Rx for Abuse Act," and I urge my colleagues to cosponsor this measure. I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 2395

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

SECTION 1. GRANTS TO ADDRESS DOMESTIC VIOLENCE IN HEALTH CARE SETTINGS.

(a) IN GENERAL.—The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

"SEC. 319. GRANTS TO ADDRESS DOMESTIC VIOLENCE IN HEALTH CARE SETTINGS.

"(a) GENERAL PURPOSE GRANTS.—The Secretary, acting through the Office of Family Violence and Prevention Services of the Administration for Children and Families, may award grants to eligible State and local entities to strengthen the State and local health care system's response to domestic violence by building the capacity of health care professionals and staff to identify, address, and prevent domestic violence.

"(b) STATE GRANTS.—

"(1) IN GENERAL.—The Secretary may award grants under subsection (a) to entities eligible under paragraph (2) for the conduct of not to exceed 10 Statewide programs for the design and implementation of Statewide strategies to enable health care workers to improve the health care system's response to treatment and prevention of domestic violence as provided for in subsection (d).

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1) an entity shall—

"(A) be a State health department, nonprofit State domestic violence coalition, State professional medical society, State health professional association, or other nonprofit or State entity with a documented history of effective work in the field of domestic violence;

"(B) demonstrate to the Secretary that such entity is representing a team of organizations and agencies working collaboratively to strengthen the health care system's response to domestic violence; and

"(C) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(3) LIMITATION.—The Secretary may not award a grant to a State health department under paragraph (1) unless the State health department can certify that State laws, policies, and practices do not require the mandatory reporting of domestic violence by health care professionals and staff when the victim is an adult.

"(4) TERM AND AMOUNT.—A grant under this section shall be for a term of 4 years and for an amount not to exceed $2,000,000 for each such year.

"(c) LOCAL DEMONSTRATION GRANTS.—

"(1) IN GENERAL.—The Secretary may award grants under subsection (a) to entities eligible under paragraph (2) for the conduct of not to exceed 10 demonstration projects for the design and implementation of a strategy to improve the response of local health care professionals and staff to the treatment and prevention of domestic violence.

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1) an entity shall—

"(A) be a local health department, local nonprofit domestic violence organization or service provider, local professional medical society or health professional association, or other nonprofit or local government entity that has a documented history of effective work in the field of domestic violence;

"(B) demonstrate to the Secretary that such entity is representing a team of organizations working collaboratively to strengthen the health care system's response to domestic violence; and

"(C) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(3) TERM AND AMOUNT.—A grant under this section shall be for a term of 3 years and for an amount not to exceed $450,000 for each such year.

"(d) USE OF FUNDS.—Amounts provided under a grant under this section shall be used to design and implement comprehensive Statewide and local strategies to improve the health care setting's response to domestic violence in hospitals, clinics, managed care settings, emergency medical services, and other health care systems. Such a strategy shall include—

"(1) the development, implementation, and dissemination of policies and procedures to guide health care professionals and staff responding to domestic violence;

"(2) the training of, and providing follow-up technical assistance to, health care professionals and staff to screen for domestic violence, and then to appropriately assess, record in medical records, treat, and refer patients who are victims of domestic violence to domestic violence services;

"(3) the implementation of practice guidelines for widespread screening and recording mechanisms to identify and document domestic violence, and the institutionalization of such guidelines and mechanisms in quality improvement measurements such as patient record reviews, staff interviews, patient surveys, or other methods used to evaluate and enhance staff compliance with protocols;

"(4) the development of an on-site program to address the safety, medical, mental health, and economic needs of patients who are victims of domestic violence achieved either by increasing the capacity of existing health care professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services;

"(5) the development of innovative and effective comprehensive approaches to domestic violence identification, treatment, and prevention models unique to managed care settings, such as—

"(A) exploring ways to include compensated health care professionals and staff for screening and other services related to domestic violence;

"(B) developing built-in incentives such as billing mechanisms and protocols to encourage health care professionals and staff to implement screening and other domestic violence programs; and

"(C) contracting with community agencies as vendors to provide domestic violence victims access to advocates and services in health care settings; and

"(6) the collection of data, implementation of patient and staff surveys, or other methods of measuring the effectiveness of their programs and for other activities identified as necessary for evaluation by the evaluating agency.

"(e) EVALUATION.—The Secretary may use not to exceed 5 percent of the amount appropriated for a fiscal year under subsection (e) to evaluate the economic and health benefits of the programs and activities conducted by grantees under this section and the extent to which the institutionalization of protocols, practice guidelines, and recording mechanisms has been achieved.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $24,500,000 for each of the fiscal years 2000 through 2002; and

"(B) $20,000,000 for fiscal year 2003.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.".

(b) TECHNICAL AMENDMENT.—Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10405(a)) is amended—

(A) by striking "an employee" and inserting "one or more employees"; and

(B) by striking "individual" and inserting "individuals".

By Mr. LUGAR:

S. 2396. A bill to amend the Agricultural Adjustment Act to require the Secretary of Agriculture to establish a pilot program under which milk producers and cooperatives will be permitted to enter into forward price contracts with milk handlers; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY FORWARD PRICING PILOT PROGRAM

• Mr. LUGAR. Mr. President, I introduce legislation which will help the dairy industry manage price volatility. The bill requires the Secretary of Agriculture to establish a pilot program under which milk producers and cooperatives will be permitted to enter into forward price contracts with milk handlers.

The Federal Agriculture Improvement and Reform Act of 1996 required the U.S. Department of Agriculture to consolidate the federal milk marketing orders by April 1999, to phase out the dairy price support program by January 1, 2000, and replace it with a recourse loan program for commercial dairy processors by January 1, 2000, and authorizes reforms in the federal milk marketing order system. Movement toward a more market-oriented dairy industry was supported on a bipartisan basis in the House and Senate.

At a July 29, 1997, Senate Agriculture Committee hearing, witnesses testified that price volatility exists in the dairy industry as it does for other agricultural commodities. However, in the case of the dairy industry, the tools to manage price risk are less developed and the knowledge of how to use risk management techniques is below that of most other food commodities.

On January 2, 1998, and again on February 25, 1998, I wrote Secretary of Agriculture Glickman recommend modification of federal milk marketing orders to permit proprietary handlers of milk to offer dairy producers forward contracts for milk. The department interprets the applicable statute as prohibiting the offering of forward contracts because the contracts would violate a requirement to pay producers a minimum price.

The legislation I introduce today authorizes the Secretary of Agriculture to conduct a three-year pilot program for forward pricing of milk. Under the program, milk handlers and producers could voluntarily enter into fixed price contracts for specific volume of milk for an agreed upon period of time. It is intended that the Secretary of Agriculture review the forward pricing contracts to ensure that the contracts are consistent with all existing fair agricultural trade practices.

Mr. President, it is important that dairy producers and processors be afforded risk management tools. I believe this legislation will assist in that effort and I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2396

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

SECTION 1. DAIRY FORWARD PRICING PILOT PROGRAM.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"SEC. 23. DAIRY FORWARD PRICING PILOT PROGRAM.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary of Agriculture shall establish a pilot program under which milk producers and cooperatives are authorized to voluntarily enter into forward price contracts with milk handlers.

"(b) MINIMUM MILK PRICE REQUIREMENTS.—Payments made by milk handlers to milk producers and cooperatives, and prices received by milk producers and cooperatives, under the forward contracts shall be deemed to satisfy all regulated minimum milk price requirements of paragraphs (A), (B), (C), (D), (F), and (J) of subsection (5), and subsections (7)(B) and (18), of section 8c.

"(c) APPLICATION.—This section shall apply only with respect to the marketing of federally regulated milk (regardless of its use) that is in the current of interstate or foreign commerce or that directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

"(d) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates 3 years after the date of the establishment of the pilot program under subsection (a).".•

By Mr. GRAHAM (for himself, Mr. COVERDELL, Mr. TORRICELLI, and Mrs. FEINSTEIN):

S. 2397. A bill to amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes; to the Committee on Finance.

PUBLIC SCHOOL CONSTRUCTION PARTNERSHIP ACT

• Mr. GRAHAM. Mr. President, teachers, students, parents, and school administrators know that the United States faces a school infrastructure crisis. Many of our schools are more than 50 years old and crumbling, and the General Accounting Office estimates that it will cost about $112 billion to bring them into good repair. Moreover, this estimate does not take into account the need for new construction. The U.S. Department of Education projects that some 1.9 million more students will be entering schools in the next 10 years. At current prices, it will cost about $73 billion to build the new schools needed to educate this growing student population. Mr. President, I might add that my own State is gaining 60,000 new students each year. By the end of the decade, Florida's student enrollment will have increased 25 percent more than the population as a whole.

Education is rightfully a state and local matter, but the Federal government can play a helpful, non-intrusive role in assisting communities overwhelmed by explosive increases in student enrollment. We at the Federal level should help empower local school districts to find innovative, cost effective ways to finance new schools and repair aging ones. Let me quote Mr. Roger Cuevas, who is the superintendent of schools for Miami-Dade County, FL:

> It is important that financing options be defined in as flexible a manner as possible and especially not be limited to general obligation bonds . . . Flexibility in the choice of the type of eligible debt financing, as well as the capacity of the program to adapt to state-by-state differences are as critical to all school districts in the Nation as is its funding level.

The bill I am introducing today providing new flexibility to state and local efforts to finance new schools and repair older ones. The first provision provides for public school construction the same financing opportunities which are currently available in a wide variety of other public-need areas namely, airports, seaports, mass transit facilities, water and sewer facilities, solid waste, disposal facilities, qualified residential rental projects, local furnishing of electric energy and gas, heating and cooling facilities, qualified hazardous waste facilities, high-speed inter-city rail facilities and environmental enhancements of hydroelectric generating facilities. In all of these 10 separate areas, the U.S. Congress has provided assistance in the financing through what is known as private activity bonds.

This bill adds public schools in this list. Mr. President, this legislation was part of Senator COVERDELL's A Plus Savings Account bill that was passed by the Senate earlier this session. Unfortunately, this important provision was eliminated by a House-Senate Conference Committee. Mr. President, we now have another chance to do something constructive for our public schools. A recent article in the Washington Post reported that education is one of the American people's highest priorities. It should be one of our highest priorities too.

This legislation provides to each state the opportunity to issue tax-exempt private activity bonds to finance construction of public schools. These bonds would be administered at the state level, just as are the other 10 categories of private activity bonds. States containing school districts experiencing high growth would be allowed to issue bonds each year in an amount equal to $10 multiplied by the population of the state. For example, if a state with high-growth school districts has a population of 5 million, it could issue up to $50 million of bonds to finance school construction. A high-growth school district is one with an enrollment of at least 5,000 students and the enrollment has grown by at least 20 percent during the five years previous to the year of bond issue. According to the U.S. Department of Education, 286 school districts located throughout the Nation currently meet high-growth qualifications.

This proposal puts decisionmaking at the local level. Each state would decide how to allocate its bonding authority among its high-growth school districts. The state or local education authority would enter into an agreement—with the most favorable terms it could negotiate—with a private corporation to build schools. The state would issue the bonds, but the private corporation would be responsible for servicing the debt on the bonds. The state or local education authority would then lease back the facility. Ownership of the facility would revert to the state or local education authority upon retirement of the bonds.

There are multiple benefits to permitting states and local school districts to enter into partnerships with

private corporations to build schools. First, this mechanism can reduce construction time. For example, it would take a school district issuing $4 million of general obligation bonds each year, using the traditional "pay-as-you-go" approach, about 11 years to finance the construction of three typical schools. The lease back mechanism permitted through the use of private activity bonds could result in building three schools within three years of issuing the bonds. Perhaps just as important, this arrangement would permit the use of facilities for other worthwhile purposes when school is not in session.

The other component to this legislation provides relief to small or rural school districts issuing bonds for school construction. Under current law, issuers of school construction bonds worth less than $10 million are exempt from the arbitrage rebate rules. This bill raises that exemption to $15 million, providing relief from burdensome Federal regulations to even more school districts.

Mr. President, I urge my colleagues to support these modest proposals to provide some much needed assistance to our public schools.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2397

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 "Public School Construction Partnership Act".

SEC. 2. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL FACILITY BONDS AS EXEMPT FACILITY BONDS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", or", and by adding at the end the following:

"(13) qualified public educational facilities."

(b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Section 142 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(k) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(13), the term 'qualified public educational facility' means any school facility which is—

"(A) part of a public elementary school or a public secondary school,

"(B) except as provided in paragraph (6)(B)(iii), located in a high-growth school district, and

"(C) owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

"(2) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT DESCRIBED.—A public-private partnership agreement is described in this paragraph if it is an agreement—

"(A) under which the corporation agrees—

"(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility, and

"(ii) at the end of the contract term, to transfer the school facility to such agency for no additional consideration, and

"(B) the term of which does not exceed the term of the underlying issue.

"(3) SCHOOL FACILITY.—For purposes of this subsection, the term 'school facility' means—

"(A) school buildings,

"(B) functionally related and subordinate facilities and land with respect to such buildings, including any stadium or other facility primarily used for school events, and

"(C) any property, to which section 168 applies (or would apply but for section 179), for use in the facility.

"(4) PUBLIC SCHOOLS.—For purposes of this subsection, the terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as in effect on the date of the enactment of this subsection.

"(5) HIGH-GROWTH SCHOOL DISTRICT.—For purposes of this subsection, the term 'high-growth school district' means a school district established under State law which had an enrollment of at least 5,000 students in the second academic year preceding the date of the issuance of the bond and an increase in student enrollment of at least 20 percent during the 5-year period ending with such academic year.

"(6) ANNUAL AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

"(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds an amount equal to the greater of—

"(i) $10 multiplied by the State population, or

"(ii) $5,000,000.

"(B) ALLOCATION RULES.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the State may allocate in a calendar year the amount described in subparagraph (A) for such year in such manner as the State determines appropriate.

"(ii) RULES FOR CARRYFORWARD OF UNUSED AMOUNT.—With respect to any calendar year, a State may make an election under rules similar to the rules of section 146(f), except that the sole carryforward purpose with respect to such election is the issuance of exempt facility bonds described in section 142(a)(13).

"(iii) SPECIAL ALLOCATION RULE FOR SCHOOLS OUTSIDE HIGH-GROWTH SCHOOL DISTRICTS.—A State may elect to allocate an aggregate face amount of bonds not to exceed $5,000,000 from the amount described in subparagraph (A) for each calendar year for qualified public educational facilities without regard to the requirement under paragraph (1)(A)."

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended—

(1) by striking "or (12)" and inserting "(12), or (13)", and

(2) by striking "and environmental enhancements of hydroelectric generating facilities" and inserting "environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities".

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(h) of the Internal Revenue Code of 1986 (relating to certain rules not apply) is amended—

(1) by adding at the end the following:

"(3) EXEMPT FACILITY BONDS FOR QUALIFIED PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in section 142(a)(13) (relating to qualified public-private schools).", and

(2) by striking "MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS" in the heading and inserting "CERTAIN BONDS".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1998.

SEC. 3. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATION FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D)(vii) of the Internal Revenue Code of 1986 (relating to increase in exception for bonds financing public school capital expenditures) is amended by striking "$5,000,000" the second place it appears and inserting "$10,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1998.•

By Ms. MOSELEY-BRAUN:

S. 2399. A bill to suspend temporarily the duty on certain drug substances used as an HIV antiviral drug; to the Committee on Finance.

TARIFF ELIMINATION LEGISLATION

• Ms. MOSELEY-BRAUN. Mr. President, today I introduce a bill to eliminate the tariffs on two chemicals, TIC–A and TIC–C, used in the production of protease inhibitors. Protease inhibitors are critical components of the "cocktail" therapy used for the treatment of the HIV virus that causes AIDS.

Protease inhibitors have revolutionized the treatment regimen for HIV patients. Since Food and Drug Administration approval in 1996, protease inhibitors have become effective treatments for HIV patients. These treatments reduce the amount of virus in the blood stream of HIV patients to undetectable levels. The result of this treatment regimen is that most patients on the "cocktail" therapy have been able to resume active and productive lives.

Protease inhibitors are extremely sophisticated molecules and as a result are very difficult to manufacture. In addition, they are most effective only in high doses, making the treatment regimen very costly. Duty elimination of protease inhibitor raw materials, like TIC–A and TIC–C, will help reduce the costs associated with the production of the treatments.

Mr. President, I ask unanimous consent that the entire text of the bill be placed in the RECORD.

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

S. 2399

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

SECTION 1. TEMPORARY DUTY SUSPENSIONS ON CERTAIN HIV DRUG SUBSTANCES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.32.14	(S)-N-tert-butyl-1,2,3,4-tetrahydro-3-isoquinoline carboxamide (CAS No. 149182-72-9)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99
9902.32.16	(S)-N-tert-butyl-1,2,3,4-tetrahydro-3-isoquinoline carboxamide hydrochloride salt (CAS No. 149057-17-0)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99
9902.32.18	(S)-N-tert-butyl-1,2,3,4-tetrahydro-3-isoquinoline carboxamide sulfate salt (CAS No. 186537-30-4)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99
9902.32.20	(3S)-1,2,3,4-tetrahydroisoquinoline-3-carboxylic acid (CAS No. 74163-81-8)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.•

By Mr. SPECTER:

S. 2401. A bill to authorize the addition of the Paoli Battlefield site in Malvern, Pennsylvania, to Valley Forge National Historical Park; to the Committee on Energy and Natural Resources.

PAOLI BATTLEFIELD SITE LEGISLATION

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation to authorize the addition of the Paoli Battlefield site in Malvern, Pennsylvania to Valley Forge National Historical Park. The Paoli Massacre was an important chapter in the British campaign to capture Philadelphia in 1777. More than 50 American soldiers lost their lives when the British attacked and bayoneted General "Mad" Anthony Wayne's forces at Paoli Battlefield. Accordingly, this land needs to be preserved as an important part of Pennsylvania's history and our nation's history.

Congressman CURT WELDON has introduced this legislation in the House of Representatives and we are working together with the local community toward enactment of this bill prior to adjournment. The issue is quite simple. The Paoli Battlefield is an unprotected Revolutionary War site that is privately owned by the Malvern Preparatory School. The School intends to sell the land in order to strengthen its endowment, but officials agreed to give the community a chance to purchase the land for historical preservation purposes. Thus, the Paoli Battlefield will become open to residential or commercial development if $2.5 million is not raised by next year to purchase the land. Our bill envisions a combination of public and private financing to purchase the battlefield and link it to the protected lands known as Valley Forge National Historical Park. Specifically, the bill authorizes a purchase price of $2.5 million with not less than $1 million in nonfederal funds.

Too many important historical sites, especially Revolutionary War battlefields, have already been lost to residential and commercial development. The citizens of Malvern, through the Paoli Battlefield Preservation Fund, have already raised in excess of $1 million to acquire the site. Thus, if the expected $2.5 million price is maintained, adding the Paoli Battlefield to Valley Forge National Historical Park would cost the federal government no more than $1.5 million. The bill also authorizes the Secretary of the Interior to enter into a cooperative agreement with the Borough of Malvern, which has agreed to manage the 45-acre site in perpetuity, thereby ensuring that Valley Forge will not have to expend additional federal resources for Park operations on the Paoli Battlefield.

Mr. President, this Congress has made a commitment to protecting battlefield sites. I have been pleased to support these efforts as well as the effort to obtain funding in the FY99 Interior and Related Agencies Appropriations bill to conduct the Revolutionary War and War of 1812 Historic Preservation Study. Paoli Battlefield played an important role in the Revolutionary War, and I therefore urge my colleagues to support this effort to protect an important piece of American history. Simply put, in a $1.7 trillion federal budget, I believe that we should be able to find a maximum of $1.5 million in federal funds to preserve a rich part of our history.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2402. A bill to direct the Secretary of Agriculture to convey certain lands in San Juan County, New Mexico, to San Juan College; to the Committee on Agriculture, Nutrition, and Forestry.

THE OLD JICARILLA ADMINISTRATIVE SITE CONVEYANCE ACT OF 1998

Mr. DOMENICI. Mr. President, today I am introducing a bill to direct the Secretary of Agriculture to convey a ten acre parcel of land, known as the old Jicarilla administrative site, to San Juan College. This legislation will provide long-term benefits for the people of San Juan County, New Mexico, and especially the students and faculty of San Juan College.

This legislation allows for transfer by the Secretary of Agriculture real property and improvements at an abandoned and surplus administrative site of the Carson National Forest to San Juan College. The site is known as the old Jicarilla Ranger District Station, near the village of Gobanador, New Mexico. The Jicarilla Station will continue to be used for public purposes, including educational and recreational purposes of the college.

Mr. President, the Forest Service has determined that this site is of no further use to them, since the Jicarilla District Ranger moved into a new administrative facility in the town of Bloomfield, New Mexico. The facility has had no occupants for several years, and it is my understanding that the Forest Service reported to the General Services Administration that the improvements on the site were considered surplus, and would be available for disposal under their administrative procedures.

This legislation is patterned after S. 1510, approved by the Senate earlier this month, by which the property and improvements of a similarly abandoned Forest Service facility in New Mexico will be transferred to Rio Arriba County. The administration has indicated its support for the passage of that bill, and I hope that this bill will gain their support, as well.

Mr. President, since the Forest Service has no interest in maintaining Federal ownership of this land and the surplus facilities, and San Juan College could put this small tract to good use, this legislation is a win-win situation for the federal government and northwestern New Mexico. I look the Senate's rapid consideration of this legislation, and urge my colleagues to support its passage.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD.

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

S. 2402

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

SECTION 1. OLD JICARILLA ADMINISTRATIVE SITE.

(a) CONVEYANCE OF PROPERTY.—Not later than one year after the date of enactment of this Act, the Secretary of Agriculture (herein "the Secretary") shall convey to San Juan College, in Farmington, New Mexico, subject to the terms and conditions under subsection (c), all right, title, and interest of the United States in and to a parcel of real property (including any improvements on the land) consisting of approximately ten acres known as the "Old Jicarilla Administrative Site" located in San Juan County, New Mexico (T29N; R5W; Section 29 Southwest of Southwest ¼).

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary and the President of San Juan College. The cost of the survey shall be borne by San Juan College.

(c) TERMS AND CONDITIONS.—

(1) Notwithstanding exceptions of application under the Recreation and Public Purposes Act (43 U.S.C. 869(c)), consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the Bureau of Land Management special pricing program for Governmental entities under the Recreation and Public Purposes Act; and,

(B) an agreement between the Secretary and San Juan College indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this Act shall be used for educational and recreational purposes. If such lands cease to be used for such purposes, at the option of the United States, such lands will revert to the United States.

SAN JUAN COLLEGE,
OFFICE OF THE PRESIDENT,
Farmington, NM, August 21, 1997.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: The United States Forest Service has indicated a willingness to turn some property over to San Juan College. The property was formerly the Carson National Forest Jicarilla District Visitor Center Site. It is located in Gobernador and was formerly the headquarters for the Forest Service for this area. The office has subsequently moved into Bloomfield, and the property has had no occupants for several years.

At the suggestion of Phil Settles, the Forest Service Director, I would like to request that some legislation be introduced that would allow for the transfer of the property from the Forest Service to San Juan College. The College would use the area for educational and recreational purposes. A description of the property is attached.

Please let me know what additional steps must be taken in order to expedite the transfer. Thank you very much.

Sincerely,

JAMES C. HENDERSON, Ed.D.

By Mr. SANTORUM:

S. 2403. A bill to prohibit discrimination against health care entities that refuse to provide, provide coverage for, pay for, or provide referrals for abortions; to the Committee on Labor and Human Resources.

THE HEALTH CARE ENTITY PROTECTION ACT

• Mr. SANTORUM. Mr. President, I am introducing legislation today that will offer protection from government discrimination to health care providers who have religious or moral objections to performing abortions.

As HCFA prepares to implement the Medicare+Choice program, the need for this bill has become evident. Congress created Medicare+Choice to give beneficiaries more options in their health plans. The Balanced Budget Act of 1997 (BBA) requires all health care providers who participate in the program to provide all services covered under Medicare Parts A and B, except hospice care. HCFA is interpreting this mandate to require coverage for abortion, consistent with the Hyde restrictions. The problem is that many religious health care systems—and even some secular providers—have strong misgivings about performing, providing coverage for, or paying for any elective abortions. Absent specific legislative clarification, these providers will be shut out of the Medicare+Choice program.

HCFA's interpretation of the BBA has come as a surprise to many health systems wishing to participate in the Medicare+Choice program. The issue of whether providers would have to cover abortion services was never addressed during last summer's extensive debate. Instead, this Congress focused on designing a program which would give seniors the broadest possible range of health care choices, so they could choose a provider based on their own individual needs.

In 1996, Congress prohibited government discrimination against health care providers who choose not to teach abortion procedures in their graduate medical programs. The Senate approved this legislation as an amendment to the Omnibus Consolidated Rescissions and Appropriations Act by a vote of 63–37. The Health Care Entity Protection Act merely clarifies that these protections extend to all providers who have religious or moral objections to performing, providing coverage of, or paying for induced abortions. I would emphasise that nothing in this bill prevents providers from voluntarily offering abortion services; it simply gives them a right to choose whether they will so do.

I believe that my colleagues on both sides of the abortion debate can support the Health Care Entity Protection Act. I would like to reiterate that this bill simply clarifies protections that already exist under current law. I hope the Senate will recognize the moral gravity of the abortion issue and forge a consensus across party and ideological lines to protect institutions, doctors, and health systems who, as a matter of conscience, cannot perform or provide for abortions.•

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2404. A bill to establish designations for United States Postal Service buildings located in Coconut Grove, Opa Locka, Carol City, and Miami, Florida; to the Committee on Governmental Affairs.

UNITED STATES POSTAL SERVICE LEGISLATION

Mr. GRAHAM. Mr. President, I rise today together with my friends and distinguished colleague, Senator MACK, to introduce legislation to name five United States Post Offices in Miami-Dade County, Florida after five prominent civic and community leaders. By doing so, we are joining the entire Florida delegation in the United States House of Representatives in honoring these individuals of great importance to our state.

This legislation honors these five individuals service, commitment, and dedication to their communities. Athalie Range is a multi-faceted local community leader and humanitarian Garth Reeves, Sr. is a publisher, banker, and entrepreneur. William R. "Billy" Rolle was a teacher, coach, and community education leader. Essie Silva was a leader and proponent of business development for South Florida's Africa-American community. Helen Miller was the first African-American female Mayor in Dade County, Florida.

While these five individuals come from different backgrounds and professions they have one similar quality: dedication to their communities. Through their service, they have made immeasurable contributions to South Florida and our entire state. Mr. President, let me say a few words about each of these outstanding individuals:

Athalie Range has been a leader in South Florida for over 30 years. She was the first African-American and second woman to be elected to the Miami City Commission. Governor Reubin Askew appointed her the first African-American department head in the state of Florida. Ms. Range has also been the recipient of over 160 awards and honors. I have had the pleasure of knowing and learning from Ms. Range for many years. Her commitment to improving the quality of life for all citizens has been constant and meaningful.

Garth Reeves has been committed to excellence and achievement in South Florida for over 50 years. As the owner and publisher of the Miami Times, he has covered many of the important news stories of the last half-century. He has also been an exemplary civic leader who served on the Boards of Trustees of Miami-Dade Community College, Barry University, Bethune-Cookman College, and Florida Memorial College.

Essie D. Silva was a proponent of South Florida economic development her whole life. She chaired the Government Affairs Department of the Miami-Dade Chamber of Commerce and led groups to lobby in Tallahassee and Washington. In addition to her business activities, Ms. Silva was instrumental in establishing the Sunstreet Carnival, a popular family festival held in Miami.

Helen Miller became the first African-American female Mayor elected in Miami-Dade County when Opa Locka residents chose her as their Mayor in 1982. She has served on over forty different community boards dedicated to improving the quality of life in South

Florida. She was a woman of tremendous vigor and leadership who was recognized as the elder stateswoman of Opa Locka, Florida. She passed away on October 2, 1996, in Opa Locka, Florida.

William R. "Billy" Rolle dedicated his life in one of our most important professions—teaching. He spent over thirty five years as a teacher, coach, band instructor, and assistant principal. In all these different roles he continued to inspire young people to reach their full potential. Also, Mr. Rolle helped organize the First Annual Goombay Festival, a popular Caribbean event held in Miami. He passed away on January 20, 1998, in Miami, Florida.

Mr. President, the accomplishments of these five individuals are worthy of having a post office designation. All of these post offices that will bear the names of the individuals will be located in the communities where they lived. It is appropriate that we grant this honor to salute their life long commitment to their community. I urge all my colleagues to join Senator MACK and me in supporting this important legislation.

By Mr. FAIRCLOTH:

S. 2405. A bill to amend the Fair Labor Standards Act of 1938 to exempt licensed funeral directors from the minimum wage and overtime compensation requirements of that Act; to the Committee on Labor and Human Resources.

FAIR LABOR STANDARDS ACT AMENDMENTS

• Mr. FAIRCLOTH. Mr. President, today I am introducing legislation together with my good friend, Senator DEWINE, to exempt licensed funeral directors from the overtime provisions of the Fair Labor Standards Act.

Under current law, licensed funeral directors do not meet the test for the "professionals" exemption under the Wage and Hour regulations of the Fair Labor Standards Act. Consequently, they are not exempt from minimum wage and overtime requirements. Given the nature of their work—on-duty or on-call 24 hours a day, 7 days a week, 365 days a year—this requirement places an economic hardship on small funeral homes and the families of licensed funeral directors. With erratic and unpredictable work hours, most licensed funeral directors would prefer the option of comp time in lieu of overtime pay in order to spend more time with their families.

Requiring licensed funeral directors to be paid for overtime work forces small business owners to allocate revenues for that purpose, thereby inhibiting salaries and bonuses. To avoid the financial strain, some even resort to using only part-time funeral directors.

Over the years, Congress has provided 17 exemptions to the Act. Included are such diverse exemptions as employees of amusement or recreational establishments, outside salespeople, seasonal agricultural workers, apprentices, employees of newspapers with a circulation of less than 4,000, switchboard operators of independently-owned telephone companies with fewer than 750 stations, and the more recent amendments related to criminal investigators, computer analysts, programmers, and software engineers.

Mr. President, I strongly believe that small businesses, such as funeral homes, must be given flexibility to provide their key employees with the options for alternative overtime compensation in order for them to survive, grow, and remain the premier source of employment in our communities.

In that regard and on behalf of your local funeral homes and their licensed funeral directors, I urge my colleagues to support this legislation.•

By Mr. BOND (for himself, Mr. COVERDELL, Mr. DOMENICI, Mr. KEMPTHORNE, and Ms. SNOWE):

S. 2407. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to improve the programs of the Small Business Administration; to the Committee on Small Business.

SMALL BUSINESS PROGRAMS RESTRUCTURING AND REFORM ACT OF 1998

• Mr. BOND. Mr. President, today, I have been joined by Senators COVERDELL, DOMENICI, KEMPTHORNE, and SNOWE to introduce "The Small Business Programs Restructuring and Reform Act of 1998" to restructure and refine Small Business Administration programs that are designed to help small businesses succeed. In drafting this legislation, I followed one key principle—will the change help small businesses? Many of SBA's programs are dependent upon the private sector to make loans and investments or to provide services to small businesses. "The Small Business Programs Restructuring and Reform Act of 1998" is intended to make Federal small business programs work more effectively while stimulating greater interest in the private sector to support small business owners and their employees.

The small business sector is the fastest growing segment of our economy. Its sustained growth throughout this decade has enabled our Nation to experience one of its greatest periods of prosperity. During this time span, small businesses have been responsible for the net increase of new jobs in the United States. Today, small businesses employ over ½ of all American workers. Small businesses produce 55 percent of our Nation's gross domestic product. Our Nation's sustained economic growth would not be possible were it not for the strength of the small business sector. One would hate to imagine where we would be without a robust small business community.

The Committee on Small Business opened the 105th Congress with a hearing on Homebased and Women-owned businesses. We received testimony on the significant economic contribution being made by the 8 million women-owned businesses and on the importance of business education, training, and financial assistance to this growing segment of our economy.

To assist the rapid growth of small businesses owned by women, Section 2 of "The Small Business Programs Restructuring and Reform Act of 1998" would increase the authorization level to $12 million from $8 million per year for the Women's Business Center program. This increase would ensure that new Center sites will be opened without jeopardizing the currently funded Centers from receiving funds for five years.

To verify the SBA provides the Women's Business Center program with the staff and administrative support required to support a $12 million program, the bill directs the General Accounting Office to undertake a baseline and follow-up study of the SBA's administration of the program. These independent audits will assist Congress in its oversight of SBA's supervision and administration of the program. Knowing that the Administration has previously recommended a budget that would have shut down the program, we want to make sure it is receiving the appropriate level of staffing and agency resources.

Last year, Congress passed the "Small Business Reauthorization Act of 1997," which increased the authorization for the Women Business Center Program to $8 million from $4 million and extended the number of years grantees can receive grants to five years from three years. The goal was to have a Women's Business Center operating in every state and additional sites in states where there is sufficient demand. Consistent with our view, the Administration's budget request for Fiscal Year 1999 recommended an increase in the authorization level to $9 million. Senators KERRY and CLELAND introduced S. 2157 which would authorize the Administration's request and would go one step further by increasing the authorization level to $10.5 million in FY 2000, and $12 million in FY 2001. I am encouraged to see such a strong show of support for the program—only two years after Congress killed the Administration's recommendation to strike all funding for the program.

Section 2 of the bill includes a new provision to provide parity between Centers operating under three-year agreements with SBA when the Reauthorization Act was enacted and those Centers awarded five-year grants since that time. Section 2 amends the law to provide the same matching requirement in year four for all Centers receiving SBA grants. Under the 1997

Act, Centers that receive a two-year extension at the conclusion of a three-year grant have to raise two non-federal dollars for every federal dollar awarded; under Section 2, they will have to raise one non-federal dollar for each federal dollar—which is the fourth year matching requirement for Centers receiving newly awarded five year grants. The 2 non-federal dollars to one federal dollar matching requirement will remain in force for the fifth year of all awardees.

Section 3 of "The Small Business Programs Restructuring and Reform Act of 1998" would make the SBIR Program permanent. Testimony before the Committee on Small Business and the findings of the General Accounting Office clearly support this Congressional action. The bill would also increase the set aside from 2.5 percent to 3.5 percent. Beginning in FY 2001, the program would be increased by ¼ of 1 percent in each of the next four fiscal years.

Congress established the SBIR Program in 1982 because small businesses are a principal source of innovation in the United States. Under this program, Federal agencies with extramural research and development budgets of $100 million or more are required to set aside no less than 2.5 percent of that amount for small businesses. The SBIR Program was last re-authorized in 1992 and will terminate in FY 2000 unless Congress acts first.

In April 1998, the General Accounting Office issued its comprehensive report on the state of the SBIR Program, and in June 1998, GAO addressed that report in testimony before the Committee on Small Business. The unmistakable message was very clear—this is a good program that is running well. There are ten Federal agencies that participate in the program, and GAO concluded they are all adhering to the program's funding requirements. Competition has been intense among small business R&D firms in response to solicitations from the ten agencies. GAO found, however, it was very rare for an agency to make an award when the agency received only one proposal in response to a solicitation was received.

The bill would make a significant change in the program to encourage better outreach to states that receive few awards each year. GAO reported in FY 1996 that California received a total of 904 awards for a total of $207 million and Massachusetts received 628 awards for a total of $148 million. On the other hand, there were a great number of states receiving 11 or fewer awards. The bill would permit each of the ten participating agencies to spend up to 2% of the SBIR set aside pool of funds to support an outreach program, to promote better commercialization of the R&D awards, and to offset some administrative expenses. At least one-third of these non-award funds must be spent on outreach in those states that receive 25 or fewer awards each year.

Earlier this year, I introduced S. 2173, the "Assistive and Universally Designed Technology Improvement Act," to encourage the development and production of actual products for the marketplace for assistive technology end-users. As part of my effort to reach that goal, the "Small Business Programs Restructuring and Reform Act of 1998" includes a provision encouraging all ten Federal agencies participating in the SBIR Program to solicit proposals to advance research and development in this critical area.

In 1958, Congress created the SBIC Program to assist small business owners obtain investment capital. Forty years later, small businesses continue to experience difficulty in obtaining investment capital from banks and traditional investment sources. SBICs are frequently their only sources of investment capital. In 1992 and 1996, the Committee on Small Business worked closely with SBA to correct earlier deficiencies in the law in order to ensure the future of the program. Today, the SBIC Program is booming. Its performance since 1994 has been astounding.

Section 4 of "The Small Business Programs Restructuring and Reform Act of 1998" would make a relatively small change in the operation of the program. This change, however, would help smaller, small businesses to be more attractive to investors. The bill would permit SBICs to accept royalty payments contingent on future performance from companies in which they invest as a form of equity return for their investment.

SBA already permits SBICs to receive warrants from small businesses, which give the investing SBIC the right to acquire a portion of the equity of the small business. By pledging royalties or warrants, the small business is able to reduce the interest that would otherwise be payable by the small business to the SBIC. Importantly, the royalty feature provides the smaller, small business with an incentive to attract SBIC investments when the return may otherwise be insufficient to attract venture capital.

Section 5 of "The Small Business Programs Restructuring and Reform Act of 1998" would require the SBA to make permanent a pilot program initiated two years ago to permit certain Certified Development Companies (CDCs) to foreclose and liquidate defaulted loans that they have originated under the 504 Loan Program. This is a necessary step to ensure the 504 program remains viable.

Currently, SBA liquidates and forecloses almost every loan made under the 504 Loan Program. SBA has been performing this task poorly. The Administration's FY 1999 budget submission estimates that recoveries on defaulted loans under the 504 Loan Program will decline from 34.27% in FY 1998 to 30.67% in FY 1999. It is important to note that all loans made under the 504 loan program are fully secured by real estate. It is inconceivable that SBA recovers only thirty cents on the dollar on fully-secured real estate loans.

Because the 504 Program is self-funded through user fees, with no appropriation required by Congress, borrowers must pay higher fees to compensate for the SBA's inability to recover a reasonable portion of defaulted loans. As borrower fees have increased, the 504 Loan Program has been priced out of the reach of certain small businesses. The 504 Loan Program was enacted to provide larger loans to small businesses for plant acquisition, construction or expansion. Such loans create jobs and improve the economic health of communities. Congress should not allow such opportunities to be limited because the SBA has been unable to recover funds on defaulted loans effectively.

In 1996, Congress passed, at my urging, the Small Business Programs Improvement Act, which established a pilot program that allowed approximately 20 CDCs to liquidate loans that they had originated. Reports on this pilot program indicate it has been a success—CDCs are obtaining higher recoveries than the SBA. This bill makes the pilot program permanent and permits CDCs that have the ability to manage loan liquidations to do so. This change in the law is designed to increase the recoveries on defaulted loans thereby decreasing borrower fees. Consequently, more small businesses will have access to 504 loans, which will create more jobs and will help sustain the economic growth this country has been experiencing.

The "Small Business Reauthorization Act of 1997" included the creation of the HUBZone Program, which raised the goal to 23% from 20% for prime contracts being awarded by the Federal government to small business. This increase was advocated by the SBA Administrator and was embraced by the Clinton Administration.

It has been brought to the attention of the Committee on Small Business that some Federal agencies may be using bookkeeping ploys to reduce the amount of contract dollars going into the pool of contracts used for calculating the older 20% small business set aside goal. By reducing the overall dollar volume of contracts, the value of contracts counted under the older 20% set aside goal is also reduced. Now that Congress has increased the goal to 23%, I am concerned there may be greater pressure on the agencies to "juggle the books."

In order for the Committee on Small Business to conduct its oversight of the small business contract set aside goal, Section 6 of the bill directs the SBA to

send a report to the Committee on Small Business each year highlighting any Federal agency that alters its statistical methodology in tracking its efforts to meet the 23% goal. The bill also directs the Administrator of SBA to notify the Committee and the SBA Chief Counsel for Advocacy prior to approving any request from an agency to change how it reports its small business contracting efforts.

Last year, when Congress approved the "Small Business Reauthorization Act of 1997," it included a separate title to improve business opportunities for service-disabled veterans. The Senate and House Committees on Small Business believed strongly that these individuals deserve better support from the Federal agencies than they have received historically. Last year's bill included a provision requiring the SBA to complete a comprehensive report containing the findings and recommendations of the SBA Administrator on the needs of small businesses owned and controlled by service-disabled veterans. Although this report should be received by the Congress no later than the first week of September, SBA's efforts to date to complete this report within the statutory deadline are disappointing.

Section 7 of "The Small Business Programs Restructuring and Reform Act of 1998" would go one step further to strengthen the mandate that SBA's programs be more responsive to all veteran small business owners. The bill would direct that veterans receive comprehensive help at SBA. The bill elevates the Office of Veterans Affairs at SBA to the Office of Veterans Business Development, which would be headed by an Associate Administrator, who would report directly to the SBA Administrator.

In addition, the bill would establish an Advisory Committee on Veterans' Business Affairs composed of 15 members. Eight members would be veterans who own small businesses, and seven members will be representatives of national veterans service organizations. Further, the bill would create the position of National Veterans' Business Coordinator within the Service Corps of Retired Executives (SCORE) Program. This new position would work in the SBA headquarters to ensure that SCORE's programs nationwide include entrepreneurial counseling and training for veterans.

Section 7 of the bill would make veteran small business owners eligible to apply for small, start-up loans under SBA's Microloan Program. And the SBA Office of Advocacy would be directed to evaluate annually efforts by Federal agencies, business and industry to help business that are owned and controlled by veterans.

The "Small Business Programs Restructuring and Reform Act of 1998" is a sound bill that will help small business owners, particularly those who are struggling or in the business start-up phase to compete more effectively. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent 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. 2407

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 "Small Business Programs Restructuring and Reform Act of 1998".

SEC. 2. WOMEN'S BUSINESS CENTER PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) with small business concerns owned and controlled by women being created at a rapid rate in the United States, there is a need to increase the authorization level for the women's business center program under section 29 of the Small Business Act (15 U.S.C. 656) in order to establish additional women's business center sites throughout the Nation that focus on entrepreneurial training programs for women; and

(2) increased funding for the women's business center program will ensure that—

(A) new women's business center sites can be established to reach women located in geographic areas not presently served by an existing women's business center without jeopardizing the full funding of existing women's business centers for the term prescribed by law; and

(B) the Small Business Administration achieves the goal of establishing at least 1 sustainable women's business center in each State.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 29(k)(1) of the Small Business Act (15 U.S.C. 656(k)(1)) is amended to read as follows:

"(1) AUTHORIZATION.—There is authorized to be appropriated to carry out this section, $12,000,000 for fiscal year 1999 and each fiscal year thereafter.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on October 1, 1998.

(c) TERMS OF ASSISTANCE.—

(1) IN GENERAL.—Section 308(b) of the Small Business Reauthorization Act of 1997 (15 U.S.C. 656 note) is amended—

(A) by striking "(b)" and all that follows through "paragraph (2), any organization" and inserting the following:

"(b) APPLICABILITY.—Any organization"; and

(B) by striking paragraph (2).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the Small Business Reauthorization Act of 1997.

(d) GENERAL ACCOUNTING OFFICE REPORTING REQUIREMENTS.—

(1) BASELINE REPORT.—Not later than October 31, 1999, the Comptroller General of the United States shall—

(A) conduct a review of the administration of the women's business center program under section 29 of the Small Business Act (15 U.S.C. 656) by the Office of Women's Business Ownership of the Small Business Administration, which shall include an analysis of—

(i) the operation of the women's business center program by the Administration;

(ii) the efforts of the Administration to meet the legislative objectives established for the program;

(iii) the oversight role of the Administration of the operations of women's business centers;

(iv) the manner in which the women's business centers operate;

(v) the benefits provided by the women's business centers to small business concerns owned and controlled by women; and

(vi) any other matters that the Comptroller General determines to be appropriate; and

(B) submit to the Committees on Small Business of the Senate and House of Representatives a report describing the results of the review under subparagraph (A).

(2) FOLLOWUP REPORT.—Not later than October 31, 2002, the Comptroller General of the United States shall—

(A) conduct a review of any changes, during the period beginning on the date on which the report is submitted under paragraph (1)(B) and ending on the date on which the report is submitted under subparagraph (B) of this paragraph, in the administration of the women's business center program under section 29 of the Small Business Act (15 U.S.C. 656) by the Office of Women's Business Ownership of the Small Business Administration, which shall include an analysis of any changes during that period in—

(i) the operation of the women's business center program by the Administration;

(ii) the efforts of the Administration to meet the legislative objectives established for the program;

(iii) the oversight role of the Administration of the operations of women's business centers;

(iv) the manner in which the women's business centers operate;

(v) the benefits provided by the women's business centers to small business concerns owned and controlled by women; and

(vi) any other matters that the Comptroller General determines to be appropriate; and

(B) submit to the Committees on Small Business of the Senate and House of Representatives a report describing the results of the review under subparagraph (A).

SEC. 3. SBIR PROGRAM.

(a) ASSISTIVE TECHNOLOGY.—Section 9(c) of the Small Business Act (15 U.S.C. 638(c)) is amended by adding at the end the following: "In order to carry out the purposes of this section, the Administration shall, to the maximum extent practicable, encourage Federal agencies to fund programs for the research and development of assistive and universally designed technology that is designed to result in the availability of new products for individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).".

(b) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

(1) REQUIRED EXPENDITURE AMOUNTS; DEFINITION OF EXTRAMURAL BUDGET.—Section 9(f)(1) of the Small Business Act (15 U.S.C. 638(f)(1)) is amended—

(A) by striking subparagraphs (A) through (C) and inserting the following:

"(A) not less than 2.5 percent of that budget in each of fiscal years 1999 and 2000;

"(B) not less than 2.75 percent of that budget in fiscal year 2001;

"(C) not less than 3 percent of that budget in fiscal year 2002;

"(D) not less than 3.25 percent of that budget in fiscal year 2003; and

"(E) not less than 3.5 percent of that budget in each fiscal year thereafter;"; and

(B) by adding at the end the following: "Notwithstanding any other provision of law, any rule, regulation, or order promulgated by the Director of the Office of Management and Budget relating to the definition of the term 'extramural budget' in subsection (e)(1) shall, except with respect to the Federal agencies specifically identified in that subsection, apply uniformly to all departments and agencies of the Federal Government that are subject to the requirements of this section.".

(2) LIMITATIONS RELATING TO ADMINISTRATIVE COSTS.—Section 9(f)(2) of the Small Business Act (15 U.S.C. 638(f)(2)(A)) is amended—

(1) in the matter preceding subparagraph (A), by striking "A Federal agency" and inserting "In any fiscal year, a Federal agency"; and

(2) in subparagraph (A)—

(A) by striking "any of" and inserting "more than the lesser of $2,000,000 or 2 percent of"; and

(B) by inserting ", funding program outreach for States receiving 25 or fewer awards in that fiscal year, and funding increased activities to promote commercialization of SBIR awards, of which not less than one-third shall be used to support program outreach" before the semicolon.

(d) REPEAL OF TERMINATION PROVISION.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by striking subsection (m) and inserting the following:

"(m) [Reserved].".

SEC. 4. SBIC PROGRAM.

Section 308(i)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 687(i)(2)) is amended by adding at the end the following: "In this paragraph, the term 'interest' includes only the maximum mandatory sum, expressed in dollars or as a percentage rate, that is payable with respect to the business loan amount received by the small business concern, and does not include the value, if any, of contingent obligations, including warrants, royalty, or conversion rights, granting the small business investment company an ownership interest in the equity or future revenue of the small business concern receiving the business loan.".

SEC. 5. CERTIFIED DEVELOPMENT COMPANY PROGRAM.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following:

"SEC. 510. FORECLOSURE AND LIQUIDATION OF LOANS.

"(a) IN GENERAL.—The Administration shall authorize qualified State and local development companies (as defined in section 503(e)) that meet the requirements of subsection (b) to foreclose and liquidate loans in the portfolios of those companies that are funded with the proceeds of debentures guaranteed by the Administration under section 503.

"(b) REQUIREMENTS.—The requirements of this subsection are that—

"(1) the qualified State or local development company—

"(A) participated in the loan liquidation pilot program established by section 204 of the Small Business Programs Improvement Act of 1996 (15 U.S.C. 695 note), as in effect on the day before the promulgation of final regulations by the Administration implementing this section; or

"(B) is participating in the Accredited Lenders Program under section 507 or the Premier Certified Lenders Program under section 508; or

"(2)(A) during the 3 most recent fiscal years, the qualified State or local development company has made an average of not less than 10 loans per year that are funded with the proceeds of debentures guaranteed under section 503; and

"(B) 1 or more of the employees of the qualified State or local development company have—

"(i) not less than 1 year of experience in administering the liquidation and workout of problem loans secured in a manner substantially similar to loans funded with the proceeds of debentures guaranteed under section 503; or

"(ii) completed a training program on loan liquidation developed by the Administration in conjunction with qualified State and local development companies that meet the requirements of this subsection.

"(c) AUTHORITY OF DEVELOPMENT COMPANIES.—

"(1) IN GENERAL.—Each qualified State or local development company authorized to foreclose and liquidate loans under this section shall, with respect to any loan described in subsection (a) in the portfolio of the development company that is in default—

"(A) perform all liquidation and foreclosure functions, including the purchase of any other indebtedness secured by the property securing the loan, in a reasonable and sound manner and according to commercially accepted practices, pursuant to a liquidation plan, which shall be approved in advance by the Administration in accordance with paragraph (2)(A);

"(B) litigate any matter relating to the performance of the functions described in subparagraph (A), except that the Administration may monitor the conduct of any such litigation to which the qualified State or local development company is a party; and

"(C) take other appropriate actions to mitigate loan losses in lieu of total liquidation or foreclosure, including restructuring the loan, which such actions shall be in accordance with prudent loan servicing practices and pursuant to a workout plan, which shall be approved in advance by the Administration in accordance with paragraph (2)(C).

"(2) ADMINISTRATION APPROVAL.—

"(A) LIQUIDATION PLAN.—In carrying out paragraph (1), a qualified State or local development company shall submit to the Administration a proposed liquidation plan. Any request under this subparagraph shall be approved or denied by the Administration not later than 10 business days after the date on which the request is submitted. If the Administration does not approve or deny a request for approval of a liquidation plan before the expiration of the 10-business day period beginning on the date on which the request is submitted, the request shall be considered to be approved.

"(B) PURCHASE OF INDEBTEDNESS.—In carrying out paragraph (1)(A), a qualified State or local development company shall submit to the Administration a request for written approval from the Administration before committing the Administration to purchase any other indebtedness secured by the property securing the loan at issue. Any request under this subparagraph shall be approved or denied by the Administration not later than 10 business days after the date on which the request is submitted.

"(C) WORKOUT PLAN.—In carrying out paragraph (1)(C), a qualified State or local development company may submit to the Administration a proposed workout plan. Any request under this subparagraph shall be approved or denied by the Administration not later than 20 business days after the date on which the request is submitted. If the Administration does not approve or deny a request for approval of a workout plan before expiration of the 20-business day period beginning on the date on which the request is submitted, the request shall be considered to be approved.

"(3) CONFLICT OF INTEREST.—A qualified State or local development company that is liquidating or foreclosing a loan under this section shall not take any action that would result in an actual or apparent conflict of interest between the qualified State or local development company, or any employee thereof, and any third party lender, associate of a third party lender, or any other person participating in any manner in the liquidation or foreclosure of the loan.

"(d) SUSPENSION OR REVOCATION OF AUTHORITY.—The authority of a qualified State or local development company to foreclose and liquidate loans under this section may be suspended or revoked by the Administration, if the Administration determines that the qualified State or local development company—

"(1) does not meet the requirements of subsection (b); or

"(2) has failed to comply with any requirement of this section or any applicable rule or regulation of the Administration regarding the foreclosure and liquidation of loans under this section, or has violated any other applicable provision of law.

"(e) REPORT.—

"(1) IN GENERAL.—The Administration shall annually submit to the Committees on Small Business of the House of Representatives and the Senate a report on the results of the delegation of authority to qualified State and local development companies to liquidate and foreclose loans under this section.

"(2) INFORMATION INCLUDED.—Each report under this paragraph shall include information, with respect to each qualified State or local development company authorized to foreclose and liquidate loans under this section, and in the aggregate, relating to—

"(A) the total dollar amount of each loan liquidated and the total cost of each project financed with that loan;

"(B) the total dollar amount guaranteed by the Administration;

"(C) total dollar losses;

"(D) total recoveries both as a percentage of the amount guaranteed and the total cost of the project financed; and

"(E) a comparison between—

"(i) the information described in subparagraphs (A) through (D) with respect to loans foreclosed and liquidated by qualified State and local development companies under this section during the 3-year period preceding the date on which the report is submitted; and

"(ii) the same information with respect to loans foreclosed and liquidated by the Administration during that period.".

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate such regulations as may be necessary to carry out section 510 of the Small Business Investment Act of 1958, as added by subsection (a) of this section.

(2) ELIMINATION OF PILOT PROGRAM.—Effective on the date on which final regulations are promulgated under paragraph (1), section 204 of the Small Business Programs Improvement Act of 1996 (15 U.S.C. 695 note) is repealed.

SEC. 6. SMALL BUSINESS FEDERAL CONTRACT SET-ASIDES.

Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following:

"(2)(A) Not later than 180 days after the last day of each fiscal year, based on the reports submitted under paragraph (1) for that fiscal year, the Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a report, which shall include—

"(i) the information required by paragraph (3);

"(ii) a detailed description of the procurement data that is included in the reports submitted under paragraph (1) for that fiscal year, which shall identify—

"(I) any data on contracts from Federal agencies that is excluded from those reports, accompanied by an explanation for such exclusion; and

"(II) each Federal agency that has submitted a report that deviates from the requirements of paragraphs (3) and (4), accompanied by an explanation of the reasons for each such deviation;

"(iii) a detailed description of any change in statistical methodology used by any Federal agency that is reflected in any statistic in the report submitted under paragraph (1) for that fiscal year, including any inclusion or exclusion of the value of any contracts or types of contracts in any statistic represented by the Federal agency in the report submitted under paragraph (1) as the total value of contracts or subcontracts awarded by the Federal agency or as the total value of contracts or subcontracts awarded to small business concerns; and

"(iv) with respect to each change in statistical methodology by a Federal agency described in clause (iii), a separate calculation (which shall be provided to the Administration by the Federal agency) of the total value of contracts for that fiscal year, using the statistical methodology used by the Federal agency during each of the 2 preceding fiscal years.

"(B)(i) Not less than 45 days before issuing any waiver or permissive letter allowing any Federal agency or group of agencies to make any change in statistical methodology described in subparagraph (A)(iii), the Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate, and to the Chief Counsel for Advocacy of the Administration, a copy of that waiver or letter.

"(ii) Not later than 30 days after the submission of a waiver or letter under clause (i), the Chief Counsel for Advocacy of the Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate, and to each affected Federal agency, the written comments of the Chief Counsel regarding the appropriateness of the decision of the Administration to issue the waiver or letter."; and

(3) in paragraph (4), as redesignated, by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

SEC. 7. ASSISTANCE FOR VETERANS.

(a) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(q) DEFINITIONS RELATING TO VETERANS.—In this Act:

"(1) SERVICE-DISABLED VETERAN.—The term 'service-disabled veteran' means a veteran with a disability that is service-connected (as defined in section 101(16) of title 38, United States Code).

"(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—The term 'small business concern owned and controlled by service-disabled veterans' means a small business concern—

"(A) not less than 51 percent of which is owned by 1 or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by 1 or more service-disabled veterans; and

"(B) the management and daily business operations of which are controlled by 1 or more service-disabled veterans.

"(3) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY VETERANS.—The term 'small business concern owned and controlled by veterans' means a small business concern—

"(A) not less than 51 percent of which is owned by 1 or more veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by 1 or more veterans; and

"(B) the management and daily business operations of which are controlled by 1 or more veterans.

"(4) VETERAN.—The term 'veteran' has the meaning given the term in section 101(2) of title 38, United States Code.".

(b) OFFICE OF VETERANS BUSINESS DEVELOPMENT.—

(1) ASSOCIATE ADMINISTRATOR FOR VETERANS BUSINESS DEVELOPMENT.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended—

(A) in the fifth sentence, by striking "four" and inserting "5"; and

(B) by inserting after the fifth sentence the following: "One shall be the Associate Administrator for Veterans Business Development, who shall administer the Office of Veterans Business Development established under section 32.".

(2) ESTABLISHMENT OF OFFICE.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(A) by redesignating section 32 as section 33; and

(B) by inserting after section 31 the following:

"SEC. 32. VETERANS PROGRAMS.

"(a) OFFICE OF VETERANS BUSINESS DEVELOPMENT.—

"(1) ESTABLISHMENT.—There is established in the Administration an Office of Veterans Business Development, which shall be administered by the Associate Administrator for Veterans Business Development (in this section referred to as the 'Associate Administrator') appointed under section 4(b)(1).

"(2) ASSOCIATE ADMINISTRATOR FOR VETERANS BUSINESS DEVELOPMENT.—The Associate Administrator shall be—

"(A) a career appointee in the competitive service or in the Senior Executive Service; and

"(B) responsible for the formulation and execution of the policies and programs of the Administration that provide assistance to small business concerns owned and controlled by veterans and small business concerns owned and controlled by service-disabled veterans.

"(b) ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.—

"(1) IN GENERAL.—There is established an advisory committee to be known as the Advisory Committee on Veterans Business Affairs (in this subsection referred to as the 'Committee'), which shall serve as an independent source of advice and policy recommendations to the Administrator (through the Associate Administrator), to Congress, and to the President.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Committee shall be composed of 15 members, each of whom shall be appointed by the Administrator, of whom—

"(i) 8 shall be veterans who are owners of small business concerns; and

"(ii) 7 shall be representatives of national veterans service organizations.

"(B) POLITICAL AFFILIATION.—Not more than 8 members of the Committee shall be of the same political party as the President.

"(C) PROHIBITION ON FEDERAL EMPLOYMENT.—No member of the Committee may be an officer or employee of the Federal Government. If any member of the Committee commences employment as an officer or employee of the Federal Government after the date on which the member is appointed to the Committee, the member may continue to serve as a member of the Committee for not more than 30 days after the date on which the member commences employment as such an officer or employee.

"(D) SERVICE TERM.—Each member of the Committee shall serve for a term of 3 years.

"(E) VACANCIES.—Not later than 30 days after the date on which a vacancy in the membership of the Committee occurs, the vacancy be filled in the same manner as the original appointment.

"(F) CHAIRPERSON.—The Committee shall select a Chairperson from among the members of the Committee. Any vacancy in the office of the Chairperson of the Committee shall be filled by the Committee at the first meeting of the Committee following the date on which the vacancy occurs.

"(G) INITIAL APPOINTMENTS.—Not later than 60 days after the date of enactment of this Act, the Administrator shall appoint the initial members of the Committee.

"(3) DUTIES.—The Committee shall—

"(A) review, coordinate, and monitor plans and programs developed in the public and private sectors, that affect the ability of veteran-owned business enterprises to obtain capital and credit;

"(B) promote and assist in the development of business information and surveys relating to veterans;

"(C) monitor and promote the plans, programs, and operations of the departments and agencies of the Federal Government that may contribute to the establishment and growth of veteran's business enterprises;

"(D) develop and promote new initiatives, policies, programs, and plans designed to foster veteran's business enterprises; and

"(E) advise and assist in the design of a comprehensive plan, which shall be updated annually, for joint public-private sector efforts to facilitate growth and development of veteran's business enterprises.

"(4) POWERS.—

"(A) HEARINGS.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out the duties of the Committee under this subsection.

"(B) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any department or agency of the Federal Government such information as the Committee considers to be necessary to carry out the duties of the Committee under this subsection. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

"(C) POSTAL SERVICES.—The Committee may use the United States mails in the same

manner and under the same conditions as other departments and agencies of the Federal Government.

"(D) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

"(5) MEETINGS.—

"(A) IN GENERAL.—The Committee shall meet not less than biannually at the call of the Chairperson, and otherwise upon the request of the Administrator.

"(B) LOCATION.—Each meeting of the full Committee shall be held at the headquarters of the Administration located in Washington, District of Columbia. The Administrator shall provide suitable meeting facilities and such administrative support as may be necessary for each meeting of the Committee.

"(6) PERSONNEL MATTERS.—

"(A) NO COMPENSATION.—Members of the Committee shall serve without compensation for their services to the Committee.

"(B) TRAVEL EXPENSES.—The members of the Committee shall be reimbursed for travel and subsistence expenses in the same manner and to the same extent as members of advisory boards and committees under section 8(b)(13).

"(c) SCORE PROGRAM.—The Administrator shall enter into a memorandum of understanding with the Service Core of Retired Executives (in this subsection referred to as 'SCORE') participating in the program under section 8(b)(1)(B) for—

"(1) the appointment by SCORE in its national office of a National Veterans Business Coordinator, whose exclusive duties shall be those relating to veterans' business matters, and who shall be responsible for the establishment and administration of a program to provide entrepreneurial counseling and training to veterans through the chapters of SCORE throughout the United States;

"(2) the establishment and maintenance of a toll-free telephone number and an Internet website to provide access for veterans to information about the entrepreneurial services available to veterans through SCORE; and

"(3) the collection of statistics concerning services provided by SCORE to veterans and service-disabled veterans and the inclusion of those statistics in each annual report published by the Administrator under section 4(b)(2)(B).

"(d) ANNUAL REPORT.—The Administrator shall annually submit to the Committees on Small Business of the House of Representative and the Senate a report on the needs of small business concerns owned by controlled by veterans and small business concerns owned and controlled by service-disabled veterans, which shall include—

"(1) the availability of programs of the Administration for and the degree of utilization of those programs by those small business concerns during the preceding 12-month period;

"(2) the percentage and dollar value of Federal contracts awarded to those small business concerns during the preceding 12-month period; and

"(3) proposed methods to improve delivery of all Federal programs and services that could benefit those small business concerns.".

(c) OFFICE OF ADVOCACY.—Section 202 of Public Law 94-305 (15 U.S.C. 634b) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(12) evaluate the efforts of each Federal agency and of private industry to assist small business concerns owned and controlled by veterans and small business concerns owned and controlled by service-disabled veterans, and make appropriate recommendations to the Administrator and to Congress in order to promote the establishment and growth of those small business concerns.".

(d) MICROLOAN PROGRAM.—Section 7(m)(1)(A)(i) of the Small Business Act (15 U.S.C. 636(m)(1)(A)(i)) is amended by striking "low-income, and" and inserting "low-income individuals, veterans,".•

By Mr. CHAFEE (for himself, Mr. ROCKEFELLER, Mr. DEWINE, Mr. LEVIN, Mr. BOND, Mr. MOYNIHAN, Mr. KERREY, Ms. LANDRIEU, and Mr. DORGAN):

S. 2408. A bill to promote the adoption of children with special needs; to the Committee on Finance.

THE ADOPTION EQUALITY ACT OF 1998

• Mr. CHAFEE. Mr. President, I am pleased today to introduce the Adoption Equality Act of 1998, legislation that will make it easier for children with special needs to find permanent, adoptive homes. I want to extend my sincere thanks to Senator ROCKEFELLER for his commitment to this legislation and to foster and adoptive children generally. Senator ROCKEFELLER joins me as an original cosponsor, as do Senators DEWINE, KERREY, BOND, LEVIN, LANDRIEU, DORGAN and MOYNIHAN.

Nationwide there are 500,000 children in foster care. In Rhode Island there are approximately 1,600 children in foster care. On average, these children will spend more than two years in out-of-home care before they are either returned home to their biological families or freed for adoption.

The majority of the children who have been legally freed for adoption—95 percent—have special-needs, which in the world of child welfare means that they are children who are hard to place. They may be older children, they may be children in sibling groups that the state does not want to separate, they may have physical disabilities or mental or emotional problems, or they may belong to a minority group.

The federal government provides an incentive to families wishing to open their homes to these children by offering some of them a monthly subsidy to help defray the cost of adopting these children. It is expensive to care for children, and even more expensive if the child has special needs. The monthly subsidy, which is less than the monthly payment for the child to be in foster care, is used to defray some of these additional costs.

What makes no sense about the current system is that the federal government only makes these subsidies available to special-needs children who are being adopted whose biological families were poor. If the child is being adopted by a low-income family, but their biological family was not low-income, that child will not receive a federal adoption subsidy.

This system makes no sense to me, and that is why we are introducing the Adoption Equality Act today. This measure would make all special-needs children eligible for a modest federal adoption subsidy, regardless of the income of their biological parents. The income of the prospective adoptive parents would be taken into account when calculating the amount of the subsidy, as it is under current law.

Mr. President, I believe this is a simply issue of fairness to these children and the families who adopt them. We should be doing everything we can to help these children find permanent homes. The Adoption Equality Act builds upon the critical reforms we made last year in the enactment of the Adoption and Safe Families Act. I urge my colleagues to join me in cosponsoring and passing this bill. Thank you Mr. President. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2408

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 "Adoption Equality Act of 1998".

SEC. 2. PROMOTION OF ADOPTION OF CHILDREN WITH SPECIAL NEEDS.

(a) IN GENERAL.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by striking paragraph (2) and inserting the following:

"(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—

"(i) prior to termination of parental rights and the initiation of adoption proceedings was in the care of a public or licensed private child care agency or Indian tribal organization either pursuant to a voluntary placement agreement (provided the child was in care for not more than 180 days) or as a result of a judicial determination to the effect that continuation in the home would be contrary to the safety and welfare of such child, or was residing in a foster family home or child care institution with the child's minor parent (either pursuant to such a voluntary placement agreement or as a result of such a judicial determination); and

"(ii) has been determined by the State pursuant to subsection (c) to be a child with special needs, which needs shall be considered by the State, together with the circumstances of the adopting parents, in determining the amount of any payments to be made to the adopting parents.

"(B) Notwithstanding any other provision of law, and except as provided in paragraph (7), a child who is not a citizen or resident of the United States and who meets the requirements of subparagraph (A) shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).

"(C) A child who meets the requirements of subparagraph (A), who was determined eligible for adoption assistance payments under

this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made), and who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).".

(b) EXCEPTION.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by adding at the end the following:

"(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any child that—

"(i) would be considered a child with special needs under subsection (c);

"(ii) is not a citizen or resident of the United States; and

"(iii) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

"(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for a child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of such child by the parents described in such subparagraph.".

(c) REQUIREMENT FOR USE OF STATE SAVINGS.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)), as amended by subsection (b), is amended by adding at the end the following:

"(8) A State shall spend an amount equal to the amount of savings (if any) in State expenditures under this part resulting from the application of paragraph (2) on and after the effective date of the amendment to such paragraph made by section 2(a) of the Adoption Equality Act of 1998 to provide to children or families any service (including post-adoption services) that may be provided under this part or part B.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

SEC. 3. REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking "section 1919(g)(3)(B)" and inserting "subsection (x) and section 1919(g)(3)(C)"; and

(2) by adding at the end the following:

"(x) ADJUSTMENTS TO PAYMENTS FOR ADMINISTRATIVE COSTS.—

"(1) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS BASED ON DETERMINATIONS OF AMOUNTS ATTRIBUTABLE TO BENEFITING PROGRAMS.—

"(A) IN GENERAL.—Subject to paragraph (2), effective for each of fiscal years 1999 through 2002, the Secretary shall reduce, for each such fiscal year, the amount paid under subsection (a)(7) to each State by an amount equal to the amount determined for the medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)). The Secretary shall, to the extent practicable, make the reductions required by this paragraph on a quarterly basis.

"(B) APPLICATION.—If the Secretary does not make the determinations required by section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)) by September 30, 1999—

"(i) during the fiscal year in which the determinations are made, the Secretary shall reduce the amount paid under subsection (a)(7) to each State by an amount equal to the sum of the amounts determined for the medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 for fiscal year 1999 through the fiscal year during which the determinations are made; and

"(ii) for each subsequent fiscal year through fiscal year 2002, subparagraph (A) applies.

"(C) APPLICATION OF APPEAL OF DETERMINATIONS.—The provisions of section 16(k)(4) of the Food Stamp Act of 1977 (7 U.S.C. 20205(k)(4)) apply to reductions in payments under this subsection in the same manner as they apply to reductions under section 16(k) of that Act.

"(2) BONUS PAYMENT FOR PROGRAM ALIGNMENT.—

"(A) IN GENERAL.—

"(i) AMOUNT.—In addition to any other payment made under this title to a State for a fiscal year, the Secretary shall pay to each State that satisfies the requirements of clause (ii) a portion of the amount by which—

"(I) any decrease in Federal outlays for amounts paid under subsection (a)(7) with respect to the State for the fiscal year as a result of the application of paragraph (1), as determined by the Congressional Budget Office, exceeds

"(II) any increase in Federal outlays with respect to the State for the fiscal year as a result of the application of section 473(a), as amended by section 2 of the Adoption Equality Act of 1998, as determined by the Congressional Budget Office.

"(ii) REQUIREMENTS.—A State satisfies the requirements of this clause if the Secretary determines that—

"(I) the State's income and resource eligibility rules under section 1931, taking into account the income standards and methodologies applied by the State, are not more restrictive than the income and resource eligibility rules applied by the State for the temporary assistance to needy families program funded under part A of title IV (other than for a welfare-to-work program funded under section 403(a)(5)); and

"(II) the State assures the Secretary that families applying for assistance under the temporary assistance to needy families program funded under part A of title IV (other than families applying solely for assistance under a welfare-to-work program funded under section 403(a)(5)) may apply for medical assistance under the State plan under this title without having to submit a separate application for such medical assistance.

"(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as—

"(i) affecting the application of section 1931;

"(ii) affecting any application requirements established under this title or by regulation promulgated under the authority of this title, including the requirements established under section 1902(a)(8); or

"(iii) conditioning the right of an individual to apply for medical assistance under the State plan under this title upon an application for assistance under any State program funded under part A of title IV.

"(3) ALLOCATION OF ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—No funds or expenditures described in subparagraph (B) may be used to pay for costs—

"(i) eligible for reimbursement under subsection (a)(7) (or costs that would have been eligible for reimbursement but for this subsection); and

"(ii) allocated for reimbursement to the medicaid program under a plan submitted by a State to the Secretary to allocate administrative costs for public assistance programs.

"(B) FUNDS AND EXPENDITURES.—Subparagraph (A) applies to—

"(i) funds made available to carry out part A of title IV or title XX;

"(ii) expenditures made as qualified State expenditures (as defined in section 409(a)(7)(B);

"(iii) any other Federal funds (except funds provided under subsection (a)(7)); and

"(iv) any other State funds that are—

"(I) expended as a condition of receiving Federal funds; or

"(II) used to match Federal funds under a Federal program other than the medicaid program.".

(b) COPIES OF REPORT ON REVIEW OF METHODOLOGY USED TO MAKE CERTAIN DETERMINATIONS.—Section 502(b)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (Public Law 105-185; 112 Stat. 523) is amended by inserting ", the Committee on Commerce of the House of Representatives, the Committee on Finance of the Senate," after "Representatives".•

• Mr. ROCKEFELLER. Mr. President, I support the introduction of The Adoption Equality Act of 1998.

I am proud to be a co-sponsor of The Adoption Equality Act of 1998, part of a continuing effort to improve the lives of abused and neglected children in my state of West Virginia and across the nation.

I would like to begin by sharing my special thanks with my colleague and good friend, Senator CHAFEE, not only for his work on this important legislation, but for his ongoing commitment to bringing about meaningful change for America's most vulnerable children. I also want to express my sincere gratitude to the other cosponsors of this bill, Senators DEWINE, KERREY, BOND, LEVIN, LANDRIEU, DORGAN, and MOYNIHAN. I am so pleased to see that the strong and unique bipartisan coalition forged during the adoption debate last fall is continuing the job yet to be done on behalf of abused and neglected children.

Last fall, our bipartisan coalition introduced—and the Senate unanimously passed—The Adoption and Safe Families Act. That legislation, signed into law on November 19, 1997, fundamentally shifted the focus of the American foster system by insisting for the first time that health and safety should be the paramount consideration when a State makes any decision regarding the well-being of an abused and neglected child. That legislation is designed to move children out of foster care and into adoptive homes more quickly than ever before.

I am also proud to report that West Virginia is launching its own special initiative to promote adoption. This June, state officials reported that there were 3003 children in the custody of West Virginia. 870 of these children have adoption as the goal of their permanency plans, and 95% of these children have special needs. The State has

committed to hiring additional specialists to provide adoption services and is seeking federal support to enhance these efforts. It is wonderful to know that West Virginia and other states are so enthusiastic about moving forward to promote adoptions and to help children find safe and stable homes.

The Adoption and Safe Families Act took into account the unique circumstances of "special needs" children—those children who, for whatever reason, are difficult to place in adoptive homes. States now receive a special bonus for each special needs adoption. Most significantly, the Adoption and Safe Families Act took the first essential step in ensuring ongoing health coverage for all special needs children who are adopted into new families.

While I am satisfied that The Adoption and Safe Families Act will strengthen the American foster care system, I made it clear that it was only the first step in many to make things significantly better for abused and neglected children.

The Adoption Equality Act is an essential second step in this ongoing process. This important legislation will promote and increase adoptions by making all special needs children eligible for Federal adoption subsidies. This bill is designed to "level the playing field" by ensuring that all loving adoptive families have the support they need to address the fundamental needs of the children they raise.

Federal adoption subsidies, already authorized under section IV-E of the Social Security Act, usually take the form of monthly payments provided to families who adopt special needs children. These payments provide essential income support to help families finance the daily costs of raising these children and to cover the expense of special services. Federal adoption subsidies play a vital role in the lives of thousands of special needs children. Many families that I have visited in West Virginia and across the country have told me that without this essential support, they would not have been able to afford to take in the children who have become such an important part of their family.

This bill will fix the one remaining barrier that keeps many adoptive families from accessing precious Federal adoption subsidies. Under current law, a special needs child is only eligible for Federal adoption subsidies if his biological family was poor enough to qualify for welfare benefits under the now-defunct Aid to Families with Dependent Children Program (AFDC). If his family doesn't qualify under 1994 AFDC standards, even the hardest to place child cannot receive federal adoption subsidies.

In other words, a special needs child's eligibility for federal adoption subsidies is dependent on the income of the parents that abused or neglected him. This is simply wrong.

The Adoption Equality Act will eliminate this tragic anomaly in Federal law by making all special needs children eligible for Federal adoption subsidies. This is a responsible way to make sure that willing adoptive families have the support that they need to take care of all the needs of their new child, whether those include food and clothing, therapy, tutoring, or a new addition to their home.

Throughout my travels as the Chair of the National Commission on Children and my meetings with families in West Virginia, I have observed a recurring theme. I have come to understand that in many cases, a family wants to adopt a child more than anything. And yet, there is often a barrier that stands in its way. The lack of adequate financial resources is at the top of that list. This legislation help alleviate this unnecessary burden.

In closing, I want to reiterate a point that I made during the debate over the Adoption and Safe Families Act. At the heart of the ongoing discussions about what is the best policy for abused and neglected children, there have been many complex questions raised about how Federal taxpayer dollars should be spent and who is worthy of receiving them. As we struggle with these difficult issues—which often pit social against fiscal responsibility—I keep returning to the same fundamental lesson I have learned from the families I have met: if we cannot build social policy that not only protects our children, but gives them the best possible chance to succeed in life, we have failed to do our job as a government and a society.

The Adoption Equality Act is designed to make sure that all abused and neglected children, even the most vulnerable special needs kids, have this real chance for security and happiness.•

By Mr. DODD (for himself and Mr. BENNETT):

S. 2409. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for business-provided student education and training; to the Committee on Finance.

BUSINESSES EDUCATING STUDENTS IN TECHNOLOGY (BEST) ACT

• Mr. DODD. Mr. President, today I introduce legislation, along with my distinguished colleague from Utah, Senator BENNETT, to help alleviate a serious shortage of students graduating from our nation's colleges and universities with technology-based education and skills.

Technology is reshaping our world at a rapid pace. Competition to meet the needs, wants, and expectations of consumers has accelerated the rate of technological progress to a level inconceivable even just a few decades ago. Today, technology is playing an increasingly important role in the lives of every American and is a key ingredient to sustaining America's economic growth. It is the wellspring from which new businesses, high-wage jobs, and a rising quality of life will flow in the 21st century.

Today, we are fortunate that our economy is strong. We have created more than 16 million new jobs since 1993. We have the lowest unemployment in 28 years, the smallest welfare rolls in 27 years, and the lowest inflation in 32 years. If we want to build on this progress, we must encourage our people to develop and use emerging technologies.

Technological progress is the single most important determining factor in sustaining growth in our economy. It is estimated that technological innovation has accounted for as much as half the nation's long-term economic growth over the past 50 years and is expected to account for an even higher percentage in the next 50 years.

And yet, there is mounting evidence that we are not doing enough to help our people make the most of technological change. Our businesses are practically desperate for workers with skills in computers and other technologically advanced systems. More than 350,000 information technology positions are currently unfilled throughout the United States. The number of students graduating from colleges with computer science degrees has declined dramatically. In my home state of Connecticut, public and private colleges combined produced only 299 computer science graduates in 1997, a 50 percent decline from 1987. We are not alone. Nationwide, the number of graduates with bachelor's degrees in computer science dropped 43 percent between 1986 and 1994.

The Department of Commerce estimates that 1.3 million new jobs will be created over the next decade for systems analysts, computer engineers and computer scientists. Yet, at a time when our nation is struggling to fill these positions, our colleges are graduating fewer skilled information technology students.

At large and mid-sized companies there is one vacancy for every 10 information technology jobs, and eight out of 10 companies expect to hire information technology workers in the year ahead. According to the U.S. Bureau of Labor Statistics, this trend will only continue through 2006.

This shortage of skilled and knowledgeable workers is perhaps the most significant threat to our continued economic expansion. Clearly, we must do more as a country to eliminate this shortage.

We need to turn our attention to our work force and focus on it as a critical part of our economic development. We must put more emphasis on human capital, and we need to educate more students in the diverse areas of technology.

In Connecticut, many businesses are taking initiatives to do so. They are establishing scholarships, donating lab equipment, planning curricula, and sending employees into schools to instruct and help prepare students for technology-based jobs.

One Connecticut company, The Pfizer Corporation, recently announced that it will spend $19 million to build an animal vaccine research laboratory at The University of Connecticut. This partnership will not only lead to advancements in gene technology and animal health, but it will also promote joint research projects in which company scientists will work alongside professors and students.

Another example in Connecticut is the support provided to the biotechnology program at Middlesex Community-Technical College by The Bristol Myers Squibb Pharmaceutical Research Institute and the CuraGen Corporation. These companies have established scholarships, donated lab equipment, and encouraged their research scientists to give lectures to the students.

And yet, Mr. President, businesses and academic institutions shouldn't have to tackle alone the challenge of helping students obtain the learning and skills they need to succeed in the coming century. The federal government can and should work with our technology-based businesses and places of learning to encourage innovation and education that will create jobs and prosperity for our people.

That is why I am pleased to introduce legislation today that will encourage businesses to work in and with educational institutions in order to improve technology-based learning—so that more of our students will be able to win the best jobs of the 21st century economy.

This bill will give a tax credit to any business that goes into a university, college, or community-technical school and engages in technology-based educational activities which are directly related to the business of that company.

Businesses could claim a tax credit for 40 percent of these educational expenses, up to a maximum of $100,000 for any one company.

It is my hope, Mr. President, that this tax credit will provide the incentive for more of our nation's companies to play an active role in the education, training, and skill development of our nation's most valuable resource—its students.

If businesses take advantage of this credit, not only will they have a larger pool of skilled workers to draw from, but our nation will have a better-educated population that possesses the knowledge to succeed in the information-based economy of the future.

I urge my colleagues to join me in supporting this legislation. I ask unanimous consent that a copy of this legislation be printed in the RECORD.

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

S. 2409

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 "Businesses Educating Students in Technology (BEST) Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Technological progress is the single most important determining factor in sustaining growth in the Nation's economy. It is estimated that technological innovation has accounted for as much as half the Nation's long-term economic growth over the past 50 years and will account for an even higher percentage in the next 50 years.

(2) The number of jobs requiring technological expertise is growing rapidly. For example, it is estimated that 1,300,000 new computer engineers, programmers, and systems analysts will be needed over the next decade in the United States economy. Yet, our Nation's computer science programs are only graduating 25,000 students with bachelor's degrees yearly.

(3) There are more than 350,000 information technology positions currently unfilled throughout the United States, and the number of students graduating from colleges with computer science degrees has declined dramatically.

(4) In order to help alleviate the shortage of graduates with technology-based education and skills, businesses in a number of States have formed partnerships with colleges, universities, community-technical schools, and other institutions of higher learning to give lectures, donate equipment, plan curricula, and perform other activities designed to help students acquire the skills and knowledge needed to fill jobs in technology-based industries.

(5) Congress should encourage these partnerships by providing a tax credit to businesses that enter into them. Such a tax credit will help students obtain the knowledge and skills they need to obtain jobs in technology-based industries which are among the best paying jobs being created in the economy. The credit will also assist businesses in their efforts to develop a more highly-skilled, better trained workforce that can fill the technology jobs such businesses are creating.

SEC. 3. ALLOWANCE OF CREDIT FOR BUSINESS-PROVIDED STUDENT EDUCATION AND TRAINING.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. BUSINESS-PROVIDED STUDENT EDUCATION AND TRAINING.

"(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the business-provided student education and training credit determined under this section for the taxable year is an amount equal to 40 percent of the qualified student education and training expenditures of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $100,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED STUDENT EDUCATION AND TRAINING EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified student education and training expenditure' means—

"(i) any amount paid or incurred by the taxpayer for the qualified student education and training services provided by any employee of the taxpayer, and

"(ii) the basis of the taxpayer in any tangible personal property contributed by the taxpayer and used in connection with the provision of such services.

"(B) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified student education and training expenditure' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

"(2) QUALIFIED STUDENT EDUCATION AND TRAINING SERVICES.—

"(A) IN GENERAL.—The term 'qualified student education and training services' means technology-based education and training of students in any eligible educational institution in employment skills related to the trade or business of the taxpayer.

"(B) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of this chapter with respect to any expenditure taken into account in computing the amount of the credit determined under this section."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following:

"(13) the business-provided student education and training credit determined under section 45D."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

"Sec. 45D. Business-provided student education and training credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.●

By Mr. GRAHAM (for himself, Mr. MOYNIHAN, and Mr. D'AMATO):

S. 2410. A bill to amend titles XIX and XXI of the Social Security Act to give States the options of providing medical assistance to certain legal immigrant children and to increase allotments to territories under the State

Children's Health Insurance Program; to the Committee on Finance.

MEDICAID CHILDREN'S HEALTH IMPROVEMENT AMENDMENTS OF 1998

• Mr. GRAHAM. Mr. President, today, along with Senators MOYNIHAN and D'AMATO, I introduce the Medicaid Children's Health Improvement Amendments of 1998. This legislation, which was introduced in the House of Representatives last week, would attempt to correct a situation currently jeopardizing the health of many of the children living in our territories.

Last year Congress passed what was the single largest investment in health care for children since the passage of Medicaid in 1965." As a result, the United States will invest an additional $24 billion in children's health care over the next five years. However, not all of our nation's poor children are celebrating this victory.

In the negotiations over the budget reconciliation, the initial proposal providing 1.5 percent of the funding to our nation's territories, which represented a fair distribution, was reduced to a mere 0.25 percent. The children's health care program ultimately included in the Balanced Budget Act of 1997 provides Puerto Rico with approximately 0.22 percent of the overall national funding for the program and 0.03 percent for Guam, the U.S. Virgin Islands, American Samoa and the Northern Mariana Islands. For Puerto Rico alone this would mean less than $11 million per year for a jurisdiction with close to four million U.S. citizens.

It is absolutely outrageous that the United States would continue to endorse a discriminatory policy that denies equal health care to the children of its territories. If this legislation was enacted most of Guam's 5,000 uninsured children would finally receive the coverage that they rightfully deserve. It would also approximately multiply the number of children covered in the U.S. Virgin Islands by six.

In addition to providing additional funding for the children's health insurance program in our territories, this legislation includes a provision that would grant states the option to provide health care coverage to legal immigrant children who entered the United States on or after August 22, 1996. Welfare reform prohibits states from covering these immigrant children.

As we know, children without health insurance do not get important care for preventable diseases. Many uninsured children are hospitalized for acute asthma attacks that could have been prevented, or suffer from permanent hearing loss from untreated ear infections. Without adequate health care, common illnesses can turn into lifelong crippling diseases, whereas appropriate treatment and care can help children with diseases like diabetes live relatively normal lives. A lack of adequate medical care will also hinder the social and educational development of children, as children who are sick and left untreated are less able to learn.

I hope that with the help of my colleagues in Congress we will be able to rectify the discrimination against the children of our territories and afford them the same treatment as the other children in the nation. They deserve no less. Programs created to protect our nation's children should represent the highest and most pure ideals of our society.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2410

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 "Medical and Children's Health Improvement Amendments of 1998".

SEC. 2. STATE OPTION TO COVER LEGAL IMMIGRANT CHILDREN UNDER MEDICAID AND THE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) MEDICAID.—Section 1902(a)(10(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by strike "or" at the end of subclause (XIII);

(2) by adding "or" at the end of subclause (XIV); and

(3) by adding after subclause (XIV) the following new subclause:

"(XV) who are described in section 1905(a)(i) and who would be eligible for medical assistance (or for a greater amount of medical assistance) under the State plan under this title but for the provisions of section 403 or section 421 of Public Law 104–193, but the State may not exercise the option of providing medical assistance under this subclause with respect to a subcategory of individuals described in this subclause;".

(b) CHILDREN'S HEALTH INSURANCE PROGRAM.—Section 2110(b) of the Social Security Act (42 U.S.C. 1397jj(b)) is amended—

(1) in paragraph (1)(A), by inserting before the semicolon "(including, at the option of the State, a child described in paragraph (3)(B))"; and

(2) in paragraph (3)—

(A) by striking "SPECIAL RULE.—" and inserting "SPECIAL RULES.—

"(A) HEALTH INSURANCE COVERAGE.—";

(B) by intending the remainder of the text accordingly; and

(C) by adding at the end the following new subparagraph:

"(B) ELIGIBILITY FOR LEGAL IMMIGRANT CHILDREN.—For purposes of paragraph (1)(A), a child is described in this subparagraph if—

"(i) the child would be determined eligible for child health assistance under this title but for provisions of sections 403 and section 421 of Public Law 104–193; and

"(ii) the State exercises the option to provide medical assistance to the category of individuals described in section 1902(a)(10)(A)(ii)(XV).".

SEC. 3. INCREASED ALLOTMENTS UNDER CHILDREN'S HEALTH INSURANCE PROGRAM FOR TERRITORIES.

(a) IN GENERAL.—Section 2104(c) of the Social Security Act (42 U.S.C. 1397dd(c)) is amended by adding at the end the following new paragraph:

"(4) ADDITIONAL ALLOTMENT.—

"(A) IN GENERAL.—In addition to the allotment under paragraph (1), the Secretary shall allot each commonwealth and territory described in paragraph (3) the applicable percentage specified in paragraph (2) of the amount appropriated under subparagraph (B).

"(B) APPROPRIATION.—For purposes of providing allotments pursuant to subparagraph (A), there is appropriated, out of any money in the Treasury not otherwise appropriated—

"(i) $34,200,000 for each of fiscal years 1999 through 2001;

"(ii) $25,200,000 for each of fiscal years 2002 through 2004;

"(iii) $32,400,000 for each of fiscal years 2005 and 2006; and

"(iv) $40,000,000 for fiscal year 2007.".

(b) CONFORMING AMENDMENT.—Section 2104(b)(1) of such Act (42 U.S.C. 1397dd(b)(1)) is amended by inserting "(determined without regard to paragraph (4) thereof)" after "subsection (c)".•

By Mr. BURNS (for himself and Mr. HOLLINGS):

S. 2412. A bill to create employment opportunities and to promote economic growth establishing a public-private partnership between the United States travel and tourism industry and every level of government to work to make the United States the premiere travel and tourism destination in the world, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE VISIT USA ACT

• Mr. BURNS. Mr. President, today I introduce legislation to strengthen America's tourism and travel related industry—the Value In Supporting International Tourism Act of 1998 (Visit USA Act). This legislation is a follow-on to the National Tourism Act, Public Law 104–288, enacted two years ago.

In the National Tourism Act, Congress created the U.S. National Tourism Organization (USNTO) in order to re-establish the United States as the premiere destination for tourists throughout the world. While international travel and tourism remains the United States largest service export, its third largest industry, and a major producer of jobs and tax revenue for federal, state and local governments, our share of the international tourism market is threatened unless action is taken now.

Public Law 104–288 authorized a public-private partnership, including a broad cross-section of the U.S. travel and tourism industry, charged with working with government to (1) promote and increase the U.S. share of the international tourism market, (2) develop and implement a national travel and tourism strategy, (3) advise the President and Congress on how to implement this strategy and on other critical matters affecting the travel and tourism industry, (4) conduct travel and tourism market research, and (5)

promote the interests of the U.S. travel and tourism industry at international trade shows. The USNTO was authorized to conduct activities necessary to advance these national interests.

The USNTO was also charged with developing a long-term financing plan for the organization. On January 14, 1998, the Board of the USNTO fulfilled its statutory mandate by submitting a report to Congress outlining, among other things, a long-term marketing plan to promote the United States as the premiere international travel destination. The Board is firmly committed to work with Congress to secure appropriate funding for an international marketing effort.

Private sector and state support for the promotion of the United States as an international tourist destination exceeds $1 billion annually. This support, together with the commitment of the USNTO Board of Directors to use only non-governmental sources of funding for all USNTO general and administrative costs, provides a substantial commitment from the "private" side of the partnership and a foundation for a successful public-private partnership.

The Visit USA Act establishes an international visitor assistance task force. This interagency body will support the creation of a toll-free telephone line to assist foreign tourists visiting the United States. It will also work to improve signage at airports and other key travel facilities, and facilitate distribution of multilingual travel and tourism materials. Each of these activities is intended to be conducted at minimal or zero cost to the federal government.

This legislation also requires the Secretary of Commerce to report to Congress on how federal lands are used and on how they may have influenced the tourism market, on any changes in the international tourist commerce, on the impact tourism has on the U.S. economy, and on our balance of trade.

The facts concerning the increasingly competitive international tourism justify this legislative approach. While competition for the international tourism dollar has become one among national governments, the U.S. government is the only major industrialized nation that does not promote its tourism market abroad. Other governments spend millions on tourism marketing. In 1995, for example, Australia spent $88 million, the UK and Spain each spent $79 million, and France spent $73 million to promote tourism.

Tourism is a significant element of the U.S. economy. The industry that depends on spending by foreign tourists is diverse, and includes restaurants, hotels, travel agencies, shops, tour bus services, rental car agencies, theaters, airlines, and theme parks. In particular, small businesses depend on revenues from international tourism.

I encourage all Senators to join in supporting this important effort to strengthen our tourism-related economy. The dividends to be realized as a result of this modest investment will benefit every state and every congressional district.●

● Mr. HOLLINGS. Mr. President, today Senator BURNS and I are introducing a bill, the Visit USA Act, which will further the international standing of the U.S. travel and tourism industry. As co-chairman of the United States Senate Tourism Caucus along with Senator BURNS, I know that the tourism industry is a winner for the United States. The Visit USA Act would improve U.S. international marketing and services to travelers in the United States by: creating a toll-free number for international travelers to call for assistance in their native language; improving signs in transportation facilities; and authorizing appropriations for the marketing program of the U.S. National Tourism Organization (NTO).

Tourism is more than cameras and Bermuda shorts. Travel and tourism is a big business. Last year it produced a record $26 billion trade surplus, and the industry continues to grow. In my state of South Carolina, tourism generates over $6.5 billion and is responsible for 113,000 jobs. Over 46 million international visitors came to the United States and spent over $90 billion in 1997. These visitors generated more than $5 billion in Federal taxes alone. To compete with other nations for a larger share of international tourism over the next decade, we must support an international tourism marketing effort. The Visit USA Act would do just that by providing for international promotion of the United States while making travel to this country simpler and more understandable for our foreign guests.●

By Mr. MCCAIN (for himself and Mr. KYL):

S. 2413. A bill to provide for the development of a management plan for the Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona reflecting the current use of the tract as a public park; to the Committee on Energy and Natural Resources.

APACHE-SITGREAVES NATIONAL FOREST LEGISLATION

● Mr. MCCAIN. Mr. President, I am proud to introduce legislation, along with my colleague, Senator JON KYL, that will preserve a valuable tract of park land for future public enjoyment in the Apache-Sitgreaves National Forest in Pinetop-Lakeside, Arizona. This proposal authorizes the U.S. Forest Service to develop a management plan to maintain the current recreational use of 583 acres known as Woodland Lake Park.

Mr. President, I want to laud the cooperation forged between the U.S. Forest Service and the town of Pinetop-Lakeside. The initiative requires the acting supervisor of the Apache-Sitgreaves National Forest, under the direction of the Secretary of Agriculture, to work with the town to ensure Woodland Lake Park remains open and accessible to the public. The parties will have 180 days to draft a management plan for the park.

Although the town of Pinetop-Lakeside seeks to one day acquire Woodland Lake Park, the management of this land by the Forest Service is crucial to preserving this resource in the interim. Federal oversight will ensure that the estimated 50,000 residents every year who take pleasure in the lake and along the beautiful wooded trails will continue to do so for years to come.

I look forward to continued constructive collaboration between the Forest Service and the town of Pinetop-Lakeside. I ask unanimous consent that the legislation be entered into the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2413

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

SECTION 1. MANAGEMENT OF WOODLAND LAKE PARK TRACT, APACHE-SITGREAVES NATIONAL FOREST, ARIZONA, FOR RECREATIONAL PURPOSES.

(a) MANAGEMENT PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture, acting through the supervisor of Apache-Sitgreaves National Forest in the State of Arizona, shall prepare a management plan for the Woodland Lake Park tract that is designed to ensure that the tract is managed by the Forest Service for recreational purposes consistent with the use of the tract as a public park by the town of Pinetop-Lakeside, Arizona. The forest supervisor shall prepare the management plan in consultation with the town of Pinetop-Lakeside.

(b) PROHIBITION ON CONVEYANCE.—The Secretary of Agriculture may not convey any right, title, or interest of the United States in and to the Woodland Lake Park tract unless the conveyance of the tract—

(1) is made to the town of Pinetop-Lakeside; or

(2) is specifically authorized by a law enacted after the date of the enactment of this Act.

(c) DEFINITION.—The terms "Woodland Lake Park tract" and "tract" mean the parcel of land in Apache–Sitgreaves National Forest in the State of Arizona that consists of approximately 583 acres and is known as the Woodland Lake Park tract.●

● Mr. KYL. Mr. President, the U.S. Forest Service owns a large parcel of land within the boundaries of the town of Pinetop-Lakeside which has historically been used as a park, not only by the town residents, but also by the thousands of tourists who vacation in this bucolic area of Eastern Arizona each year. The town wants to maintain this land as a park. However, the Forest Service has refused to renew the

town's special use permit for the largest section of this park, possibly paving the way for the land to be sold to private investors. The bill that Senator MCCAIN and I are introducing, and Representative HAYWORTH is introducing in the House, prevents the Forest Service from selling the land to any entity other than the town, and requires the Forest Service, in conjunction with the town, to develop a management plan "designed to ensure that the tract is managed by the Forest Service for recreational purposes."

Mr. President, the town of Pinetop-Lakeside has been trying to find a way to acquire this parcel from the Forest Service for over 10 years, to no avail. This bill will satisfy the town's goal of preserving this land as a park, while being fair to the American taxpayer. However, the legislation will not solve the problems of communities that seek to acquire Forest Service lands to preserve open space, or to fulfill other essential governmental functions. I intend to continue to seek a long-term solution to those problems.●

By Mr. BURNS.

S. 2414. A bill to establish terms and conditions under which the Secretary of the Interior shall convey leaseholds in certain Properties around Canyon Ferry Reservoir, Montana; to the Committee on Energy and Natural Resources.

CANYON FERRY RESERVOIR LEGISLATION

● Mr. BURNS. Mr. President, today I introduce a companion bill to one recently introduced in the House by Congressman RICK HILL, of Montana. This is a bill that will authorize the Bureau of Reclamation to convey certain properties around Canyon Ferry Reservoir in Montana to leaseholders. This bill has the support of a number of organizations, groups and communities in the area of Canyon Ferry and in Montana in general.

The purpose of my bill today, is to get the ball rolling on this legislation. I am aware that currently there is legislation in the Environment and Public Works Committee of a similar nature. But it appears stalled, and does not address the concerns of a number of the groups and communities in the area around Canyon Ferry. The bills basically address the conveyance of this land in the same way, but it is the disposal of the funds received that changes these two bills. So I come here today to propose this legislation to accelerate the process and get Congress involved and moving on this very issue.

I have made a pledge to the people in this area of Montana that I will do all I can to assist them in getting something done on this bill this session before we leave for the year. These people have attempted to work with the Bureau of Reclamation to clear up a number of issues which have come up over the past five or more years. The result of their work has been continued stalling by the Bureau of Reclamation in working with the citizens. As a result then we have been forced to work on legislation that will remove the stumbling blocks and rectify and clarify the situation.

Senator BAUCUS, Congressman HILL and I have worked for the past year developing legislation to address the concerns of these people. We have come ninety percent of the way and now it is necessary for us to move that extra ten percent and get something done to the benefit of the general public and the citizens of Montana.

Canyon Ferry is a man-made reservoir on the Missouri River in Central Montana right outside of our capital Helena. It is a wonderful area for outdoor recreation and draws people from all over the state and in many cases all across the nation. There are a number of people who have built cabin sites on the lake both for the purpose of weekend living but also there are a number of year around residences.

This legislation will work to continue to provide opportunities for all people to enjoy the splendor of Canyon Ferry. In addition there will be ample opportunity for the surrounding communities to develop new ways for the public to enjoy the lake and the various recreational facilities around the lake. The citizens of Montana expect and deserve an opportunity to enjoy this wonderful area. The funds derived from the conveyance of these properties will allow for the continued construction of facilities that will allow more Montanans a chance to enjoy Canyon Ferry.

I give my pledge to the people of Montana that I will continue to work this issue with the members of the Montana delegation, Senator BAUCUS and Congressman HILL to clear this bill and get something done. I know the majority of people in the area want to see something done, and this is the vehicle to do that. I look forward to working with the Chairman of the Energy and Natural Resources Committee to get this done and out as soon as possible.●

By Mr. SANTORUM:

S. 2415. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level; to the Committee on Finance.

REPEALING THE BEER TAX

Mr. SANTORUM. Mr. President, I today introduce legislation pertaining to the federal excise tax on beer.

The federal excise tax on beer was doubled as part of the 1991 Omnibus Budget Reconciliation Act. Today, it remain as the only "luxury tax" enacted as part of OBRA '91. While taxes on furs, jewelry, and yachts were repealed through subsequent legislation, the federal beer tax remains in place with continued and far reaching negative effects.

The excise tax on beer is among the more regressive federal taxes. Since the 100 percent tax was levied in 1991, it has cost the industry as many as 50,000 jobs. Beer in particular continues to suffer under a disproportionate burden of taxation. Forty-three percent of the cost of beer is comprised of both state and federal taxes. This legislation seeks to correct this inequity and will restore the level of federal excise tax to the pre-1991 tax rate.

Mr. President, this bill represents companion legislation to H.R. 158, introduced by Representative PHIL ENGLISH. The House bill currently carries 95 cosponsors. I commend this Senate legislation to my colleagues for their consideration.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. SPECTER, and Mr. BAUCUS):

S. 2416. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

PROMOTING RESPONSIBLE MANAGED CARE ACT OF 1998

● Mr. CHAFEE. Mr. President, today, I am pleased to join with Senators BOB GRAHAM, JOE LIEBERMAN, ARLEN SPECTER and MAX BAUCUS in introducing a bipartisan managed care reform bill—the Promoting Responsible Managed Care Act of 1998.

In November 1997, a number of us formed the bipartisan, bicameral Congressional Task Force on Health Care Quality to better understand the mounting public frustration over managed care. The task force heard from numerous consumer and provider groups, and received presentations from the sponsors of all of the major managed care reform bills now pending in Congress. The bill we are introducing today, the Promoting Responsible Managed Care Act of 1998, has benefited greatly from the efforts of the task force, and we wish to thank all participants, on both sides of the aisle, for their attentiveness and diligence.

This legislation was developed in accordance with the following principles:

Bipartisan legislation which can be enacted this year.

Provides all Americans in privately insured health plans with basic federal protections.

Meaningful enforcement which holds managed care plans accountable, and provides individuals harmed by such plans with just compensation.

Report cards to enable consumers to make informed health care choices based on plan performance.

As my colleagues well know, next month the Senate is headed for a polarized debate on managed care reform, which may well result in gridlock.

Each party has put forward a plan which contains features unacceptable to the other side—such as exposing insurers to lawsuits in state court in the case of the Daschle plan, and the broad expansion of medical savings accounts (MSAs) in the case of the Nickles plan.

It is for this very reason that we have put forward a bipartisan plan—one which blends the best features of both the Democratic and Republican plans, but omits the so-called poison pills. When it comes to restoring public confidence in managed care and ensuring a basic floor of federal patient protections, gridlock simply will not be an acceptable outcome.

We believe Congress has the responsibility to step up to the plate in the remaining weeks of this session and to enact legislation which the President can sign into law to address the outstanding concerns Americans have about their managed care. Indeed, despite continuing opposition from the insurance industry to the enactment of any reform legislation, many of the managed care industry's own leaders have privately expressed concern about the future of managed care if legislative action is not taken soon to strengthen public confidence.

In our estimation, given the hardened positions of both parties, the only way Congress can succeed in that endeavor this year is for a bipartisan centrist plan to emerge once it becomes clear that neither the Daschle or Nickles plan has the requisite support to cross the finish line.

What we would like to do now is to take a few minutes to lay out the key components of our proposal. First, I will talk about the scope of the bill—a topic which you will be hearing a lot about in the coming weeks. Then, Senator GRAHAM will outline our patient protection provisions, and Senator LIEBERMAN will discuss the importance of arming consumers with meaningful Report Card information, and a credible enforcement regime to ensure that managed care plans play by the rules.

In 1996, Congress passed significant reforms of the private health insurance marketplace with respect to the issue of portability. The Health Insurance Portability and Accountability Act, also known as the Kassebaum-Kennedy bill, established a federal floor of portability protections for all 161 million privately insured Americans.

We see no reason for narrowing the scope of the patient protections in this next and far more consequential area of reform. Thus, like the Daschle plan and the House-passed GOP bill, the Promoting Responsible Managed Care Act would apply to all privately insured Americans.

This approach preserves state prerogatives to enact more stringent standards, while assuring a minimum floor of federal protections for all Americans in private health plans—whether those plans are regulated at the state or federal level. In contrast, the Senate Republican plan proposes to provide a more limited range of patient protections to a much narrower band of the American population—primarily those 48 million enrollees in self-funded ERISA plans.

While it is true that individuals in these plans have fewer protections than those in state-regulated plans, that alone is insufficient reason for denying these basic quality improvements and safeguards to all 161 million Americans in privately insured managed care plans. Such a bifurcation would, in our judgment, create many unnecessary and inequitable circumstances for consumers, and exacerbate the already unlevel playing field which exists in the health insurance marketplace.

Mr. President, I ask unanimous consent that the bill, a summary of the bill, and excerpts of what organizations are saying about the Promoting Responsible Managed Care Act be printed in the RECORD.

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

S. 2416

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 "Promoting Responsible Managed Care 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. Definitions.
Sec. 3. Preemption; State flexibility; construction.
Sec. 4. Regulations.

TITLE I—PROMOTING RESPONSIBLE MANAGED CARE

Subtitle A—Grievance and Appeals

Sec. 101. Definitions and general provisions relating to grievance and appeals.
Sec. 102. Utilization review activities.
Sec. 103. Establishment of process for grievances.
Sec. 104. Coverage determinations.
Sec. 105. Internal appeals (reconsiderations).
Sec. 106. External appeals (reviews).

Subtitle B—Consumer Information

Sec. 111. Health plan information.
Sec. 112. Health care quality information.
Sec. 113. Confidentiality and accuracy of enrollee records.
Sec. 114. Quality assurance.

Subtitle C—Patient Protection Standards

Sec. 121. Emergency services.
Sec. 122. Enrollee choice of health professionals and providers.
Sec. 123. Access to approved services.
Sec. 124. Nondiscrimination in delivery of services.
Sec. 125. Prohibition of interference with certain medical communications.
Sec. 126. Provider incentive plans.
Sec. 127. Provider participation.
Sec. 128. Required coverage for appropriate hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer; required coverage for reconstructive surgery following mastectomies.

Subtitle D—Enhanced Enforcement Authority

Sec. 141. Investigations and reporting authority, injunctive relief authority, and increased civil money penalty authority for Secretary of Health and Human Services for violations of patient protection standards.
Sec. 142. Authority for Secretary of Labor to impose civil penalties for violations of patient protection standards.

TITLE II—PATIENT PROTECTION STANDARDS UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.

TITLE III—PATIENT PROTECTION STANDARDS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. Enforcement for economic loss caused by coverage determinations.

TITLE IV—PATIENT PROTECTION STANDARDS UNDER THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Amendments to the Internal Revenue Code of 1986.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.

SEC. 2. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this section, section 3, and title I in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, for purposes of this section and title I, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury, and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out title I under sections 2706 and 2751 of the Public Health Service Act, the Secretary of Labor in relation to carrying out title I under section 713 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out title I under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this section and title I:

(1) APPLICABLE AUTHORITY.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of title I,

the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such specific provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term "clinical peer" means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed, licensed, certified, or accredited in the same or similar specialty as manages (or typically manages) the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under a group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term "participating" mean, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under a group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. 3. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), title I shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of such title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in title I shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION WITH RESPECT TO TIME PERIODS.—Subject to paragraph (2), nothing in title I shall be construed to prohibit a State from establishing, implementing, or continuing in effect any requirement or standard that uses a shorter period of time, than that provided under such title, for any internal or external appeals process to be used by health insurance issuers.

(b) RULES OF CONSTRUCTION.—Nothing in title I (other than section 128) shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) INCLUSION OF POLITICAL SUBDIVISIONS OF A STATE.—The term "State" also includes any political subdivisions of a State or any agency or instrumentality thereof.

(d) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage in connection with group health plans, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals from decisions denying or limiting coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other data otherwise required, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term "religious nonmedical provider" means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

SEC. 4. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this Act. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this Act.

TITLE I—PROMOTING RESPONSIBLE MANAGED CARE

Subtitle A—Grievance and Appeals

SEC. 101. DEFINITIONS AND GENERAL PROVISIONS RELATING TO GRIEVANCE AND APPEALS.

(a) DEFINITIONS.—In this subtitle:

(1) AUTHORIZED REPRESENTATIVE.—The term "authorized representative" means, with respect to a covered individual, an individual who—

(A) is—

(i) any treating health care professional of the covered individual (acting within the scope of the professional's license or certification under applicable State law), or

(ii) any legal representative of the covered individual (or, in the case of a deceased individual, the legal representative of the estate of the individual),

regardless of whether such professional or representative is affiliated with the plan or issuer involved; and

(B) is acting on behalf of the covered individual with the individual's consent.

(2) COVERAGE DETERMINATION.—The term "coverage determination" means a determination by a group health plan or a health insurance issuer with respect to any of the following:

(A) A decision whether to pay for emergency services (as defined in section 121(a)(2)(B)).

(B) A decision whether to pay for health care services not described in subparagraph (A) that are furnished by a provider that is a participating health care provider with the plan or issuer.

(C) A decision whether to provide benefits or payment for such benefits.

(D) A decision whether to discontinue a benefit.

(E) A decision resulting from the application of utilization review (as defined in section 102(a)(1)(C)).

Such term includes, pursuant to section 104(d)(2), the failure to provide timely notice under section 104(d).

(3) COVERED INDIVIDUAL.—The term "covered individual" means an individual who is a participant or beneficiary in a group health plan or an enrollee in health insurance coverage offered by a health insurance issuer.

(4) GRIEVANCE.—The term "grievance" means any complaint or dispute other than one involving a coverage determination.

(5) RECONSIDERATION.—The term "reconsideration" is defined in section 105(a)(7).

(6) UTILIZATION REVIEW.—The term "utilization review" is defined in section 102(a)(1)(C).

(b) SUMMARY OF RIGHTS OF INDIVIDUALS.—In accordance with the provisions of this subtitle, a covered individual has the following rights with respect to a group health plan and with respect to a health insurance issuer in connection with the provision of health insurance coverage:

(1) The right to have grievances between the covered individual and the plan or issuer heard and resolved as provided in section 103.

(2) The right to a timely coverage determination as provided in section 104.

(3) The right to request expedited treatment of a coverage determination as provided in section 104(c).

(4) If dissatisfied with any part of a coverage determination, the following appeal rights:

(A) The right to a timely reconsideration of an adverse coverage determination as provided in section 105.

(B) The right to request expedited treatment of such a reconsideration as provided in section 105(c).

(C) If, as a result of a reconsideration of the adverse coverage determination, the plan or issuer affirms, in whole or in part, its adverse coverage determination, the right to request and receive a review of, and decision on, such determination by a qualified external appeal entity as provided in section 106.

(c) REQUIREMENTS.—

(1) PROCEDURES.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage shall, with respect to the provision of benefits under such plan or coverage—

(A) establish and maintain—

(i) grievance procedures in accordance with section 103;

(ii) procedures for coverage determinations consistent with section 104; and

(iii) appeals procedures for adverse coverage determinations in accordance with sections 105 and 106; and

(B) provide for utilization review consistent with section 102.

(2) DELEGATION.—A group health plan or a health insurance issuer in connection with the provision of health insurance coverage that delegates any of its responsibilities under this subtitle to another entity or individual through which the plan or issuer provides health care services shall ultimately be responsible for ensuring that such entity or individual satisfies the relevant requirements of this subtitle.

SEC. 102. UTILIZATION REVIEW ACTIVITIES.

(a) IN GENERAL.—

(1) COMPLIANCE WITH REQUIREMENTS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(B) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(C) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(2) WRITTEN POLICIES AND CRITERIA.—

(A) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(B) USE OF WRITTEN CRITERIA.—

(i) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section 114(b)(4)(B).

(ii) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a covered individual under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the individual during the same course of treatment.

(3) CONDUCT OF PROGRAM ACTIVITIES.—

(A) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—

(i) IN GENERAL.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(ii) HEALTH CARE PROFESSIONAL DEFINED.—In this subsection, the term "health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(B) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(i) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(ii) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined in section 2(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(iii) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(I) provides direct or indirect incentives for such persons to make inappropriate review decisions; or

(II) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(iv) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to a covered individual to perform utilization review activities in connection with the health care services being provided to the individual. A group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, may not retaliate against a covered individual or health care provider based on such individual's or provider's use of, or participation in, the utilization review program under this section.

(C) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(D) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to a covered individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(E) LIMITATION ON INFORMATION REQUESTS.—Such a program shall provide that information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(F) REVIEW OF PRELIMINARY UTILIZATION REVIEW DECISION.—Such a program shall provide that a covered individual who is dissatisfied with a preliminary utilization review decision has the opportunity to discuss the decision with, and have such decision reviewed by, the medical director of the plan or issuer involved (or the director's designee) who has the authority to reverse the decision.

(b) STANDARDS RELATING TO MEDICAL DECISION MAKING.—

(1) IN GENERAL.—In providing for a coverage determination in the process of carrying out utilization review, a group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) NO CHANGE IN COVERAGE.—Paragraph (1) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this section.

(4) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In paragraph (1), the term "medically necessary or appropriate" means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. 103. ESTABLISHMENT OF PROCESS FOR GRIEVANCES.

(a) ESTABLISHMENT.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall provide meaningful procedures for timely hearing and resolution of grievances brought by covered individuals regarding any aspect of the plan's or issuer's services, including a decision not to expedite a coverage determination or reconsideration under section 104(c)(4)(B)(ii)(II) or 105(c)(4)(B)(ii)(II).

(b) GUIDELINES.—The grievance procedures required under subsection (a) shall meet all guidelines established by the appropriate Secretary.

(c) DISTINGUISHED FROM COVERAGE DETERMINATIONS AND APPEALS.—The grievance procedures required under subsection (a) shall be separate and distinct from procedures regarding coverage determinations under section 104 and reconsiderations under section 105 and external reviews by a qualified external appeal entity under section 106 (which address appeals of coverage determinations).

SEC. 104. COVERAGE DETERMINATIONS.

(a) REQUIREMENT.—

(1) RESPONSIBILITIES.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain procedures for making timely coverage determinations (in accordance with the requirements of this section) regarding the benefits a covered individual is entitled to receive from the plan or issuer, including the amount of any copayments, deductibles, or other cost sharing applicable to such benefits. Under this section, the plan or issuer shall have a standard procedure for making such determinations, and procedures for expediting such determinations in cases in which application of the standard deadlines could seriously jeopardize the covered individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development.

(2) PARTIES WHO MAY REQUEST COVERAGE DETERMINATIONS.—Any of the following may request a coverage determination relating to a covered individual and are parties to such determination:

(A) The covered individual and an authorized representative of the individual.

(B) A health care provider who has furnished an item or service to the individual and formally agrees to waive any right to payment directly from the individual for that item or service.

(C) Any other provider or entity (other than the group health plan or health insurance issuer) determined by the appropriate Secretary to have an appealable interest in the determination.

(3) EFFECT OF COVERAGE DETERMINATION.—A coverage determination is binding on all parties unless it is reconsidered pursuant to section 105 or reviewed pursuant to section 106.

(b) DETERMINATION BY DEADLINE.—

(1) IN GENERAL.—In the case of a request for a coverage determination, the group health plan or health insurance issuer shall provide notice pursuant to subsection (d) to the person submitting the request of its determination as expeditiously as the health condition of the covered individual involved requires, but in no case later than deadline established under paragraph (2) or, if a request for expedited treatment of a coverage determination is granted under subsection (c), the deadline established under paragraph (3).

(2) STANDARD DEADLINE.—

(A) IN GENERAL.—The deadline established under this paragraph is, subject to subparagraph (B), 14 calendar days after the date the plan or issuer receives the request for the coverage determination.

(B) EXTENSION.—The plan or issuer may extend the deadline under subparagraph (A) by up to 14 calendar days if—

(i) the covered individual (or an authorized representative of the individual) requests the extension; or

(ii) the plan or issuer justifies to the applicable authority a need for additional information to make the coverage determination and how the delay is in the interest of the covered individual.

(3) EXPEDITED TREATMENT DEADLINE.—

(A) IN GENERAL.—The deadline established under this paragraph is, subject to subparagraphs (B) and (C), 72 hours after the date the plan or issuer receives the request for the expedited treatment under subsection (c).

(B) EXTENSION.—The plan or issuer may extend the deadline under subparagraph (A) by up to 5 calendar days if—

(i) the covered individual (or an authorized representative of the individual) requests the extension; or

(ii) the plan or issuer justifies to the applicable authority a need for additional information to make the coverage determination and how the delay is in the interest of the covered individual.

(C) HOW INFORMATION FROM NONPARTICIPATING PROVIDERS AFFECTS DEADLINES FOR EXPEDITED COVERAGE DETERMINATIONS.—In the case of a group health plan or health insurance issuer that requires medical information from nonparticipating providers in order to make a coverage determination, the deadline specified under subparagraph (A) shall begin when the plan or issuer receives such information. Nonparticipating providers shall make reasonable and diligent efforts to expeditiously gather and forward all necessary information to the plan or issuer in order to receive timely payment.

(c) EXPEDITED TREATMENT.—

(1) REQUEST FOR EXPEDITED TREATMENT.—A covered individual (or an authorized representative of the individual) may request that the plan or issuer expedite a coverage determination involving the issues described in subparagraphs (C), (D), or (E) of section 101(a)(2).

(2) WHO MAY REQUEST.—To request expedited treatment of a coverage determination, a covered individual (or authorized representative of the individual) shall submit an oral or written request directly to the plan or issuer (or, if applicable, to the entity that the plan or issuer has designated as responsible for making the determination).

(3) PROVIDER SUPPORT.—

(A) IN GENERAL.—A physician or other health care provider may provide oral or written support for a request for expedited treatment under this subsection.

(B) PROHIBITION OF PUNITIVE ACTION.—A group health plan and a health insurance issuer in connection with the provision of health insurance coverage shall not take or threaten to take any punitive action against a physician or other health care provider acting on behalf or in support of a covered individual seeking expedited treatment under this subsection.

(4) PROCESSING OF REQUESTS.—A group health plan and a health insurance issuer in connection with the provision of health insurance coverage shall establish and maintain the following procedures for processing requests for expedited treatment of coverage determinations:

(A) An efficient and convenient means for the submission of oral and written requests for expedited treatment. The plan or issuer shall document all oral requests in writing and maintain the documentation in the case file of the covered individual involved.

(B) A means for deciding promptly whether to expedite a determination, based on the following requirements:

(i) For a request made or supported by a physician, the plan or issuer shall expedite the coverage determination if the physician indicates that applying the standard deadline under subsection (b)(2) for making the determination could seriously jeopardize the covered individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development.

(ii) For another request, the plan or issuer shall expedite the coverage determination if the plan or issuer determines that applying such standard deadline for making the determination could seriously jeopardize the covered individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development.

(5) ACTIONS FOLLOWING DENIAL OF REQUEST FOR EXPEDITED TREATMENT.—If a group health plan or a health insurance issuer in connection with the provision of health insurance coverage denies a request for expedited treatment of a coverage determination under this subsection, the plan or issuer shall—

(A) make the coverage determination within the standard deadline otherwise applicable; and

(B) provide the individual submitting the request with—

(i) prompt oral notice of the denial of the request, and

(ii) within 2 business days a written notice that—

(I) explains that the plan or issuer will process the coverage determination request within the standard deadlines;

(II) informs the requester of the right to file a grievance if the requester disagrees with the plan's or issuer's decision not to expedite the determination; and

(III) provides instructions about the grievance process and its timeframes.

(6) ACTION ON ACCEPTED REQUEST FOR EXPEDITED TREATMENT.—If a group health plan or health insurance issuer grants a request for expedited treatment of a coverage determination, the plan or issuer shall make the determination and provide the notice under subsection (d) within the deadlines specified under subsection (b)(3).

(d) NOTICE OF COVERAGE DETERMINATIONS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—A group health plan or health insurance issuer that makes a coverage determination that—

(i) is completely favorable to the covered individual shall provide the party submitting the request for the coverage determination with notice of such determination; or

(ii) is adverse, in whole or in part, to the covered individual shall provide such party with written notice of the determination, including the information described in subparagraph (B).

(B) CONTENT OF WRITTEN NOTICE.—A written notice under subparagraph (A)(ii) shall—

(i) provide the specific reasons for the determination (including, in the case of a determination relating to utilization review, the clinical rationale for the determination) in clear and understandable language;

(ii) include notice of the availability of the clinical review criteria relied upon in making the coverage determination;

(iii) describe the reconsideration and review processes established to carry out sections 105 and 106, including the right to, and conditions for, obtaining expedited consideration of requests for reconsideration or review;and

(iv) comply with any other requirements specified by the appropriate Secretary.

(2) FAILURE TO PROVIDE TIMELY NOTICE.—Any failure of a group health plan or health insurance issuer to provide a covered individual with timely notice of a coverage determination as specified in this section shall constitute an adverse coverage determination and a timely request for a reconsideration with respect to such determination shall be deemed to have been made pursuant to the section 105(a)(2).

(3) PROVISION OF ORAL NOTICE WITH WRITTEN CONFIRMATION IN CASE OF EXPEDITED TREATMENT.—If a group health plan or health insurance issuer grants a request for expedited treatment under subsection (c), the plan or issuer may first provide notice of the coverage determination orally within the deadlines established under subsection (b)(3) and then shall mail written confirmation of the determination within 2 business days of the date of oral notification.

SEC. 105. INTERNAL APPEALS (RECONSIDERATIONS).

(a) REQUIREMENT.—

(1) RESPONSIBILITIES.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain procedures for making timely reconsiderations of coverage determinations in accordance with this section. Under this section, the plan or issuer shall have a standard procedure for making such determinations, and procedures for expediting such determinations in cases in which application of the standard deadlines could seriously jeopardize the covered individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development.

(2) PARTIES WHO MAY REQUEST RECONSIDERATION.—Any party to a coverage determination may request a reconsideration of the determination under this section. Such party shall submit an oral or written request directly with the group health plan or health insurance issuer that made the determination. The party who files a request for reconsideration may withdraw it by filing a written request for withdrawal with the group health plan or health insurance issuer involved.

(3) DEADLINE FOR FILING REQUEST.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a party to a coverage determination shall submit the request for a reconsideration within 60 calendar days from the date of the written notice of the coverage determination.

(B) EXTENDING TIME FOR FILING REQUEST.—Such a party may submit a written request to the plan or issuer to extend the deadline specified in subparagraph (A). If such a party demonstrates in the request for the extension good cause for such extension, the plan or issuer may extend the deadline.

(4) PARTIES TO THE RECONSIDERATION.—

(A) IN GENERAL.—The parties to the reconsideration are the parties to the coverage determination, as described in section 104(a)(2), and any other provider or entity (other than the plan or issuer) whose rights with respect to the coverage determination may be affected by the reconsideration (as determined by the entity that conducts the reconsideration).

(B) OPPORTUNITY TO SUBMIT EVIDENCE.—A group health plan and a health insurance issuer shall provide the parties to the reconsideration with a reasonable opportunity to present evidence and allegations of fact or law, related to the issue in dispute, in person as well as in writing. The plan or issuer shall inform the parties of the conditions for submitting the evidence, especially any time limitations.

(5) EFFECT OF RECONSIDERATION.—A decision of a plan or issuer after reconsideration is binding on all parties unless it is reviewed pursuant to section 106.

(6) LIMITATION ON CONDUCTING RECONSIDERATION.—In conducting the reconsideration under this subsection, the following rules shall apply:

(A) The person or persons conducting the reconsideration shall not have been involved in making the underlying coverage determination that is the basis for such reconsideration.

(B) If the issuer involved in the reconsideration is the plan's or issuer's denial of coverage based on a lack of medical necessity, a clinical peer (as defined in section 2(c)(2)) shall make the reconsidered determination.

(7) RECONSIDERATION DEFINED.—In this subtitle, the term "reconsideration" means a review under this section of a coverage determination that is adverse to the covered individual involved, including a review of the evidence and findings upon which it was based and any other evidence the parties submit or the group health plan or health insurance issuer obtains.

(b) DETERMINATION BY DEADLINE.—

(1) IN GENERAL.—In the case of a request for a reconsideration, the group health plan or health insurance issuer shall provide notice pursuant to subsection (d) to the person submitting the request of its determination as expeditiously as the health condition of the covered individual involved requires, but in no case later than the deadline established under paragraph (2) or, if a request for expedited treatment of a reconsideration is granted under subsection (c), the deadline established under paragraph (3).

(2) STANDARD DEADLINE.—

(A) IN GENERAL.—The deadline established under this paragraph is, subject to subparagraph (B)—

(i) in the case of a reconsideration regarding the coverage of benefits, 30 calendar days after the date the plan or issuer receives the request for the reconsideration, or

(ii) in other cases, 60 days after such date.

(B) EXTENSION.—The plan or issuer may extend the deadline under subparagraph (A) by up to 14 calendar days if—

(i) the covered individual (or an authorized representative of the individual) requests the extension; or

(ii) the plan or issuer justifies to the applicable authority a need for additional information to make the reconsideration and how the delay is in the interest of the covered individual.

(3) EXPEDITED TREATMENT DEADLINE.—

(A) IN GENERAL.—The deadline established under this paragraph is, subject to subparagraphs (B) and (C), 72 hours after the date the plan or issuer receives the request for the expedited treatment under subsection (d).

(B) EXTENSION.—The plan or issuer may extend the deadline under subparagraph (A) by up to 5 calendar days if—

(i) the covered individual (or an authorized representative of the individual) requests the extension; or

(ii) the plan or issuer justifies to the applicable authority a need for additional information to make the reconsideration and how the delay is in the interest of the covered individual.

(C) HOW INFORMATION FROM NONPARTICIPATING PROVIDERS AFFECTS DEADLINES FOR EXPEDITED RECONSIDERATIONS.—In the case of a group health plan or health insurance issuer that requires medical information from nonparticipating providers in order to make a reconsideration, the deadline specified under subparagraph (A) shall begin when the plan or issuer receives such information. Nonparticipating providers shall make reasonable and diligent efforts to expeditiously gather and forward all necessary information to the plan or issuer in order to receive timely payment.

(c) EXPEDITED TREATMENT.—

(1) REQUEST FOR EXPEDITED TREATMENT.—A covered individual (or an authorized representative of the individual) may request that the plan or issuer expedite a reconsideration involving the issues described in subparagraphs (C), (D), or (E) of section 101(a)(2).

(2) WHO MAY REQUEST.—To request expedited treatment of a reconsideration, a covered individual (or an authorized representative of the individual) shall submit an oral or written request directly to the plan or issuer (or, if applicable, to the entity that the plan or issuer has designated as responsible for making the decision relating to the reconsideration).

(3) PROVIDER SUPPORT.—

(A) IN GENERAL.—A physician or other health care provider may provide oral or written support for a request for expedited treatment under this subsection.

(B) PROHIBITION OF PUNITIVE ACTION.—A group health plan and a health insurance issuer in connection with the provision of health insurance coverage shall not take or threaten to take any punitive action against a physician or other health care provider acting on behalf or in support of a covered individual seeking expedited treatment under this subsection.

(4) PROCESSING OF REQUESTS.—A group health plan and a health insurance issuer in connection with the provision of health insurance coverage shall establish and maintain the following procedures for processing requests for expedited treatment of reconsiderations:

(A) An efficient and convenient means for the submission of oral and written requests for expedited treatment. The plan or issuer shall document all oral requests in writing and maintain the documentation in the case file of the covered individual involved.

(B) A means for deciding promptly whether to expedite a reconsideration, based on the following requirements:

(i) For a request made or supported by a physician, the plan or issuer shall expedite the reconsideration if the physician indicates that applying the standard deadline under subsection (b)(2) for making the reconsideration determination could seriously jeopardize the covered individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development.

(ii) For another request, the plan or issuer shall expedite the reconsideration if the plan or issuer determines that applying such standard deadline for making the reconsideration determination could seriously jeopardize the covered individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development.

(5) ACTIONS FOLLOWING DENIAL OF REQUEST FOR EXPEDITED TREATMENT.—If a group health plan or a health insurance issuer in connection with the provision of health insurance coverage denies a request for expedited treatment of a reconsideration under this subsection, the plan or issuer shall—

(A) make the reconsideration determination within the standard deadline otherwise applicable; and

(B) provide the individual submitting the request with—

(i) prompt oral notice of the denial of the request, and

(ii) within 2 business days a written notice that—

(I) explains that the plan or issuer will process the reconsideration request within the standard deadlines;

(II) informs the requester of the right to file a grievance if the requester disagrees with the plan's or issuer's decision not to expedite the reconsideration; and

(III) provides instructions about the grievance process and its timeframes.

(6) ACTION ON ACCEPTED REQUEST FOR EXPEDITED TREATMENT.—If a group health plan or health insurance issuer grants a request for expedited treatment of a reconsideration, the plan or issuer shall make the reconsideration determination and provide the notice under subsection (d) within the deadlines specified under subsection (b)(3).

(d) NOTICE OF DECISION IN RECONSIDERATIONS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—A group health plan or health insurance issuer that makes a decision in the reconsideration that—

(i) is completely favorable to the covered individual shall provide the party submitting the request for the reconsideration with notice of such decision; or

(ii) is adverse, in whole or in part, to the covered individual shall—

(I) provide such party with written notice of the decision, including the information described in subparagraph (B), and

(II) prepare the case file (including such notice) for the covered individual involved, to be available for submission (if requested) under section 106(a).

(B) CONTENT OF WRITTEN NOTICE.—The written notice under subparagraph (A)(ii)(I) shall—

(i) provide the specific reasons for the decision in the reconsideration (including, in the case of a decision relating to utilization review, the clinical rationale for the decision) in clear and understandable language;

(ii) include notice of the availability of the clinical review criteria relied upon in making the decision;

(iii) describe the review processes established to carry out sections 106, including the right to, and conditions for, obtaining expedited consideration of requests for review under such section; and

(iv) comply with any other requirements specified by the appropriate Secretary.

(2) FAILURE TO PROVIDE TIMELY NOTICE.—Any failure of a group health plan or health insurance issuer to provide a covered individual with timely notice of a decision in a reconsideration as specified in this section shall constitute an affirmation of the adverse coverage determination and the plan or issuer shall submit the case file to the qualified external appeal entity under section 106 within 24 hours of expiration of the deadline otherwise applicable.

(3) PROVISION OF ORAL NOTICE WITH WRITTEN CONFIRMATION IN CASE OF EXPEDITED TREATMENT.—If a group health plan or health insurance issuer grants a request for expedited treatment under subsection (c), the plan or issuer may first provide notice of the decision in the reconsideration orally within the deadlines established under subsection (b)(3) and then shall mail written confirmation of the decision within 2 business days of the date of oral notification.

(4) AFFIRMATION OF AN ADVERSE COVERAGE DETERMINATION UNDER EXPEDITED TREATMENT.—If, as a result of its reconsideration, the plan or issuer affirms, in whole or in part, a coverage determination that is adverse to the covered individual and the reconsideration received expedited treatment under subsection (c), the plan or issuer shall submit the case file (including the written notice of the decision in the reconsideration) to the qualified external appeal entity as expeditiously as the covered individual's health condition requires, but in no case later than within 24 hours of its affirmation. The plan or issuer shall make reasonable and diligent efforts to assist in gathering and forwarding information to the qualified external appeal entity.

(5) NOTIFICATION OF INDIVIDUAL.—If the plan or issuer refers the matter to an qualified external appeal entity under paragraph (2) or (4), it shall concurrently notify the individual (or an authorized representative of the individual) of that action.

SEC. 106. EXTERNAL APPEALS (REVIEWS).

(a) REVIEW BY QUALIFIED EXTERNAL APPEAL ENTITY.—

(1) IN GENERAL.—If a qualified external appeal entity obtains a case file under section 105(d) or under paragraph (2) and determines that—

(A) the individual's appeal is supported by the opinion of the individual's treating physician; or

(B) such appeal is not so supported but—

(i) there is a significant financial amount in controversy (as defined by the Secretary); or

(ii) the appeal involves services for the diagnosis, treatment, or management of an illness, disability, or condition which the entity finds, in accordance with standards established by the entity and approved by the Secretary, constitutes a condition that could seriously jeopardize the covered individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development;

the entity shall review and resolve under this section any remaining issues in dispute.

(2) REQUEST FOR REVIEW.—

(A) IN GENERAL.—A party to a reconsidered determination under section 105 that receives notice of an unfavorable determination under section 105(d) may request a review of such determination by a qualified external appeal entity under this section.

(B) TIME FOR REQUEST.—To request such a review, such party shall submit an oral or written request directly to the plan or issuer (or, if applicable, to the entity that the plan or issuer has designated as responsible for making the determination).

(C) IF REVIEW IS REQUESTED.—If a party provides the plan or issuer (or such an entity) with notice of a request for such review, the plan or issuer (or such entity) shall submit the case file to the qualified external appeal entity as expeditiously as the covered individual's health condition requires, but in no case later than 2 business days from the date the plan or issuer (or entity) receives such request. The plan or issuer (or entity) shall make reasonable and diligent efforts to assist in gathering and forwarding information to the qualified external appeal entity.

(3) NOTICE AND TIMING FOR REVIEW.—The qualified external appeal entity shall establish and apply rules for the timing and content of notices for reviews under this section (including appropriate expedited treatment of reviews under this section) that are similar to the applicable requirements for timing and content of notices in the case of reconsiderations under subsections (b), (c), and (d) of section 105.

(4) PARTIES.—The parties to the review by a qualified external appeal entity under this section shall be the same parties listed in section 105(a)(4) who qualified during the plan's or issuer's reconsideration, with the addition of the plan or issuer.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal review under this section of a determination of a plan or issuer shall be conducted under a contract between the plan or issuer and 1 or more qualified external appeal entities.

(B) ELIGIBILITY FOR DESIGNATION AS EXTERNAL REVIEW ENTITY.—Entities eligible to conduct reviews brought under this subsection shall include—

(i) any State licensed or credentialed external review entity;

(ii) a State agency established for the purpose of conducting independent external reviews; and

(iii) an independent, external entity that contracts with the appropriate Secretary.

(C) LICENSING AND CREDENTIALING.—

(i) IN GENERAL.—In licensing or credentialing entities described in subparagraph (B)(i), the State agent shall use licensing and certification procedures developed by the State in consultation with the National Association of Insurance Commissioners.

(ii) SPECIAL RULE.—In the case of a State that—

(I) has not established such licensing or credentialing procedures within 24 months of the date of enactment of this Act, the State shall license or credential such entities in accordance with procedures developed by the Secretary; or

(II) refuses to designate such entities, the Secretary shall license or credential such entities.

(D) QUALIFICATIONS.—An entity (which may be a governmental entity) shall meet the following requirements in order to be a qualified external appeal entity:

(i) There is no real or apparent conflict of interest that would impede the entity from conducting external appeal activities independent of the plan or issuer.

(ii) The entity conducts external appeal activities through clinical peers (as defined in section 2(c)(2)).

(iii) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (a)(3).

(iv) The entity meets such other requirements as the appropriate Secretary may impose.

(E) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than 1 entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(i) shall assure that the selection process will not create any incentives for qualified external appeal entities to make a decision in a biased manner; and

(ii) shall implement procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(F) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure that there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a covered individual or other party) shall be paid by the plan or issuer, and not by the covered individual.

(2) ELEMENTS OF PROCESS.—An external appeal process under this section shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Any party to a review under this section—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of 1 or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(C) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter being reviewed under this section and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(3) ADMISSIBLE EVIDENCE.—In addition to personal health and medical information supplied with respect to an individual whose claim for benefits has been appealed and the opinion of the individual's treating physician or health care professional, an external appeals entity shall take into consideration the following evidence:

(A) The results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

(B) The results of professional consensus conferences conducted or financed in whole or in part by one or more government agencies.

(C) Practice and treatment guidelines prepared or financed in whole or in part by government agencies.

(D) Government-issued coverage and treatment policies.

(E) To the extent that the entity determines it to be free of any conflict of interest—

(i) the opinions of individuals who are qualified as experts in one or more fields of

health care which are directly related to the matters under appeal, and

(ii) the results of peer reviews conducted by the plan or issuer involved.

(c) NOTICE OF DETERMINATION BY EXTERNAL APPEAL ENTITY.—

(1) RESPONSIBILITY FOR THE NOTICE.—After the qualified external appeal entity has reviewed and resolved the determination that has been appealed, such entity shall mail a notice of its final decision to the parties.

(2) CONTENT OF THE NOTICE.—The notice described in paragraph (1) shall—

(A) describe the specific reasons for the entity's decisions; and

(B) comply with any other requirements specified by the appropriate Secretary.

(d) EFFECT OF DETERMINATION.—A final decision by the qualified external appeal entity after a review of the determination that has been appealed is final and binding on the group health plan or the health insurance issuer.

Subtitle B—Consumer Information

SEC. 111. HEALTH PLAN INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), at least annually thereafter, and at the beginning of any open enrollment period provided under the plan, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries information in printed form on material changes in the information described in paragraphs (1), (2)(A), (2)(B), (3)(A), (6), and (7) of subsection (b), or a change in the health insurance issuer through which coverage is provided, within a reasonable period of (as specified by the Secretary, but not later than 30 days after) the effective date of the changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsections (b) and (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, (and to plan administrators of group health plans in connection with which such coverage is offered) the information described in subsection (b) in printed form;

(B) provide to enrollees and such plan administrators information in printed form on material changes in the information described in paragraphs (1), (2)(A), (2)(B), (3)(A), (6), and (7) of subsection (b), or a change in the health insurance issuer through which coverage is provided, within a reasonable period of (as specified by the Secretary, but later than 30 days after) the effective date of the changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, to plan administrators of group health plans that may obtain such coverage, and to the public the information described in subsections (b) and (c) in printed form.

(3) EXEMPTION AUTHORITY.—Upon application of one or more group health plans or health insurance issuers, the appropriate Secretary, under procedures established by such Secretary, may grant an exemption to one or more plans or issuers from compliance with one or more of the requirements of paragraph (1) or (2). Such an exemption may be granted for plans and issuers as a class with similar characteristics, such as private fee-for-service plans described in section 1859(b)(2) of the Social Security Act.

(4) ESTABLISHMENT OF INTERNET SITE.—The appropriate Secretaries shall provide for the establishment of 1 or more sites on the Internet to provide technical support and information concerning the rights of participants, beneficiaries, and enrollees under this title.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefits for preventive services, benefit limits, and coverage exclusions, any optional supplemental benefits under the plan or coverage and the terms and conditions (including premiums or cost-sharing) for such supplemental benefits, and any out-of-area coverage;

(B) cost sharing, such as premiums, deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers, and any supplemental premium or cost-sharing in so obtaining such benefits;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage or coverage in cases of investigational treatments and clinical trials; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of health care providers under the plan or coverage.

(B) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(C) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(D) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 122(a)(2)(B).

(E) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals, including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English, and including the availability of interpreters, audio tapes, and information in braille to meet the needs of people with special communications needs.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(7) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, the name, address, and telephone number of the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(8) QUALITY ASSURANCE.—A summary description of the data on quality indicators and measures submitted under section 112(a) for the plan or issuer, including a summary description of the data on process and outcome satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section 112(b)(3)(D), and notice that information comparing such indicators and measures for different plans and issuers is available through the Agency for Health Care Policy and Research.

(9) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(10) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(11) INFORMATION ON LICENSURE.—Information on the licensure, certification, or accreditation status of the plan or issuer.

(12) AVAILABILITY OF TECHNICAL SUPPORT AND INFORMATION.—Notice that technical support and information concerning the rights of participants, beneficiaries, and enrollees under this title are available from the Secretary of Labor (in the case of group health plans) or the Secretary of Health and Human Services (in the case of health insurance issuers), including the telephone numbers and mailing address of the regional offices of the appropriate Secretary and the Internet address to obtain such information and support.

(13) ADVANCE DIRECTIVES AND ORGAN DONATION DECISIONS.—Information regarding the use of advance directives and organ donation decisions under the plan or coverage.

(14) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers for the relevant geographic area, including the name, address and telephone number of each provider.

(15) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request and how and where (such as the telephone number and Internet website) such information may be obtained.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 102(a), including under any drug formulary program under section 123(b).

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and internal and external appeals and on the disposition in the aggregate of such matters, including information on the reasons for the disposition of external appeal cases.

(3) METHOD OF COMPENSATION.—A summary description as to the method of compensation of participating health care professionals and health care facilities, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage and on the proportion of participating health care professionals who are compensated under each type of incentive under the plan or coverage.

(4) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section 112.

(5) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions, including the specific prescription medications included in any formulary and any provisions for obtaining off-formulary medications.

(6) ADDITIONAL INFORMATION ON PARTICIPATING PROVIDERS.—For each current participating health care provider described in subsection (b)(14)—

(A) the licensure or accreditation status of the provider;

(B) to the extent possible, an indication of whether the provider is available to accept new patients;

(C) in the case of medical personnel, the education, training, speciality qualifications or certification, speciality focus, affiliation arrangements, and specialty board certification (if any) of the provider; and

(D) any measures of consumer satisfaction and quality indicators for the provider.

(7) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(8) QUALITY INFORMATION DEVELOPED.—Quality information on processes and outcomes developed as part of an accreditation or licensure process for the plan or issuer to the extent the information is publicly available.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area within a type of coverage. Such information shall be provided in an accessible format that is understandable to the average participant, beneficiary, or enrollee involved.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) UPDATING PARTICIPATING PROVIDER INFORMATION.—The information on participating health care providers described in subsections (b)(14) and (c)(6) shall be updated within such reasonable period as determined appropriate by the Secretary. A group health plan or health insurance issuer shall be considered to have complied with the provisions of such subsection if the plan or issuer provides the directory or listing of participating providers to participants and beneficiaries or enrollees once a year and such directory or listing is updated within such a reasonable period to reflect any material changes in participating providers. Nothing in this section shall prevent a plan or issuer from changing or updating other information made available under this section.

(4) RULE OF MAILING TO LAST ADDRESS.—For purposes of this section, a plan or issuer, in reliance on records maintained by the plan or issuer, shall be deemed to have met the requirements of this section with respect to the disclosure of information to a participant, beneficiary, or enrollee if the plan or issuer transmits the information requested to the participant, beneficiary, or enrollee at the address contained in such records with respect to such participant, beneficiary, or enrollee.

(e) ENROLLEE ASSISTANCE.—

(1) IN GENERAL.—Each State that obtains a grant under paragraph (3) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(A) To provide consumers in the State with information about health insurance coverage options or coverage options offered within group health plan.

(B) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(2) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under paragraph (1), the Secretary may provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is to provide consumers in the State with information about health insurance coverage options or coverage options offered within group health plans.

(3) ELIGIBILITY.—To be eligible to serve as a Health Insurance Ombudsman under this section, a not-for-profit organization shall provide assurances that—

(A) the organization has no real or perceived conflict of interest in providing advice and assistance to consumers regarding health insurance coverage, and

(B) the organization is independent of health insurance issuers, health care providers, health care payors, and regulators of health care or health insurance.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under paragraph (1) or contracts for such Ombudsmen under paragraph (2).

(5) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

(f) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. 112. HEALTH CARE QUALITY INFORMATION.

(a) COLLECTION AND SUBMISSION OF INFORMATION ON QUALITY INDICATORS AND MEASURES.—

(1) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect and submit to the Director for the Agency for Health Care Policy and Research (in this section referred to as the "Director") aggregate data on quality indicators and measures (as defined in subsection (g)) that includes the minimum uniform data set specified under subsection (b). Such data shall not include patient identifiers.

(2) DATA SAMPLING METHODS.—The Director shall develop data sampling methods for the collection of data under this subsection.

(3) EXEMPTION AUTHORITY.—The provisions of section 111(a)(3) shall apply to the requirements of paragraph (1) in the same manner as they apply to the requirements referred to in such section.

(b) MINIMUM UNIFORM DATA SET.—

(1) IN GENERAL.—The Secretary shall specify (and may from time to time update) by rule the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data.

(2) DESIGN.—Such specification shall—

(A) take into consideration the different populations served (such as children and individuals with disabilities);

(B) be consistent where appropriate with requirements applicable to Medicare+Choice health plans under 1851(d)(4)(D) of the Social Security Act;

(C) take into consideration such differences in the delivery system among group health plans and health insurance issuers as the Secretary deems appropriate;

(D) be consistent with standards adopted to carry out part C of title XI of the Social Security Act; and

(E) be consistent where feasible with existing health plan quality indicators and measures used by employers and purchasers.

(3) MINIMUM DATA.—The data in such set shall include, to the extent determined feasible by the appropriate Secretary, at least—

(A) data on process measures of clinical performance for health care services provided by health care professionals and facilities;

(B) data on outcomes measures of morbidity and mortality including to the extent feasible and appropriate data for pediatric and gender-specific measures; and

(C) data on data on satisfaction of such individuals, including data on voluntary disenrollment and grievances.

The minimum data set under this paragraph shall be established by the appropriate Secretaries using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(c) DISSEMINATION OF INFORMATION.—

(1) IN GENERAL.—The Director shall publicly disseminate (through printed media and the Internet) information on the aggregate data submitted under this section.

(2) FORMATS.—The information shall be disseminated in a manner that provides for a comparison of health care quality among different group health plans and health insurance issuers, with appropriate differentiation by delivery system. In disseminating the information, the Director may reference an appropriate benchmark (or benchmarks) for performance with respect to specific quality indicators and measures (or groups of such measures).

(d) HEALTH CARE QUALITY RESEARCH AND INFORMATION.—The Secretary of Health and Human Services, acting through the Director, shall conduct and support research demonstration projects, evaluations, and the dissemination of information with respect to measurement, status, improvement, and presentation of quality indicators and measures and other health care quality information.

(e) NATIONAL REPORTS ON HEALTH CARE QUALITY.—

(1) REPORT ON NATIONAL GOALS.—Not later than 18 months after the date of enactment of this Act, and every 2 years thereafter, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress and the President a report that—

(A) establishes national goals for the improvement of the quality of health care; and

(B) contains recommendations for achieving the national goals established under paragraph (1).

(2) REPORT ON HEALTH RELATED TOPICS.—Not later than 30 months after the date of enactment of this Act and every 2 years thereafter, such Secretary shall prepare and submit to Congress and the President a report that addresses at least 1 of the following (or a related matter):

(A) The availability, applicability, and appropriateness of information to consumers regarding the quality of their health care.

(B) The state of information systems and data collecting capabilities for measuring and reporting on quality indicators.

(C) The impact of quality measurement on access to and the cost of medical care.

(D) Barriers to continuous quality improvement in medical care.

(E) The state of health care quality measurement research and development.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for each fiscal year (beginning with fiscal year 1999) to carry out this section. Any such amounts appropriated for a fiscal year shall remain available, without fiscal year limitation, until expended.

(g) QUALITY INDICATORS AND MEASURES DEFINED.—For purposes of this section, the term "quality indicators and measures" means structural characteristics, patient-encounter data, and the subsequent health status change of a patient as a result of health care services provided by health care professionals and facilities.

SEC. 113. CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.

A group health plan or a health insurance issuer shall establish procedures with respect to medical records or other health information maintained regarding participants, beneficiaries, and enrollees to safeguard the privacy of any individually identifiable information about them.

SEC. 114. QUALITY ASSURANCE.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has an identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR IDENTIFYING.—The program has procedures for identifying possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section 112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program which—

(A) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(B) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least a stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

(e) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

Subtitle C—Patient Protection Standards

SEC. 121. EMERGENCY SERVICES.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider—

(i) the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider, and

(ii) the plan or issuer pays an amount that is not less than the amount paid to a participating health care provider for the same services; and

(D) without regard to any other term or condition of such plan or coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance

coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) if the services are maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), in accordance with regulations established to carry out such section.

SEC. 122. ENROLLEE CHOICE OF HEALTH PROFESSIONALS AND PROVIDERS.

(a) CHOICE OF PERSONAL HEALTH PROFESSIONAL.—

(1) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee—

(A) to receive primary care from any participating primary care provider who is available to accept such individual, and

(B) in the case of a participant, beneficiary, or enrollee who has a child who is also covered under the plan or coverage, to designate a participating physician who specializes in pediatrics as the child's primary care provider.

(2) SPECIALISTS.—

(A) IN GENERAL.—Subject to subparagraph (B), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(B) LIMITATION.—Subparagraph (A) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

(b) SPECIALIZED SERVICES.—

(1) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(A) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider, and an individual who is female has not designated a participating physician specializing in obstetrics and gynecology as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating physician as the authorization of the primary care provider with respect to such care under the plan or coverage.

(B) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(2) SPECIALTY CARE.—

(A) SPECIALTY CARE FOR COVERED SERVICES.—

(i) IN GENERAL.—If—

(I) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(II) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(III) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(ii) SPECIALIST DEFINED.—For purposes of this paragraph, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(iii) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under clause (i) be—

(I) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(II) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this paragraph shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(iv) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under clause (i) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(v) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to clause (i), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(B) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(i) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in clause (iii)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(ii) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in subparagraph (A)(iii)(I)).

(iii) ONGOING SPECIAL CONDITION DEFINED.—In this subparagraph, the term "special condition" means a condition or disease that—

(I) is life-threatening, degenerative, or disabling, and

(II) requires specialized medical care over a prolonged period of time.

(iv) TERMS OF REFERRAL.—The provisions of clauses (iii) through (v) of subparagraph (A) apply with respect to referrals under clause (i) of this subparagraph in the same manner as they apply to referrals under subparagraph (A)(i).

(C) STANDING REFERRALS.—

(i) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(ii) TERMS OF REFERRAL.—The provisions of clauses (iii) through (v) of subparagraph (A) apply with respect to referrals under clause (i) of this subparagraph in the same manner as they apply to referrals under subparagraph (A)(i).

(c) CONTINUITY OF CARE.—

(1) IN GENERAL.—

(A) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in subparagraph (C)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(i) notify the individual on a timely basis of such termination, and

(ii) subject to paragraph (3), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under paragraph (2)) if the plan or issuer is notified orally or in writing of the facts and circumstances concerning the course of treatment.

(B) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of subparagraph (A) (and the succeeding provisions of this section) shall apply under the group health plan in the same manner as if there had been a direct contract between the group health plan and the provider that had been terminated, but only with respect to benefits that are covered under the group health plan after the contract termination.

(C) TERMINATION.—In this section, the term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(2) TRANSITIONAL PERIOD.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) through (D), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in paragraph (1)(A)(i) of the provider's termination.

(B) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status.

(C) PREGNANCY.—If—

(i) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(ii) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(D) TERMINAL ILLNESS.—If—

(i) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(ii) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness, but in no case is the transitional period required to extend for longer than 180 days.

(3) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under paragraph (1)(A)(ii) upon the provider agreeing to the following terms and conditions:

(A) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in paragraph (1)(B), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in paragraph (1)(A) had not been terminated.

(B) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under subparagraph (A) and to provide to such plan or issuer necessary medical information related to the care provided.

(C) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding utilization review and referrals, and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

(d) PROTECTION AGAINST INVOLUNTARY DISENROLLMENT BASED ON CERTAIN CONDITIONS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer in connection with the provision of health insurance coverage may not disenroll an individual under the plan or coverage because the individual's behavior is considered disruptive, unruly, abusive, or uncooperative to the extent that the individual's continued enrollment under the coverage seriously impairs the plan's or issuer's ability to furnish covered services if the circumstances for the individual's behavior is directly related to diminished mental capacity, severe and persistent mental illness, or a serious childhood mental and emotional disorder.

(2) EXCEPTION.—Paragraph (1) shall not apply if the behavior engaged in directly threatens bodily injury to any person.

(e) GENERAL ACCESS.—

(1) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage.

(2) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under paragraph (1) may include Federally qualified health centers, rural health clinics, migrant health centers, high-volume, disproportionate share hospitals, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 123. ACCESS TO APPROVED SERVICES.

(a) COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.—

(1) COVERAGE.—

(A) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in paragraph (2)), the plan or issuer—

(i) may not deny the individual participation in the clinical trial referred to in paragraph (2)(B);

(ii) subject to paragraph (3), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(iii) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(B) EXCLUSION OF CERTAIN COSTS.—For purposes of subparagraph (A)(ii), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(C) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in subparagraph (A) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(2) QUALIFIED INDIVIDUAL DEFINED.—For purposes of paragraph (1), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(A)(i) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(ii) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(iii) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(B) Either—

(i) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in subparagraph (A); or

(ii) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in subparagraph (A).

(3) PAYMENT.—

(A) IN GENERAL.—Under this subsection a group health plan or health insurance issuer shall provide for payment for routine patient costs described in paragraph (1)(A) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(B) PAYMENT RATE.—In the case of covered items and services provided by—

(i) a participating provider, the payment rate shall be at the agreed upon rate, or

(ii) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(4) APPROVED CLINICAL TRIAL DEFINED.—

(A) IN GENERAL.—In this subsection, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(i) The National Institutes of Health.

(ii) A cooperative group or center of the National Institutes of Health.

(iii) Either of the following if the conditions described in subparagraph (B) are met:

(I) The Department of Veterans Affairs.

(II) The Department of Defense.

(B) CONDITIONS FOR DEPARTMENTS.—The conditions described in this subparagraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(i) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(ii) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

(b) ACCESS TO PRESCRIPTION DRUGS.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(A) ensure participation of participating physicians and pharmacists in the development of the formulary; and

(B) disclose to providers and, disclose upon request under section 111(c)(5) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(C) consistent with the standards for a utilization review program under section 102(a), provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance issuer in connection with health insurance coverage) to provide any coverage of prescription drugs or as preventing such a plan or issuer from negotiating higher cost-sharing in the case a non-formulary alternative is provided under paragraph (1)(C).

SEC. 124. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage. To the extent that health care providers are permitted under State and Federal law to prioritize the admission or treatment of patients based on such patients' individual religious affiliation, group health plans and health insurance issuers may reflect those priorities in referring patients to such providers.

SEC. 125. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) IN GENERAL.—An organization on behalf of a group health plan (as described in subsection (a)(2)) or a health insurance issuer shall not penalize (financially or otherwise) a health care professional for advocating on behalf of his or her patient or for providing information or referral for medical care (as defined in section 2791(a)(2) of the Public Health Service Act) consistent with the health care needs of the patient and with the code of ethical conduct, professional responsibility, conscience, medical knowledge, and license of the health care professional.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as requiring a health insurance issuer or a group health plan to pay for medical care not otherwise paid for or covered by the plan provided by nonparticipating health care professionals, except in those instances and to the extent that the issuer or plan would normally pay for such medical care.

(c) ASSISTANCE AND SUPPORT.—A group health plan or a health insurance issuer shall not prohibit or otherwise restrict a health care professional from providing letters of support to, or in any way assisting, enrollees who are appealing a denial, termination, or reduction of service in accordance with the procedures under subtitle A.

SEC. 126. PROVIDER INCENTIVE PLANS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. 127. PROVIDER PARTICIPATION.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals under the plan or coverage. Such process shall include—

(1) minimum professional requirements;

(2) providing notice of the rules regarding participation;

(3) providing written notice of participation decisions that are adverse to professionals; and

(4) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. 128. REQUIRED COVERAGE FOR APPROPRIATE HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER; REQUIRED COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

(a) COVERAGE OF INPATIENT CARE FOR SURGICAL TREATMENT OF BREAST CANCER.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted principles of professional medical practice, in consultation with the patient, to be medically necessary or appropriate.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically necessary or appropriate.

(b) COVERAGE OF RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant or enrollee upon enrollment and annually thereafter.

(c) NO AUTHORIZATION REQUIRED.—

(1) IN GENERAL.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan or health insurance coverage, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

(d) PROHIBITIONS.—A group health plan and a health insurance issuer offering health insurance coverage may not—

(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan or coverage, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to individuals to encourage such individuals

to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant, beneficiary, or enrollee in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant, beneficiary, or enrollee in a manner inconsistent with this section; and

(5) subject to subsection (e)(2), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(e) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed to require a patient who is a participant, beneficiary, or enrollee—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan or health insurance coverage, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(3) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

Subtitle D—Enhanced Enforcement Authority

SEC. 141. INVESTIGATIONS AND REPORTING AUTHORITY, INJUNCTIVE RELIEF AUTHORITY, AND INCREASED CIVIL MONEY PENALTY AUTHORITY FOR SECRETARY OF HEALTH AND HUMAN SERVICES FOR VIOLATIONS OF PATIENT PROTECTION STANDARDS.

(a) INVESTIGATIONS AND REPORTING AUTHORITY.—

(1) IN GENERAL.—For purposes of carrying out sections 2722(b) and 2761(b) of the Public Health Service Act with respect to enforcement of the provisions of sections 2706 and 2752, respectively, of such Act (as added by title II of this Act)—

(A) the Secretary of Health and Human Services shall have the same authorities with respect to compelling health insurance issuers to produce information and to conducting investigations in cases of violations of such provisions as the Secretary of Labor has under section 504 of the Employee Retirement Income Security Act of 1974 with respect to violations of title I of such Act; and

(B) section 504(c) of the Employee Retirement Income Security Act of 1974 shall apply to investigations conducted under paragraph (1) in the same manner as it applies to investigations conducted under title I of such Act.

(2) REPORTING AUTHORITY.—In exercising authority under paragraph (1), the Secretary may require—

(A) States that have indicated an intention to assume authority under section 2722(a)(1) or 2761(a) of the Public Health Service Act to report to the Secretary on enforcement efforts undertaken to assure compliance with the requirements of sections 2706 and 2752, respectively, of such Act; and

(B) health insurance issuers to submit reports to assure compliance with such requirements.

(b) AUTHORITY FOR INJUNCTIVE RELIEF.—In addition to the authority referred to in subsection (a), the Secretary of Health and Human Services has the same authority with respect to enforcement of the provisions of this title as the Secretary of Labor has under subsection (a)(5) of section 502 of the Employee Retirement Income Security Act of 1974 (as applied without regard to subsection (b) of that section) and the related provisions of part 5 of subtitle B of title I of such Act with respect to enforcement of such title I of such Act.

(c) INCREASE IN CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—In the case of a civil money penalty that may be imposed under section 2722(b)(2) or 2761(b) of the Public Health Service Act with respect to a failure to meet the provisions of sections 2706 and 2752, respectively, of such Act, the maximum amount of penalty otherwise provided under section 2722(b)(2)(C)(i) of such Act may, notwithstanding the amounts specified in such section, and subject to paragraph (2), be up to the greatest of the following:

(A) FAILURES INVOLVING UNREASONABLE DENIAL OR DELAY IN BENEFITS IMPACTING ON LIFE OR HEALTH.—In the case of a failure that results in an unreasonable denial or delay in benefits that has seriously jeopardized (or has substantial likelihood of seriously jeopardizing) the individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development, the greater of the following:—

(i) PATTERN OR PRACTICE FAILURE.—If the failure reflects a pattern or practice of wrongful conduct, $250,000, plus the amount (if any) determined under paragraph (2).

(ii) OTHER FAILURES.—In the case of a failure that does not reflect a pattern or practice of wrongful conduct, $50,000 for each individual involved, plus the amount (if any) determined under paragraph (2).

(B) OTHER FAILURES.—In the case of a failure not described in subparagraph (A), the greater of the following:

(i) PATTERN AND PRACTICE FAILURES.—In the case of a failure that reflects a pattern or practice of wrongful conduct $50,000, plus the amount (if any) determined under paragraph (2).

(ii) OTHER FAILURES.—In the case of a failure that does not reflect a pattern or practice of wrongful conduct, $10,000 for each individual involved, plus the amount (if any) determined under paragraph (2).

(2) CONTINUING FAILURE WITHOUT CORRECTION.—In the case of a failure which is not corrected within the first week beginning with the date on which the failure is established, the maximum amount of the penalty under paragraph (1) shall be increased by $10,000 for each full succeeding week in which the failure is not so corrected.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated to the Secretary of Health and Human Services such sums as may be necessary to carry out this section.

SEC. 142. AUTHORITY FOR SECRETARY OF LABOR TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF PATIENT PROTECTION STANDARDS.

(a) IN GENERAL.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A) The Secretary may assess a civil penalty against a person acting in the capacity of a fiduciary of a group health plan (as defined in 733(a)) so as to cause a violation of section 713.

"(B) Subject to subparagraph (C), the maximum amount which may be assessed under subparagraph (A) is the greatest of the following:

"(i) In the case of a failure that results in an unreasonable denial or delay in benefits that seriously jeopardized (or has substantial likelihood of seriously jeopardizing) the individual's life, health, or ability to regain or maintain maximum function or (in the case of a child under the age of 6) development, the greater of the following:—

"(I) If the failure reflects a pattern or practice of wrongful conduct, $250,000, plus the amount (if any) determined under subparagraph (C).

"(II) In the case of a failure that does not reflect a pattern or practice of wrongful conduct, $50,000 for each individual involved, plus the amount (if any) determined under subparagraph (C).

"(ii) In the case of a failure not described in clause (i), the greater of the following:

"(I) In the case of a failure that reflects a pattern or practice of wrongful conduct $50,000, plus the amount (if any) determined under subparagraph (C).

"(II) In the case of a failure that does not reflect a pattern or practice of wrongful conduct, $10,000 for each individual involved, plus the amount (if any) determined under subparagraph (C).

"(C) In the case of a failure which is not corrected within the first week beginning with the date on which the failure is established, the maximum amount of the penalty under subparagraph (B) shall be increased by $10,000 for each full succeeding week in which the failure is not so corrected.".

(b) CONFORMING AMENDMENT.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking "paragraph (2), (4), (5), or (6)" and inserting "paragraph (2), (4), (5), (6), or (7)".

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out the amendments made by this section.

TITLE II—PATIENT PROTECTION STANDARDS UNDER PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title I of the Promoting Responsible Managed Care Act of 1998, and each health insurance issuer shall comply with patient protection requirements under

such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2706)" after "requirements of such subparts".

(c) REFERENCE TO ENHANCED ENFORCEMENT AUTHORITY.—For provisions providing for enhanced authority to enforce the patient protection requirements of title I under the Public Health Service Act, see section 141.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

"SEC. 2752. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title I of the Promoting Responsible Managed Care Act of 1998 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.".

TITLE III—PATIENT PROTECTION STANDARDS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 713. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Promoting Responsible Managed Care Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Promoting Responsible Managed Care Act of 1998 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 121 (relating to access to emergency care).

"(B) Section 122 (relating to choice of providers).

"(C) Section 122(b) (relating to specialized services).

"(D) Section 122(c)(1)(A) (relating to continuity in case of termination of provider contract) and section 122(c)(1)(B) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(E) Section 123(a) (relating to coverage for individuals participating in approved clinical trials.)

"(F) Section 123(b) (relating to access to needed prescription drugs).

"(G) Section 122(e) (relating to adequacy of provider network).

"(H) Subtitle B (relating to consumer information).

"(2) INFORMATION.—With respect to information required to be provided or made available under section 111 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections 102 and 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

"(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 106 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of such Act, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 124 (relating to nondiscrimination in delivery of services).

"(B) Section 125 (relating to prohibition of interference with certain medical communications).

"(C) Section 126 (relating to provider incentive plans).

"(D) Section 102(b) (relating to providing medically necessary care).

"(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "SEC. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle D (and section 113) of title I of the Promoting Responsible Managed Care Act of 1998 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 713".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Patient protection standards.".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 144(b))" after "part 7".

(d) REFERENCE TO ENHANCED ENFORCEMENT AUTHORITY.—For provisions providing for enhanced authority to enforce the patient protection requirements of title I under the Employee Retirement Income Security Act of 1974, see section 142.

SEC. 302. ENFORCEMENT FOR ECONOMIC LOSS CAUSED BY COVERAGE DETERMINATIONS.

(a) IN GENERAL.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 142(a) of this Act, is amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following new paragraph:

"(7)(A) In any case in which—

"(i) a coverage determination (as defined in section 101(a)(2) of the Promoting Responsible Managed Care Act of 1998) under a group health plan (as defined in section 503(b)(8)) is not made on a timely basis or is made on such a basis but is not made in accordance with the terms of the plan, this title, or title I of such Act, and

"(ii) a participant or beneficiary suffers injury (including loss of life, health, or the ability to regain or maintain maximum function or (in the case of a child under the age of 6) development) as a result of such coverage determination,

any person or persons who are responsible under the terms of the plan for the making of such coverage determination are liable to the aggrieved participant or beneficiary for the amount of the economic loss suffered by the participant or beneficiary caused by such coverage determination. Any question of fact in any cause of action under this paragraph shall be based on the preponderance of the evidence after de novo review.

"(B) For purposes of subparagraph (A), the term 'economic loss' means any pecuniary loss (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) caused by the coverage determination. Such term does not include punitive damages or damages for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

"(C) Nothing in this paragraph shall be construed as requiring exhaustion of administrative process in the case of severe bodily injury or death.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to coverage determinations made on or after the date of the enactment of this Act.

TITLE IV—PATIENT PROTECTION STANDARDS UNDER THE INTERNAL REVENUE CODE OF 1986.

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient protection standards."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENT PROTECTION STANDARDS.

"A group health plan shall comply with the requirements of title I of the Promoting Responsible Managed Care Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 1999 (in this section referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after such date.

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking "this subtitle (and the amendments made by this subtitle and section 401)" and inserting "the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and title I of the Promoting Responsible Managed Care Act of 1998".

PROMOTING RESPONSIBLE MANAGED CARE ACT OF 1998

PRINCIPLES

Today, a majority of the U.S. population is enrolled in some form of managed care—a system which has enabled employers, insurers and taxpayers to achieve significant savings in the delivery of health care services. However, there is growing anxiety among many Americans that insurance health plan accountants—not doctors—are determining what services and treatments they receive. Congress has an opportunity to enact legislation this year which will ensure that patients receive the benefits and services to which they are entitled, without compromising the savings and coordination of care that can be achieved through managed care. However, to ensure the most effective result, legislation must embody the following principles:

It must be bipartisan and balanced.

It must offer all 161 million privately insured Americans—not just those in self-funded ERISA plans—a floor of basic federal patient protections.

It must establish credible federal enforcement remedies to ensure that managed care plans play by the rules and that individuals harmed by such entities are justly compensated.

It should encourage managed care plans to compete on the basis of quality—not just price. "Report card" information will provide consumers with the information they need to make informed choices based on plan performance.

SUMMARY

"The Promoting Responsible Managed Care Act of 1998" blends the best features of both the Democratic and Republican plans. The legislation would restore public confidence in managed care through a comprehensive set of policy changes that would apply to all private health plans in the country. These include strengthened federal enforcement to ensure managed care plans play by the rules; compensation for individuals harmed by the decisions of managed care plans; an independent external system for processing complaints and appealing adverse decisions; information requirements to allow competition based on quality; and, a reasonable set of patient protection standards to ensure patients have access to appropriate medical care.

Scope of protection

Basic protections for all privately insured Americans.—All private insurance plans would be required to meet basic federal patient protections regardless of whether they are regulated at the state or federal level. This approach follows the blueprint established with the enactment of the Health Insurance Portability and Accountability Act of 1996, which allows states to build upon a basic framework of federal protections.

Enforcement and compensation

Strengthened federal enforcement to ensure managed care plans play by the rules.—To ensure compliance with the bill's provisions, current federal law would be strengthened by giving the Secretaries of Labor and Health & Human Services enhanced authorities to enjoin managed care plans from denying medically necessary care and to levy fines (up to $50,000 for individual cases and up to $250,000 for a pattern of wrongful conduct). This provision would ensure that enforcement of federal law is not dependent upon individuals bringing court cases to enforce plan compliance. Rather, it provides for real federal enforcement of new federal protections.

Compensation for individuals harmed by the decisions of managed care plans.—All privately insured individuals would have access to federal courts for economic loss resulting from injury caused by the improper denial of care by managed care plans. Economic loss would be defined as any pecuniary loss caused by the decision of the managed care plan, and would include lost earnings or other benefits related to employment, medical expenses, and business or employment opportunities. Awards for economic loss would be uncapped and attorneys fees could be awarded at the discretion of the court.

Coverage determination, grievance and appeals

Coverage determination based on medical necessity.—When making determinations whether to provide a benefit (or where or how that benefit should be provided) health plans would be prohibited from arbitrarily interfering with the decision of the treating physician if the services are medically necessary and a covered benefit. Medically necessary services would be defined by the treating physician in accordance with generally accepted principles of professional medical practice—not as defined by the plan. Plans would be required to make coverage determinations in a timely manner, and have a process for making expedited determinations.

Internal appeals.—Patients would be assured the right to appeal the following: failure to cover emergency services, the denial, reduction or termination of benefits, or any decision regarding the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings. The plan would be required to have a timely internal review system, using health care professionals independent of the case at hand, and procedures for expediting decisions in cases in which the standard timeline could seriously jeopardize the covered individual's life, health, ability to regain or maintain maximum function, or (in the case of a child under the age of 6) development.

External appeals.—Individuals would be assured access to an external, independent appeals process for cases of sufficient seriousness or which exceed a certain monetary threshold that were not resolved to the patient's satisfaction through the internal appeals process. The external appeal entity would have the authority to decide whether a particular plan decision is in fact externally appealable, not the plan. A reasonable medical practice standard would be established against which to measure plan conduct, and the range of evidence that is permissible in an external review would include valid studies that have been carried out by entities without a conflict of interest. The external appeal process would require a fair, "de novo" determination, the plan would pay the costs of the process, and any decision would be binding on the plan.

Consumer information

Comparative information.—Consumers would be given uniform comparative information on quality measures in order to make informed choices. Data would include: patient satisfaction, delivery of health care services such as immunizations, and resulting changes in beneficiary health. Variations would be allowed based on plan type.

Plan information.—Patients would be provided with information on benefits, cost-sharing, access to services, grievance and appeals, etc. A grant program would be authorized to provide enrollees with information

about their coverage options, and with grievance and appeals processes.

Confidentiality of enrollee records.—Plans would be required to have procedures to safeguard the privacy of individually identifiable information.

Quality assurance.—Plans would be required to establish an internal quality assurance program. Accredited plans would be deemed to have met this requirement, and variations would be allowed based on plan type.

Patient protection standards

Emergency services.—Coverage of emergency services would be based upon the "prudent layperson" standard, and, importantly, would include reimbursement for post-stabilization and maintenance care. Prior authorization of services would be prohibited.

Enrollee choice of health professionals and providers.—Patients would be assured that plans would:

allow women to obtain obstetrical/gynecological services without a referral from a primary care provider;

allow plan enrollees to choose pediatricians as the primary care provider for their children;

have a sufficient number, distribution and variety of providers;

allow enrollees to choose any provider within the plan's network, who is available to accept such individual (unless the plan informs enrollee of limitations on choice);

provide access to specialists, pursuant to a treatment plan;

in the case of a contract termination, allow continuation of care for a set period of time for chronic and terminal illnesses, pregnancies, and institutional care.

Access to approved services.—Plans would be required to cover routine patient costs incurred through participation in an approved clinical trial. In addition, they would be required to use plan physicians and pharmacists in development of formularies, disclose formulary restrictions, and provide an exception process for non-formulary treatments when medically necessary.

Nondiscrimination in delivery of services.—Discrimination on the basis of race, religion, sex, disability and other characteristics would be prohibited.

Prohibition of interference with certain medical communications.—Plans would be prohibited from using "gag rules" to restrict physicians from discussing health status and legal treatment options with patients.

Provider incentive plans.—Plans would be barred from using financial incentives as an inducement to physicians for reducing or limiting the provision of medically necessary services.

Provider participation.—Plans would be required to provide a written description of their physician and provider selection procedures. This process would include a verification of a health care provider's license, and plans would be barred from discriminating against providers based on race, religion and other characteristics.

Appropriate standards of care for mastectomy patients.—Plans would be required to cover the length of hospital stay for a mastectomy, lumpectomy or lymph node dissection that is determined by the physician to be appropriate for the patient and consistent with generally accepted principles of professional medical practice. Plans covering mastectomies would also be required to cover breast reconstructive surgery.

WHAT ORGANIZATIONS ARE SAYING ABOUT THE PROMOTING RESPONSIBLE MANAGED CARE ACT OF 1998

National Association of Children's Hospitals, Inc.: "As you have recognized, children have health and developmental needs that are markedly different than the needs of the adult population and require pediatric expertise to understand, diagnose, and treat health problems correctly. . . . Again, we applaud you for your important and bipartisan efforts to address children's unique health care needs as part of your legislation. . . ."

National Mental Health Association: "On behalf of the National Mental Health Association and its 330 affiliates nationwide, I am writing to express strong support for the Promoting Responsible Managed Care Act of 1998. . . . NMHA was particularly gratified to learn that you included language in your important compromise legislation which guarantees access to psychotropic medications. . . . Finally—alone among all the managed care bills introduced in this session of Congress—your legislation prohibits the involuntary disenrollment of adults with severe and persistent mental illnesses and children with serious mental and emotional disturbances."

American Academy of Pediatrics: "Children are not little adults. Their care should be provided by physician specialists who are appropriately educated in the unique physical and developmental issues surrounding the care of infants, children, adolescents, and young adults. We are particularly pleased that you recognize this and have included access to appropriate pediatric specialists, as well as other protections for children, as key provisions of your legislation."

National Alliance for the Mentally Ill: "Thank you for your efforts on behalf of people with severe mental illnesses. Your bipartisan approach to this difficult issue is an important step forward in placing the interests of consumers and families ahead of politics. NAMI looks forward to working with you to ensure passage of meaningful managed care consumer protection legislation in 1998."

American Cancer Society: ". . . I commend you on your bipartisan effort to craft patient protection legislation that meets the needs of cancer patients under managed care. . . . Your legislation grants patients access to specialists, ensures continuity of care . . . and permits for specialists to serve as the primary care physician for a patient who is undergoing treatment for a serious or life-threatening illness. Most critically, your bill promotes access to clinical trials for patients for whom standard care has not proven most effective."

American Protestant Health Alliance: "Your proposal strikes a balance which is most appropriate. As each of us is aware, often we have missed the opportunity to enact health policy changes, only to return later and achieve fewer gains than we might have earlier. It would be tragic if we allowed this year's opportunity to escape our grasp. We are pleased to stand with you in support of your proposal."

American College of Physicians/American Society of Internal Medicine: "We believe your bill contains necessary patient protections, as well as provisions designed to foster quality improvement, and therefore has the potential to improve the quality of care patients receive. The College is particularly pleased that your proposal covers all Americans, rather than only those individuals who are insured by large employers under ERISA."

National Association of Public Hospitals & Health Systems: "This legislation provides consumers with the information to make informed decisions about their managed care plans, offers consumers protections from disincentives to provide care, and provides consumers with meaningful claims review, appeals and grievance procedures. We applaud your leadership in this area and we look forward to working with you to shape final legislation."

Mental Health Liaison Group (a coalition of 19 national groups): "By establishing a clear grievance and appeals process, assuring access to mental health specialists, and assuring the availability of emergency services, your bill begins to establish the consumer protections necessary for the delivery of quality mental health care to every American."

Council of Jewish Federations: "Your provisions on continuity of care also provide landmark protections for consumers in our community and in the broader community as well. Overall, your legislation provides important safeguards for consumers and providers that are involved in managed care."

Families USA: "We are pleased that your bill . . . would establish many protections important to consumers, such as access to specialists, prescription drugs and consumer assistance. In addition, your external appeals language addresses many consumer concerns in this area."

National Association of Chain Drug Stores: ". . . we applaud your efforts . . . in crafting a bipartisan managed care proposal. . . . Your bill, "Promoting Responsible Managed Care Act" takes a realistic step in improving the health care system for all Americans."

Catholic Health Association: "The Catholic Health Association of the United States (CHA) applauds your bipartisan leadership in Congress to help enact legislation this year protecting consumers who receive health care through managed care plans. The Chafee-Graham-Lieberman bill is a sound piece of legislation."

National Association of Community Health Centers: "We appreciate the bipartisan efforts you have undertaken to correct the deficiencies in the managed care system. . . . We applaud your inclusion of standards for the determination of medical necessity (Section 102) that are based on generally accepted principles of medical practice. . . . We also appreciate your inclusion of federally qualified health centers (FQHCs) as providers that may be included in the network."•

• Mr. GRAHAM. Mr. President, I want to commend Senator CHAFEE, Senator LIEBERMAN, Senator SPECTER, and Senator BAUCUS for your outstanding leadership on an issue of vital importance to the country—protecting patients from abuses by managed care organizations.

Mr. President, what looms before the Senate is ominous. If nothing changes, when we return in September, we appear destined to be witnesses to the Senate's version of a massive train wreck in the form of managed care debate.

The Republican train and the Democratic train are racing toward each other with ever-increasing speed and hostility, neither side willing to apply the brakes and switch tracks—neither side mindful of the havoc the wreck could cause.

If we don't switch tracks, the wreck is inevitable. And the casualties will not be either political party. Instead, they will be the American public, who have asked us to provide them with basic federal protections.

My colleagues and I are simply not willing to sacrifice the opportunity to pass meaningful managed care reform this year for the opportunity to score political points.

Over the past few years, it has become increasingly clear that the American people are anxious about their health security as a consequence of managed care. Even managed care plans are nervous about the possibility of declining enrollment due to an increasing lack of consumer confidence.

Our bill seeks to leave the decision-making to doctors and their patients, and to ensure that patients get what they are paying for with their hard-earned dollars.

Our goal is to hold insurance companies accountable for the benefits and services they claim to be delivering. Patients want the right to see a specialist when they need one; our bill assures that. Patients want assurances they will get the medicines their doctors say they need, not just what's on a plan's formulary; our bill assures that. Patients want to know that plans are not providing financial incentives to their doctors to withhold medically necessary treatment; our bill assures that. Parents want to know that a pediatrician is available to serve as their child's primary care provider; our bill assures that.

Women want to know that they can see their ob/gyn without first getting permission from the plan's gatekeeper; our plan assures that.

However, having said all of that, it is vitally important to look at the fine print when comparing the patient protections contained in each of these proposals because, as the saying goes, the Devil is in the details.

For example, all of the plans would require insurers to pay for emergency services. However, the GOP plan lacks a critical protection which was enacted into law for Medicare and Medicaid beneficiaries as part of the Balanced Budget Act of 1997—reimbursement for post-stabilization care.

Each bill contains an external appeals process to allow patients to appeal denials or limitations of care to an independent entity. However, the Republican proposal would prevent any complaint for a service valued at less than $1,000.00 from being referred to an external appeals body. Picture the situation where a woman is denied a mammogram which, had it been done, would have resulted in early detection of breast cancer and you begin to understand why this provision is problematic.

In closing while the idea of playing the blame game up to the fall elections might be appealing to some, we are asking our colleagues, through this legislation, to take another course of action—to pass meaningful and effective patient protections for 161 million Americans this year.●

● Mr. LIEBERMAN. Mr. President, I am delighted to join Senators CHAFEE, GRAHAM, SPECTER, and BAUCUS to introduce the Promoting Responsible Managed Care Act of 1998. Our bill is a bipartisan effort that we believe can be enacted this year.

Our effort is modest in authorship because we have chosen to draw from both Republican and Democratic bills, but bold in goal. We aim to bring protections to 161 million Americans without delay before this Congress adjourns. Included in those bold protections are new rights of access to specialists, access to independent grievance and appeals, quality report cards, and compensation if a plan's actions result in their injury. Excluded are those provisions, even some with appeal, that are likely to prevent any Congressional action on patients' rights this year.

Over the last decade we have crossed over a turbulent river of change in health care. The raging cost escalation of the 80's and 90's buffeted families and tore away an ever increasing share of their paycheck to pay for health insurance coverage. Some couldn't afford the price, and lost their hold on health care—for themselves and their families.

Today, the on flowing health care costs have slowed, but left behind permanent changes in the health care shoreline. We have a tool that has dammed up health care costs—managed care. Yet, after more than a decade of cost increases, we have over forty-one million uninsured among us that can't afford coverage. We need to be mindful of these uninsured and the millions close to losing their insurance whenever we intervene in the health care market in ways that raise costs.

Managed care has calmed the rise in medical costs that buffeted us so badly and brought double-digit inflation under control. The average rate of increase of costs of medical plans dropped 10 percent between 1991 and 1996. Without managed care, costs would be higher, millions more would be uninsured, and wages and salaries would be lower.

Today over 75 percent of Americans who receive their health coverage through their employer are in some form of managed care. Consumers no longer have a family doctor—they have a gatekeeper. They don't pick a physician—they (or in most cases, their employer) pick a network. A family's access to care, to drugs, to specialists all can be limited by the managed care organization.

Now that cost increases have slowed, it is also time to focus on health care quality. Many people are nervous about the quality of their managed care plans. They are concerned that the success of managed care in containing costs, has come at the expense of health care quality.

People want to know that they can get health care for their children from pediatricians, go see a specialist if their condition warrants some special attention, even go the emergency room if they feel that it is necessary.

They want to know that they aren't going to be locked out of medical care by an unresponsive managed care bureaucracy, vainly calling an unanswered phone to get approval for necessary medical care.

The entry of managed care into the health care marketplace has created competition that has lowered prices, enabling better access for millions to health care. But we also need to introduce competition over quality into this marketplace.

Our bill covers all 161 million Americans who are privately-insured. It includes patient protection standards to protect patient's access to the physician of their choice including women's access to obstetrical/gynecological specialists, a childs to a pediatrician, and other patients to specialists such as oncologists pursuant to a treatment plan.

It protects continuity of care, so that patients can continue to see their physician through an illness or pregnancy despite changes in the managed care network.

Plans would be prohibited from using "gag rules" to restrict physicians communication with their patients.

Visits to emergency rooms would be covered based on the "prudent layperson" standard and would include reimbursement for post stabilization and maintenance care.

Most important, we have included strong enforcement to protect these rights and protect the health and lives of all 161 privately insured Americans.

We have four important enforcement rights. We give consumers the right to obtain performance information so they don't get trapped in a bad health plan in the first place, establish a new grievance and appeals process so that consumers have a speedy process and fair setting to seek needed healthcare, give the U.S. Department of Labor and Health and Human Services the right to place heavy fines on health plans that don't protect patients, and finally, if all three fail, give the patient new rights to sue for compensation in federal courts if all the new protections fail and they are injured as the result of a decision by their managed care plan.

Our first enforcement tool is to empower consumer choice based on accurate, comparable information with information about their health care options. Millions of American healthcare

consumers can get more information about the quality of a toaster oven or a candy bar than about their health plan. Report cards on health care quality should be the rule not the exception. Consumers who choose between plans, employers who purchase them, and plans and providers who compete for business will all drive up quality if report cards on their performance become the rule not the exception.

Some of the large employers in my state joined together years ago to hold health plans accountable. These companies stood up to say before they would even offer a health plan to their employees, that plan would have to agree to provide their record of performance and outcome on critical services such as breast cancer screening, prenatal care, asthma and diabetic treatment.

Workers at these companies now choose the plan with the best performance for them. All workers in America should have that right. It drives up quality and drives down bad managed care plans.

We require that all health plans be held accountable by reporting how well they are doing in providing the services that keep people healthy. We allow the Secretary to develop requirements that will work for different types of insurance, but get critical quality information to workers and purchasers. Although Senator NICKLES' bill includes voluminous information requirements, nowhere does he ask for the most critical information—how good a job is a health plan doing in keeping members of that plan healthy and alive.

Our second enforcement tool gives consumers in a health plan the right to appeal a denial of coverage to a independent, external panel of fair-minded experts under specific, quick deadlines.

When consumers need health care services, delays and indecision can be critical. The appeals process protects patients health by getting decisions made quickly and services provided before their medical condition worsens. No longer will consumers and their doctors spend months or even years fighting through a morass of managed care bureaucrats none of whom seem accountable, and all of whom add their own dollop of delay to a final decision.

We have adopted the "gold standard" set by the Medicare program which guarantees an answer in 72 hours or less for urgent care, and in less than one month for even the most routine decisions. Consumers have full rights to appeal any denial of care—both internally and to an external body for a completely independent review.

Third, we fix ERISA—a law that was enacted in 1974—so that it no longer blunts enforcement of patient protections. Under current law there are no meaningful enforcement remedies available to Americans who get their insurance through their employers. The U.S. Departments of Labor and Health and Human Services can do little to carry out their enforcement responsibilities. Individuals can not seek compensation when their health care plan makes a decision that injures them. A person, grievously harmed by their plan, can only sue for the cost of the benefit wrongly denied. For example, under current ERISA law, a mother on death's bed with cancer wrongly denied. For example, under current ERISA law, a mother on death's bed with cancer because she didn't get a mammogram would only be able to sue her health plan for the cost of the mammogram.

The Democrats have chosen to address this problem by allowing participants in ERISA plans to seek redress, including uncapped punitive damages, in state courts, an absolute nonstarter with the Republicans. The Republican plan simply extends the enforcement mechanism provided under current law, which is to say the cost of the benefit denied, and have thrown in a small additional fine of $100 a day in cases where a health plan refuses to comply with the decision of the external appeal entity. $100 is a cruel compensation for a family that has lost a breadwinner through the botched denial of coverage of a managed care plan.

We believe it is vitally important for Congress to step up to the plate with a real federal patient rights enforcement. In order to ensure that plans abide by the new patient protections in our bill, we give new civil money penalty and injunctive relief authority to the Secretaries of Health and Human Services and Labor. Plans that violate the law can be compelled to pay for it—up to $250,000.

Finally, there will be those tragic instances where our broad, new protections fail. A person is injured despite their new rights and powers and the managed care organization is at fault. Under our plan, people can take their plan to court, and sue that plan for the full amount of any damages equal to their economic loss plus attorney's fees. The injured person can get back the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities, caused by the coverage determination of the managed care plan. For the injured person and their family, the dollars probably can never compensate for the loss of health, but we think that it is critical that at least their economic losses by paid when a plan causes the injury.

That is our plan, a stronghold of patient rights protected by four well-buttressed walls of individual and government enforcement. We have given patients the strongest tools at our disposal—information, appeal rights, agency enforcement, and access to the courts. Our proposal has these strengths, but not the baggage of provisions that partisans of either party I fear may use to prevent congressional action. I urge the passage of the Promoting Responsible Managed Care Act of 1998 so that 161 million Americans can receive its protections without delay.•

• Mr. BAUCUS. Mr. President, I rise today to join Senators CHAFEE, GRAHAM, LIEBERMAN, and SPECTER in introducing the Promoting Responsible Managed Care Act of 1998. This bill will provide needed protections for all patients, while omitting the most polarizing aspects of the two major managed care bills designed by Republican and Democratic leaders. This bill seeks to establish a middle ground so that patients can be guaranteed quality health care this year.

Mr. President, this legislation provides improved quality health care for all 161 million Americans enrolled in private health insurance plans, including managed care plans. The measure will protect the doctor-patient relationship, make information readily available, create quality standards, insure a timely appeals process, and provide patients with better access to care.

By offering report cards on health plans, patients will be given the opportunity to make informed choices when selecting a health plan. This bill will also guarantee patients access to their specialists, and ensure that people have needed emergency treatment available wherever they are. Patients will not just receive stabilization in the emergency room, but will be guaranteed care afterwards as well.

The bipartisan bill gives women direct access to obstetrician-gynecologists, and children direct access to pediatricians. Prescription drugs which doctors deem necessary to patient care, whether on provider formulary lists or not, will now be made available. Routine costs associated with plan-approved clinical trials will also be guaranteed. Gag clauses, which undermine the patient-doctor relationship by penalizing doctors for referring patients to specialists or discussing costly medical procedures, will be prohibited.

Mr. President, under the bipartisan bill, independent parties would be given the authority to rule on managed care denials through an appeals process, guaranteeing that each patient has a chance to appeal HMO decisions. Enforcement laws will help guarantee these provisions. This legislation will allow the Department of Health and Human Services and the Department of Labor to levy civil monetary penalties to managed care plans which do not abide by the bill's provisions. Also, self and fully-insured patients will be granted access to federal courts to claim compensatory damages.

Mr. President, in health care, quality patient care should be the bottom line.

I believe that the bottom line is achieved by Democratic plan. But with a Democratic plan that is unlikely to pass in this Republican-controlled Senate, and a Republican measure which would likely be vetoed by the president, this proposal stands as a fresh start to significant managed care reform. This bipartisan and balanced measure will ensure that quality care prevails over political differences, and I urge the Senate to pass it.•

By Mr. SESSIONS:

S. 2417. A bill to provide for allowable catch quota for red snapper in the Gulf of Mexico, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL MARINE FISHERIES LEGISLATION

• Mr. SESSIONS. Mr. President, I rise today to introduce legislation, which I have drafted to address a matter which is of growing concern in my state. In particular, my constituents who live and work in the coastal communities of Alabama have voiced serious and legitimate concerns about the validity of recently issued National Marine Fisheries Service regulations which threaten to reduce the total allowable catch of red snapper in the Gulf of Mexico this year. The red snapper stock in the Gulf of Mexico is a very important economic asset for my state and, in fact, serves as a major economic linchpin for many of these coastal communities. I believe that my bill presents a reasonable solution to ensuring the long-term viability of the snapper stocks while also ensuring continuity and economic stability for individuals and communities who are so reliant on the income that commercial and recreational snapper fishing provides. Additionally, I feel that this bill could provide relief for persons in the shrimp industry, who feel that they have been unduly and unfairly burdened by NMFS regulatory requirements. Mr. President, I would also like to stress that this bill would assist all Gulf Coast communities that rely on the red snapper as an asset and I would hope that my colleagues who are hearing the same concerns from their constituencies will join with me in support of this bill.

Mr. President, I will have more to say about this bill in the future. For the sake of brevity, however, I would simply like to highlight some of the features in my legislation. To begin with, it maintains a total allowable catch of 9,120,000 pounds for each calendar year 1998 through 2001 which is to be allocated according to the current 51% commercial and 49% recreational split. The intent of this language is to provide certainty to our coastal communities by establishing a total allowable catch quota for this time period which cannot be lowered. The bill also provides that release of this quota cannot be conditioned upon the performance of bycatch reduction devices over the 1998–2001 time period. Additionally, the legislation maintains the current minimum size limits, and maintains the National Marine Fisheries Service's recently established 4 bag limit. My bill also requires the Secretary of Commerce to immediately review existing turtle excluder devices to see if they can be certified as bycatch reduction devices in the hopes that, if they can be so certified, shrimpers will be spared the cutting of an additional hole in their nets. Finally, my bill will also require a future study of bycatch reduction efficiency to be undertaken by the Secretary so that snapper management techniques can be based on accurate, and scientifically sound, understanding of the role that bycatch reduction devices can play in our efforts to continue to strengthen the replenishing snapper stocks. In my view, this bill adds clarity and stability to a situation that has been needlessly complicated over the past several years, and will allow both the regulators and the regulated community an opportunity to "catch their breath" as we determine the proper steps to take in resolving this ongoing debate.•

By Mr. JEFFORDS (for himself, Mr. LEAHY, and Mr. WARNER):

S. 2418. A bill to establish rural opportunity communities, and for other purposes; to the Committee on Finance.

RURAL OPPORTUNITIES EMPOWERMENT ACT OF 1998

• Mr. JEFFORDS. Mr. President, today with my friend and colleague, Senator LEAHY, I introduce the Rural Opportunities Empowerment Act of 1998—a bipartisan bill that will do a great deal to assist urban and rural areas develop communities in economic need.

The legislation will do a number of things. It builds off the Taxpayer Relief Act of 1997, which authorized 20 rural and urban Empowerment Zones, and creates new opportunities for those communities desperately in need of federal assistance, but unable to access those funds.

Our legislation will help scores of communities across the country seeking to improve their local economy through desperately needed federal funds. Within our legislation, monies are provided for the 20 Empowerment Zones authorized last year. Also, new grants are created for communities that are not able or eligible to compete for the EZ Round II competition this fall. Additional points will be given to those Enterprise Communities who have met a high standard of performance and who are seeking to be designated as an Empowerment Zone. Finally, a small amount of money will be provided to the Secretary to reward so-called "Top Performers," and allow them to be able to continue their operations so additional goals of their strategic plan are met.

Mr. President, the Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture's (USDA) Empowerment Zones and Enterprise Communities provide critical resources for those rural and urban areas in economic distress. Many of these communities intend to apply for a Round II Empowerment Zone designation. Vermont's old North End in Burlington, for example, has met numerous milestones in their strategic plan by successfully leveraging additional monies from the private sources. If Congress does not pass this legislation there will be no funding. Burlington's application for an Empowerment Zone designation under Round II this fall will be useless.

Providing rehabilitation and tax breaks to businesses who are interested in investing in a depressed area has been an impressive success in Burlington and elsewhere and my legislation will not only allow Burlington to compete for Empowerment Zone status in Round II, but it will also require HUD to disseminate best EC practices to other ECs around the country who may not be performing as impressively. This legislation is not only good for rural and urban communities, it is good government.

I ask my colleagues to work with me and with Senator LEAHY to ensure that this legislation is passed in the short time we have left in the 105th Congress. I will be working with the Finance Committee to ensure that this Congress does not forget those communities who look toward the federal government to provide incentives for the private sector to invest in economically depressed areas.•

• Mr. LEAHY. Mr. President, I am pleased to join Senator JEFFORDS today in introducing the Rural Opportunity Communities Act of 1998. This bill will greatly enhance the Empowerment Zone program by providing incentives to reward well performing Empowerment Zones and Enterprise Communities. The bill will also offer communities which face significant economic problems, but do not fit the strict definitions of the Empowerment Zone program with an alternative built on the same long-term, comprehensive, community-based planning.

In 1995 the first round of Empowerment Zones and Enterprise Communities were designated. Those communities have well demonstrated the potential of the program to revitalize inner-city neighborhoods and poverty stricken rural areas. In Burlington's Old North End, Vermont's only Enterprise Community, the benefits of this program have been tremendous. What was once a decaying section of the city is now a vital neighborhood. Equally important, the "New North End" has become an integral part of the city through the network of organizations and community members that pulled

together to develop a plan to revitalize the area.

A new round of Empowerment Zone awards will allow additional communities to benefit from the program. This bill further enhances the Empowerment Zone program by recognizing those communities which have made the most progress in implementing their ten year plans and improving their neighborhoods. These model Empowerment Zones and Enterprise Communities will be eligible to compete for special incentive grants so that the successful programs they have initiated can continue to flourish. The success of well-performing Enterprise Communities will also be recognized by giving them additional points on their applications for empowerment zone status.

FInally, the bill establishes a special demonstration program, the Rural Opportunity Communities. This demonstration is designed to test the Empowerment Zone model of long-term, community based planning, with communities which are facing economic problems different from those defined by the Empowerment Zone program. Among other factors, the ROC demonstration will recognize the very real problem of under-employment, a significant problem in Vermont. The northeastern corner of Vermont, known as the Northeast Kingdom, is regularly responsible for one of the highest unemployment rates in the state. This is a very rural area where many families also hold down multiple jobs to make ends meet.

Last year I worked to bring together a group of economic development organizations and local officials to take a broader look at the problems facing the region, and work to find a common approach to addressing those problems. Since that time this group, known as the Northeast Kingdom Enterprise Collaborative, has continued to grow and has begun to lay the groundwork for a long-term plan for the three-county area. The ROC demonstration will offer a perfect opportunity for areas like the Northeast Kingdom, that are interested in pursuing this Empowerment Zone model, to gain access to the resources they need.•

By Mr. D'AMATO:

S. 2419. A bill to amend the Public Utility Regulatory Policies Act of 1978 to protect the nation's electricity ratepayers by ensuring that rates charged by qualifying small power producers and qualifying cogenerators do not exceed the incremental cost to the purchasing utility of alternative electric energy at the time of delivery, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELECTRIC POWER CONSUMER RATE RELIEF ACT OF 1998

Mr. D'AMATO. Mr. President, I ask unanimous consent that the text of the bill, S. 2419, be printed in the RECORD.

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

S. 2419

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 "Electric Power Consumer Rate Relief Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) certain courts have found that States are preempted under the Public Utility Regulatory Policies Act of 1978 from engaging in certain ratepayer protection activities critical to ensuring reasonable rates for in-State ratepayers;

(2) those courts have found that, although States have the authority initially to establish rates charged by qualifying small power producers and qualifying cogenerators to local electric utilities, that such States thereafter are preempted by that Act from ensuring over time that rates—

(A) are just and reasonable to the retail electric consumers of purchasing electric utilities and are in the public interest; and

(B) do not exceed the incremental cost to such purchasing electric utilities of alternative electric energy at the time of delivery;

(3) other courts have found that States are preempted from monitoring effectively the operating and efficiency performance of in-State cogeneration and small power production facilities for the purpose of determining whether such facilities meet Federal Energy Regulatory Commission standards for qualifying cogenerators; and

(4) that Act should be amended to clarify the intent of Congress that States have the authority—

(A) to ensure that rates charged by qualifying small power producers andqualifying cogenerators to purchasing electric utilities—

(i) are just and reasonable to the electric consumers of such purchasing electric utilities and in the public interest; and

(ii) do not exceed the incremental cost to such purchasing electric utilities of alternative electric energy at the time of delivery; and

(B) to establish effective programs for monitoring the operating and efficiency performance of in-State cogeneration and small power production facilities for the purpose of determining whether such facilities meet Federal Energy Regulatory Commission standards for qualifying cogenerators.

SEC. 3. IMPLEMENTATION OF RULES.

Section 210(f)(1) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3(f)(1)) is amended—

(1) by striking "(1) Beginning" and inserting the following:

"(1) BY STATE REGULATORY AUTHORITIES.—

"(A) IN GENERAL.—Beginning"; and

(2) by adding at the end the following:

"(B) REQUIREMENTS.—Notwithstanding any other provision of this section, a State regulatory authority may ensure that rates charged by qualifying small power producers and qualifying cogenerators—

"(i) are just and reasonable to the electric consumers of the purchasing electric utility and in the public interest; and

"(ii) do not exceed the incremental cost at the time of delivery to the purchasing utility of alternative electric energy and capacity.

"(C) MONITORING.—A State regulatory authority may establish programs for monitoring the operating and efficiency performance of in-State cogeneration and small power production facilities for the purpose of determining whether the facilities meet standards established by the Commission for qualifying facilities.

"(D) AMENDMENT OF CONTRACT.—A State regulatory authority may require that any contract entered into before the date of enactment of this paragraph be amended to conform to any requirements imposed under subparagraph (B).".

By Mr. HARKIN (for himself, Mr. HATCH, Mr. DASCHLE, Mr. CRAIG, Ms. MILKULSKI, Mr. D'AMATO, Ms. MOSELEY-BRAUN, Mr. GRASSLEY and Mr. WELLSTONE):

S. 2420. A bill to establish within the National Institutes of Health an agency to be known as the National Center for Complementary and Alternative Medicine; to the Committee on Labor and Human Resources.

CENTER FOR COMPLEMENTARY AND ALTERNATIVE LEGISLATION

• Mr. HARKIN. Mr. President, today I am introducing a bill, cosponsored by Senators DASCHLE, HATCH, GRASSLEY, D'AMATO, WELLSTONE, MIKULSKI, CRAIG, and MOSELEY-BRAUN to improve and expand rigorous scientific review of alternative and complementary therapies. This bill will elevate the NIH's Office of Alternative Medicine to Center status. It would be renamed the "National Center for Complementary and Alternative Medicine."

Mr. President, the American public supports this bill. Increasingly, Americans are turning to complementary and alternative medicine. According to a recent study by Harvard University researchers, fully one third of Americans regularly use complementary and alternative medicine. This same study found that in 1990, American consumers spent more than $14 billion on these practices. In that year there were 425 million visits to complementary and alternative practitioners—more than those to conventional primary care practitioners!

These practices, which range from acupuncture, to chiropractic care, to naturopathic, herbal and homeopathic remedies, are not simply complementary and alternative, but are integral to how millions of Americans manage their health and treat their illnesses. Yet there is little scientific research being done to investigate and validate these therapies.

We must reexamine our spending priorities. Approximately 90 million Americans suffer from chronic illnesses which cost society roughly $659 billion in health care expenditures, lost productivity and premature death. According to the Centers for Disease Control, we spend $28.6 billion Medicare dollars on diabetes alone—a disease which can be treated effectively with low-cost alternative therapies. A Robert Wood Johnson Foundation study recently published in the Journal of

the American Medical Association (JAMA) revealed that the current health care delivery system is not meeting the needs of the chronically ill in the United States. The study also concluded that such trends reveal skyrocketing costs, increasing numbers of people in need and a dysfunctional system of care. Alternative medical therapies could offer a cost-saving alternative to this trend.

We are in an era when we must take a closer look at ways to provide cost-effective, preventive health care, and as we do so, Congress must act to strengthen the mission of the Office of Alternative Medicine in finding safe and effective treatments and preventive methods for chronic conditions. Patients throughout our nation are suffering because there is a lack of available information on alternative medicine.

In 1992, after finding that the National Institutes of Health (NIH) was largely ignoring this increasingly important area, at my urging Congress passed legislation creating the Office of Alternative Medicine (OAM) within NIH. At that time, Congress charged OAM with assuring objective, rigorous scientific review of alternative therapies. They were to investigate and validate therapies so that consumers would be better informed as to what treatments work and what treatments don't.

It is now clear that without greater authority to initiate research projects and assure unbiased and rigorous peer review, alternative therapies will not be adequately reviewed. The main problem is that the Office has no authority to directly provide research funding to any medical professional seeking to study the safety and effectiveness of alternative treatments. And unlike all other major organizations within NIH, the OAM has no autonomy to oversee its mission and goals. Because the Office must work through other Institutes to carry out research projects, promising projects are blocked and considerable time and resources are wasted.

The bill we are introducing would increase the status and authority of the Office of Alternative Medicine by creating in its place a National Center for Complementary and Alternative Medicine at NIH. The principal change in authority is granting the Center the ability to directly fund research proposals and other projects. This will not only assure that alternative therapies receive the review they need and deserve, it will improve efficiency by eliminating unnecessary bureaucratic steps required by the current set up.

Our bill also addresses another shortcoming of the NIH's current handling of alternative medicine research. The hallmark of rigorous scientific review at NIH is the peer review process. However, when it comes to alternative and complementary therapies, there is no true peer review. There are no complementary or alternative medicine specialists on NIH peer review panels. That means, for example, that when a research proposal comes in on chiropractic care, it often is reviewed by peer review panels that include no chiropractors. Rather, these proposals may be reviewed by scientists who have little or no experience in or knowledge about chiropractic care.

This has three negative results. First, these projects are not being reviewed by individuals with expertise in the fields contemplated by the research. This reduces the scientific quality of the review process. Second, because those reviewing these proposals have no expertise in this area, they may be less likely to support their approval. And, third, because those seeking NIH support of alternative medicine research know that their proposals will not receive true peer review, they may hesitate to apply, thereby reducing the number and quality of research proposals. Our proposal corrects this problem by requiring that projects are reviewed by scientists with expertise in the particular area of complementary and alternative medicine proposed to be studied.

The federal government and state-of-the-art science must begin to catch up with the public's increasing demand for information and answers regarding alternative and complementary health care. The time is now. I urge you and my colleagues to support this important bill that will improve the quality of health care for Americans.●

By Mr. CONRAD:

S. 2421. A bill to provide for the permanent extension of income averaging for farmers; to the Committee on Finance.

PERMANENT EXTENSION OF INCOME AVERAGING FOR FARMERS

Mr. CONRAD. Mr. President, I am taking the floor today to introduce a bill which will respond to a critical problem faced by farmers. This proposal would amend the provision in the Taxpayer Relief Act of 1997 the temporarily reinstated income averaging for farmers.

When income averaging was eliminated as part of the Tax Reform Act of 1986, Congress acted primarily on the assumption that fewer tax brackets and dramatically lower marginal tax rates would substantially reduce the number of taxpayers whose fluctuating incomes could subject them to higher progressive rates. Congress was also concerned that income averaging, as it existed at that time, was effectively targeted on taxpayers who actually experienced wildly fluctuating incomes.

Today, it is hard to imagine a group of taxpayers whose incomes fluctuate more wildly than farmers. There is no place where that kind of fluctuation is more vividly demonstrated than in my own state of North Dakota. In 1996, North Dakota farm income came in at $764 million. A year later, it was $15 million. That is a 98 percent decrease, Mr. President! Fluctuations just don't come much wilder than that.

Reflecting on the situation, I think Congress made a mistake eliminating income averaging altogether in 1986—at least with respect to farmers. Fluctuating income is a fact of life in agriculture, and to the extent that the Internal Revenue Code can respond to that reality, it should do so.

The change we made in 1997 was a good one, but it did not go far enough to help many farmers who desperately need it. That reinstatement of income averaging for farmers should have made farmers' incomes in 1997 eligible for averaging and the reinstatement should have been permanent. The bill I introduce today does both.

This bill will provide modest, but much needed, assistance to farmers who were devastated in 1997, and provide it in a way that is consistent with the approach Congress took in the Taxpayer Relief Act last year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2421

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

SECTION 1. PERMANENT EXTENSION OF INCOME AVERAGING FOR FARMERS.

Section 933(c) of the Taxpayer Relief Act of 1997 is amended by striking "after December 31, 1997, and before January 1, 2001" and inserting "after December 31, 1996".

By Mr. MACK (for himself, Mr. D'AMATO, Mr. COVERDELL, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. GORTON, and Mr. NICKLES):

S. 2422. A bill to provide incentives for states to establish and administer periodic teacher testing and merit pay programs for elementary school and secondary teachers; to the Committee on Labor and Human Resources.

MEASURE TO ENCOURAGE RESULTS IN TEACHING ACT OF 1998

Mr. MACK. Mr. President, I rise today to introduce legislation with my friend and colleague, Senator D'AMATO, to ensure that every classroom in America is staffed with a competent, qualified and caring teacher. During the past several months, Congress has debated a number of initiatives to further this goal, including an amendment that Senator D'AMATO and I introduced and passed as part of the Education Savings Accounts package. Our amendment passed with bipartisan support, and we are here today to pursue this legislation in light of the President's veto of the ESA bill.

As early as the 1890s, the United States was the world's premiere industrial power, boasting a manufacturing sector roughly equal to that of Great Britain, Germany and France combined. While relatively new, this industrial order grew at a remarkable pace, leading many to concur with Teddy Roosevelt's prediction that the Twentieth Century would be "America's Century."

As we stand at the edge of a new millennium, another economic revolution in underway. But unlike the industrial revolution of one hundred years ago, this new revolution is defined not by large factories and natural resources, but by something a little less tangible and a little more human. I believe the 21st Century will be known as the "Century of Knowledge," where ingenuity and innovation will prove to be the most critical of resources. Now, if our children are to be prepared for the challenges ahead, educational excellence must become our first order of business.

The President has placed education near the top of his domestic agenda. I am pleased that he, too, recognizes the importance of providing our children with an education second to none. This is an area where we can easily agree. However, I am discouraged that none of his proposals confronts the most basic, the most important, and the most neglected aspect of public education: the quality of instruction in the classroom. It cannot be overstated that the best teachers produce the best students. Unless the quality of teaching improves, all other very worthwhile reforms, from smaller classes and higher salaries to newer buildings and computers in the classroom—are meaningless.

Good teachers are the backbone to a good education. Every student in America has a fundamental right to be taught by a skilled and well-prepared teacher. Teachers make all the difference in the learning process. America's classrooms are staffed with many dedicated, knowledgeable, and hard-working teachers. Studies show again and again that teacher expertise is one of the most important factors in determining student achievement.

Nevertheless, the case for sweeping reform is not difficult to make. The United States already spends more money per pupil than virtually any industrialized democracy in the world. Nonetheless, our children frequently score near the bottom in international exams in science and math. If the teacher-student relationship—which in my opinion is the most basic building-block in the educational process—is defective, no amount of resources will be able to turn bad schools into good schools. Throwing more money at the problem is no longer the answer. Again, real reforms are needed.

Mr. President, real education reform begins in America's classrooms. Any reform must include measures to ensure that teachers are qualified to teach the subjects they are teaching. To my dismay, I have learned that all across the country, many teachers are being assigned to teach classes for which they have no formal training. Consider these statistics:

One out of five English classes were taught by teachers who did not have at least a minor in English, literature, communications, speech, journalism, English education, or reading education.

One out of four mathematics classes were taught by teachers without at least a minor in mathematics or mathematics education.

Nearly 4 out of 10 life science or biology classes were taught by teachers without at least a minor in biology or life science.

More than half of physical science classes were taught by teachers without at least a minor in physics, chemistry, geology or earth science.

More than half of history or world civilization classes were taught by teachers who did not have at least a minor in history.

Students in schools with the highest minority enrollments have less than a 50% chance of getting a science or mathematics teacher who holds a license and a degree in the field he or she teaches.

Our schools and classrooms should be staffed with teachers who have the appropriate training and background. One way to determine this would be to test teachers on their knowledge of the subject areas they teach.

Teacher testing is an important first step toward upgrading the quality of classroom instruction. Testing would identify teachers who are not making the grade, and would enable principals to help weaker teachers improve. Much has been made about social promotion, where students are often pushed on to the next grade with his or her peers despite the fact that the student has not met the criteria needed to advance. In my opinion, teachers face social promotion too. They are kept on staff regardless of performance. That is wrong. States should measure the expertise of their teachers through periodic teacher testing.

Common sense also dictates that we should not concentrate all our attention on underperforming teachers. We must also recognize that there are many great teachers who are successfully challenging their students on a daily basis. Today, our public schools compensate teachers based almost solely on seniority, not on their performance inside the classroom. Merit-pay would differentiate between teachers who are hard-working and inspiring, and those who fall short.

The legislation we are introducing today, known as the MERIT ACT—which stands for Measures to Enhance Results in Teaching—is the same legislation that passed the Senate during debate on the Education Savings Accounts bill. It rewards states that test its teachers on their subject matter knowledge, and pays its teachers based on merit.

Here is how it works: we will make half of any additional funding over the FY 1999 level for the Eisenhower Professional Development Program available to states that periodically test elementary and secondary school teachers, and reward teachers based on merit and proven performance. There will be NO reduction in current funding to states under this program based on this legislation. As funding increases for this program, so will the amount each state receives. Incentives will and should be provided to those states that take the initiative to establish teacher testing and merit pay programs.

Again, I want to emphasize that all current money being spent on this program is unaffected by this legislation. Only additional money will be used as an incentive for states to enact teacher testing and merit pay programs.

Finally, this amendment enables states to also use federal education money to establish and administer teacher testing and merit pay programs. This broad approach will enable states to staff their schools with the best and most qualified teachers, thereby enhancing learning for all students. In turn, teachers can be certain that all of their energy, dedication and expertise will be rewarded. And it can be done without placing new mandates on states or increasing the federal bureaucracy.

Mr. President, as I pointed out earlier, the Senate has already debated this innovative approach when we considered the Education Savings Accounts bill. I was impressed that we passed the amendment with bipartisan support by a vote of 63–35, and that it was included in the Conference report sent to the President for his signature. I was disappointed, however, when the President vetoed that important legislation on July 22, 1998, despite his own earlier involvement in developing a teacher testing program in his home state of Arkansas while he was Governor.

As Governor, Bill Clinton enthusiastically supported teacher testing, and while Governor of South Carolina, Secretary of Education Richard Riley advocated a merit-pay plan. In fact, then-Governor Clinton in 1984 said that he was more convinced than ever that competency tests were needed to take inventory of teacher' basic skills. He said, "Teachers who don't pass the test shouldn't be in the classroom". Since coming to Washington, however, neither the President nor Secretary Riley has tried to do for the children of America what they as Governors fought to do for the children of their

own states. Our nation's children deserve better.

While Bill Clinton let an opportunity for true reform pass him by, I am encouraged by the recent action taken by the American Federation of Teachers. They, too, recognize that true reform begins in the classroom and that teacher quality must be at the heart of that reform. They recently passed a resolution affirming the need for improved teacher quality, which also states that they will take a more active role in reviewing teacher performance and dismissing teachers that cannot be helped. This same proposal was rejected two years ago by the Federation's membership. Again, I am encouraged by this change of heart. I am hopeful that we can work together with the AFT and any other organization interested in moving forward to improve teacher quality. While we may not agree on every approach, I would like to commence an ongoing dialogue on this important issue.

Mr. President, I must also point out how timely this legislation is in light of the recent reports out of the state of Massachusetts, which tested prospective teachers with a tenth-grade level exam. Sadly, 60 percent of those taking the test failed. It's unfortunate that the poor results of the test overshadow the positive contributions teachers make day in and day out to challenge the imagination of their students. That's why it's important to help teachers become the best they can be and to reward the outstanding teachers who are making a difference in the lives of our youth. Our children deserve nothing less. That's what this legislation does.

The President's lack of support for merit pay and teacher testing has only temporarily set back the call for excellence in education. But I will continue to press forward with plans to ensure that our classrooms are led by capable teachers, and I will continue the fight to give dedicated professionals who teach our children a personal stake in the quality of the instruction they provide. If we accomplish these reforms, and place the interests of students above the preservation of the status quo, then the extraordinary dynamism of the American people will continue, and the 21st Century will, once again, be the "American Century".

I hope there will again be broad, bipartisan support for this important initiative.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2422

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

SECTION 1. SHORT TITLE; FINDINGS; AND PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Measures to Encourage Results in Teaching Act of 1998".

(b) FINDINGS.—Congress makes the following findings:

(1) All students deserve to be taught by well-educated, competent, and qualified teachers.

(2) More than ever before, education has and will continue to become the ticket not only to economic success but to basic survival. Students will not succeed in meeting the demands of a knowledge-based, 21st century society and economy if the students do not encounter more challenging work in school. For future generations to have the opportunities to achieve success the future generations will need to have an education and a teacher workforce second to none.

(3) No other intervention can make the difference that a knowledgeable, skillful teacher can make in the learning process. At the same time, nothing can fully compensate for weak teaching that, despite good intentions, can result from a teacher's lack of opportunity to acquire the knowledge and skill needed to help students master the curriculum.

(4) The Federal Government established the Dwight D. Eisenhower Professional Development Program in 1985 to ensure that teachers and other educational staff have access to sustained and high-quality professional development. This ongoing development must include the ability to demonstrate and judge the performance of teachers and other instructional staff.

(5) States should evaluate their teachers on the basis of demonstrated ability, including tests of subject matter knowledge, teaching knowledge, and teaching skill. States should develop a test for their teachers and other instructional staff with respect to the subjects taught by the teachers and staff, and should administer the test every 3 to 5 years.

(6) Evaluating and rewarding teachers with a compensation system that supports teachers who become increasingly expert in a subject area, are proficient in meeting the needs of students and schools, and demonstrate high levels of performance measured against professional teaching standards, will encourage teachers to continue to learn needed skills and broaden teachers' expertise, thereby enhancing education for all students.

(c) PURPOSES.—The purposes of this Act are as follows:

(1) To provide incentives for States to establish and administer periodic teacher testing and merit pay programs for elementary school and secondary school teachers.

(2) To encourage States to establish merit pay programs that have a significant impact on teacher salary scales.

(3) To encourage programs that recognize and reward the best teachers, and encourage those teachers that need to do better.

SEC. 2. STATE INCENTIVES FOR TEACHER TESTING AND MERIT PAY.

(a) AMENDMENTS.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended—

(1) by redesignating part D as part E;

(2) by redesignating sections 2401 and 2402 as sections 2501 and 2502, respectively; and

(3) by inserting after part C the following:

"PART D—STATE INCENTIVES FOR TEACHER TESTING AND MERIT PAY

"SEC. 2401. STATE INCENTIVES FOR TEACHER TESTING AND MERIT PAY.

"(a) STATE AWARDS.—Notwithstanding any other provision of this title, from funds described in subsection (b) that are made available for a fiscal year, the Secretary shall make an award to each State that—

"(1) administers a test to each elementary school and secondary school teacher in the State, with respect to the subjects taught by the teacher, every 3 to 5 years; and

"(2) has an elementary school and secondary school teacher compensation system that is based on merit.

"(b) AVAILABLE FUNDING.—The amount of funds referred to in subsection (a) that are available to carry out this section for a fiscal year is 50 percent of the amount of funds appropriated to carry out this title that are in excess of the amount so appropriated for fiscal year 1999, except that no funds shall be available to carry out this section for any fiscal year for which—

"(1) the amount appropriated to carry out this title exceeds $600,000,000; or

"(2) each of the several States is eligible to receive an award under this section.

"(c) AWARD AMOUNT.—A State shall receive an award under this section in an amount that bears the same relation to the total amount available for awards under this section for a fiscal year as the number of States that are eligible to receive such an award for the fiscal year bears to the total number of all States so eligible for the fiscal year.

"(d) USE OF FUNDS.—Funds provided under this section may be used by States to carry out the activities described in section 2207.

"(e) DEFINITION OF STATE.—For the purpose of this section, the term 'State' means each of the 50 States and the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

SEC. 3. TEACHER TESTING AND MERIT PAY.

(a) IN GENERAL.—Notwithstanding any other provision of law, a State may use Federal education funds—

(1) to carry out a test of each elementary school or secondary school teacher in the State with respect to the subjects taught by the teacher; or

(2) to establish a merit pay program for the teachers.

(b) DEFINITIONS.—In this section, the terms "elementary school" and "secondary school" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

Mr. D'AMATO. Mr. President, I rise with my friend and colleague, Senator MACK, to introduce the MERIT Act. The MERIT Act seeks to reward those teachers who provide, day in and day out, magic in the classrooms, to reward them with a salary to match their importance. We should develop a methodology of rewarding those truly outstanding teachers and seeing to it that we keep them, retain them. Truly outstanding teachers are the unsung heroes of our communities. Unfortunately, however, great education does not take place for every child in every classroom, and that is sad. But it is something we can strive for and work to change.

The bill that Senator MACK and I introduce comes on the heels of receiving some discouraging news, news from Massachusetts where a test of prospective teachers was given and nearly 60 percent of them failed. It was a test at the eighth-grade level. I firmly believe

that most New York teachers are very good. But, nonetheless, I must ask the question, Why not have the best? Why not reach out to them? Why not attract them?

The Massachusetts test was a good idea, but we should also give periodic competency tests to teachers who are already in the system. Most teachers are very dedicated and highly competent, but some are not. Some teachers who are highly skilled in one or two subject areas may be forced to teach other subjects in which they lack the competence. When that happens, our children are the ones who suffer.

Another desperately needed reform is merit pay for outstanding teachers. We must reward the best teachers. In most of our Nation's schools there is no financial incentive for the truly outstanding teachers. Great teachers, who help our children achieve educational excellence, should be rewarded.

The measure introduced today by Senator MACK and myself, the MERIT Act, is the same measure that passed the Senate on April 21 by a vote of 63 to 35. This legislation provides incentives for States to establish periodic teacher assessments and merit rewards. Incentives are provided through the Eisenhower Professional Development Program. The measure sets aside 50 percent of the funds appropriated over the fiscal year 1999 levels in the program, and then distributes them to States that have established teacher testing and merit pay. Last year, fiscal year 1998, Congress appropriated $335 million for this program to subsidize training for teachers. That is an increase of $25 million from the year before. Should we not be able to use this program to ensure that teachers are actually improving their teaching skills, as well as substantive knowledge? Teacher testing will help accomplish that goal.

But let me be clear. As the Eisenhower Professional Development Program funding increases, so will each State and local government's share, with 50 percent of the increase reserved for those States that put in place a mechanism by which to periodically measure the ability, knowledge, and skills of teachers, and implement a pay scale to reward those determined and dedicated teachers. When we look at reforming our public schools, one thing must always be kept foremost in our efforts, and that is, we must put our children first. Our children are the best and the brightest. They are our most precious resource.

So, when it comes to recruiting and retaining the best young professionals, I believe, in order to do that, we are going to have to pay them adequately. We are going to have to reward their accomplishments and see to it that the truly outstanding are rewarded with merit pay so we can assure our children get that opportunity. I hope our colleagues will join in this effort to improve America's schools and help prepare our children for the 21st century.

By Mr. ABRAHAM:

S. 2423. A bill to improve the accuracy of the budget and revenue estimates of the Congressional Budget Office by creating an independent CBO Economic Council and requiring full disclosures of the methodology and assumptions used by CBO in producing the estimates; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE CONGRESSIONAL BUDGET OFFICE IMPROVEMENT ACT OF 1998

• Mr. ABRAHAM. Mr. President, I introduce legislation to improve the accuracy of Congressional Budget Office estimates.

Congress places enormous demands on the professionals working in the CBO. Day after day, year after year these dedicated men and women are asked to provide estimates and projections on which legislators rely in carrying out their public responsibilities. Their hard work and professionalism are well known and they deserve our gratitude for the excellent job they do.

However, Mr. President, CBO estimates and projections are only as good as the assumptions on which they are based. No matter how dedicated and hard-working they are, they are limited by the tools at their disposal. And recent experience shows that those tools require improvement.

Mr. President, there was a great deal of surprise, both in this Chamber and across the country, when the CBO released its latest estimates regarding federal budget surpluses. In January of this year the CBO had projected a $5 billion deficit for 1998, with surpluses of $127 billion for the period 1998–2003 and $655 billion for the period 1998–2008. But in its July budget update, the CBO projected a $63 billion surplus for 1998, a $583 billion surplus for the period 1998–2003, and a $1,611 billion surplus for the period 1998–2008.

Those are massive discrepancies, Mr. President, and they have a significant impact on our ability to legislate. Coming so late in the session, these new estimates are not as helpful as they could have been in helping shape our fiscal policies. What they mean, in essence, is that Congress has been determining its budgets and appropriations with inaccurate revenue estimates.

What is more, Mr. President, it does not appear that the accuracy of CBO projections will improve without Congressional action. Current CBO policy calls for basing estimates on the assumption that federal revenues will grow more slowly than Gross Domestic Product. This despite the long-standing trend of revenues outpacing GDP. Thus we can look forward to revenue estimates in the future that remain significantly lower than actual revenues.

Without accurate revenue estimates, Mr. President, we cannot properly address tax reform and general fiscal policy. Indeed, without knowing the level of federal revenues with a significant degree of accuracy we cannot properly and responsibly budget for the federal government. We must establish a fair and accurate mechanism for estimating federal revenue.

That is why I am introducing the CBO Improvement Act. This legislation is based on a bill introduced in the 102nd Congress by Representatives NEWT GINGRICH, DICK ARMEY and Robert Michel. It would provide CBO with the expert, hands-on oversight necessary to improve the accuracy of its estimates.

To begin with, Mr. President, this legislation would establish a Congressional Budget Board to provide general oversight of CBO operations, oversee studies and publications that may be necessary in addition to those CBO is required by law to produce, and provide guidance to the CBO Director in the formulation and implementation of procedures and policies. This board would be made up of 6 members each from the Senate and the House of Representatives, half from each party.

In addition to its oversight function, the Board will establish an Economic Advisory Council. This Council will evaluate CBO research for the Board. It will be composed of 12 members, each prominent in the fields of public finance, economics of taxation and microeconomics and macroeconomics.

Finally, Mr. Chairman, under this legislation any CBO report to Congress or the public that contains an estimate of the effect that legislation will have on revenues or expenditures shall be accompanied by a written statement fully disclosing the economic, technical, and behavioral assumptions that were made in producing the estimate. By making these assumptions public, we can provide an opportunity for outside experts, whether in business or academia, to evaluate them and offer suggestions for improvement.

By establishing this kind of oversight and accountability, Mr. President, we can ensure that in the future the CBO will base its revenue estimates on assumptions that better reflect reality. No one is questioning the dedication or skill of CBO employees. But we must see to it that they are given the appropriate tools to carry out their jobs in the best manner possible. Only in this way can Congress fulfill its duty to pass legislation in keeping with economic reality as well as the best interests of the American people.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that two articles, one written by economist Bruce Bartlett and appearing in the July 6 Washington Times, the other a Congressional advisory dated July 22 from the Institute for Research on the Economics of Taxation, be printed in the RECORD.

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

[From the Washington Times, July 6, 1998]

REVENUE PITCH LOW AND INSIDE

(By Bruce Bartlett)

Many Republicans believe the main barrier to enactment of a large tax cut this year is the Congressional Budget Office (CBO), because it is low-balling its forecast of future federal revenues. They think revenues next year will come in substantially higher than CBO is predicting, allowing for a significantly larger tax cut than Congress is currently contemplating, without endangering the balanced budget. They note that last year CBO underestimated federal revenues by $72 billion and they suspect revenues may be underestimated by a similar magnitude this year.

On June 23, CBO Director June O'Neill responded to her critics in a letter to House Speaker Newt Gingrich. She argued that everyone, not just the CBO, underestimated revenues last year.

Mrs. O'Neill pointed out that CBO's deficit forecasts were close to those made by the Office of Management and Budget and private forecasters. In short, CBO did as well as economic science allowed and should not be singled out for blame when no one else did much better.

This is a strong argument. Nevertheless, CBO's estimate of future revenues does seem to be unusually conservative. As the figure indicates, CBO is predicting that revenues will grow more slowly than gross domestic product (GDP) over the next decade. Generally, because our tax system is progressive, revenues grow faster than GDP. Throughout the postwar period revenues grew by 0.6 percent per year more than GDP. In the last 10 years, revenues grew even faster—0.9 percent more than GDP. If CBO's GDP estimate is correct, one would ordinarily expect between 5.2 percent and 5.5 percent growth in future revenues, rather than the 4.5 percent growth that is projected.

Mrs. O'Neill does not give a satisfactory explanation for why revenues are expected to grow so much more slowly than they have grown historically. Her main point seems to be that there is bound to be a recession some time in the next decade and that this will cause revenue growth to slow. But the impact of past recessions is already incorporated into the historical data on growth of actual revenues. So it seems odd for the CBO in effect to predict a future recession will have an impact on revenues much greater than those in the past.

No one is suggesting that the CBO is deliberately fudging its numbers for some political purpose. However, Congress is entitled to raise questions about the accuracy of the numbers it must rely upon when making important decisions about taxing and spending. The questions that have been raised about CBO's revenue forecasts are legitimate and deserve a better response than it has provided.

IRET CONGRESSIONAL ADVISORY

(By Michael A. Schuyler)

ARE CBO BUDGET PROJECTIONS STILL UNDERSTATED?

Confronted with a torrent of tax dollars, the Congressional Budget Office (CBO) has revised its surplus projections upward several times in 1998. In January, the CBO had projected a $5 billion deficit for 1998 but surpluses of $127 billion for 1998–2003 and $655 billion for 1998–2008. In March, the CBO changed its 1998 forecast to an $8 billion surplus but added only $11 billion to projected surpluses for all subsequent years. In May, as tax revenues continued to pour into Washington, the CBO upped its 1998 forecast to a $43–$63 billion surplus, raised its 1999 forecast to a $30–$40 billion surplus, but said it expected the changes for years beyond then to be "smaller amounts." In its July budget update, the CBO projects a $63 billion surplus for 1998, an $80 billion surplus for 1999, a $583 billion surplus for 1998–2003, and a $1,611 billion surplus for 1998–2008. These are enormous numbers, but they may still be too low.

For several years, federal revenues have climbed substantially more rapidly than nominal gross domestic product (GDP). Between fiscal years 1995 and 1998, for example, nominal GDP growth averaged a 5.3% annually while revenue growth topped that by 3 percentage points yearly, averaging 8.3% annually; for fiscal year 1998 alone, nominal GDP is expected to increase 5.2% while revenues jump 8.7%. The CBO's projections, however, assume that this pattern is suddenly about to reverse itself. According to the CBO, revenues will increase only slightly more rapidly than nominal GDP in 1999, considerably more slowly than nominal GDP in fiscal years 2000, 2001, 2002, and 2003, and generally no faster than nominal GDP in subsequent years.

If the CBO had projected that revenue growth would merely match nominal GDP growth, the 1998–2003 surplus would be $167 billion greater than it currently projects and the 1998–2008 surplus would be $570 billion greater, boosting the 11-year total to more than $2.1 trillion.

The surpluses currently being projected indicate that policymakers now have a major opportunity to reform the troubled U.S. tax system in ways that would substantially reduce both its inefficiencies and its complexity. If the actual surpluses prove to be higher, the opportunity to make positive tax changes would be even greater. Unfortunately, unreasonably low CBO projections may deter policymakers from acting on this opportunity.

Another consideration for policymakers is that, except for a brief period during World War II, federal revenues have never commandeered a larger share of GDP than they are now (20.5%). It is only by postulating that revenues will suddenly grow more slowly than GDP that the CBO can project a reduction in the revenue-GDP ratio without the need for a tax cut. If the historical relationship holds and taxes are not reduced, the government will be setting new records every year in the share of people's productive output it is taking away in taxes.

Despite the CBO's projection, two lines of reasoning suggest that, unless there is tax relief, revenues are likely to continue growing faster than nominal GDP is attributable to inflation, and inflation would push up taxes and nominal GDP at equal rates even if the tax code were fully indexed for inflation. In actuality, because many tax provisions lack inflation protection (some examples are the alternative minimum tax's exempt amount, the income threshold for taxing social security benefits, the computation of capital gains, and the corporate income tax's progressive rate schedule), the government reaps an inflation dividend from taxpayers (albeit a much smaller inflation dividend from taxpayers (albeit a much smaller inflation dividend that before the Reagan Administration introduced inflation indexing in the 1980s.) thus, to the extent nominal GDP increases because of inflation, federal revenues would be expected to increase as rapidly or more rapidly than nominal GDP.

In addition, nominal GDP increases because of real growth in the economy. Some real growth occurs simply because population is increasing. Real growth from this source tends to increase federal revenues at the same rate as GDP. Real growth also occurs, though, because people are becoming more productive over time, resulting in rising wages and incomes. Because the tax system is progressive, real growth per capita pushes people into higher tax brackets, which causes the government to take a larger share of their incomes. (Tax indexing does not cover real wage growth. In fact, even if the CPI slightly overstated inflation, tax indexing does not fully offset the combined effects on real tax collections of productivity-related wage hikes and inflation.) Thus, the portion of real growth attributable to higher population will tend to raise federal revenues in line with GDP increases and the portion attributable to higher productivity will tend to boost revenues relative to GDP. Either way, there is no explanation for revenues growing more slowly than GDP.

The Taxpayer Relief Act of 1997 (TRA–97) included some tax reductions phased in over several years. Could the phased-in tax cuts of TRA–97 explain why the CBO is projecting such slow relative growth in federal revenues? No, even if TRA–97's changes are added back to revenues, the CBO is still projecting that revenues will grow more slowly than nominal GDP.

Another possible explanation for revenues suddenly growing more slowly than GDP would be a redistribution of GDP from taxpayers subject to high tax rates to taxpayers subject to low tax rates. Among those taxed at higher rates are corporations, and the CBO does project that corporate profits as a share of GDP will decline somewhat over the next five years. But this does not explain the revenue slowdown. The CBO's projection for revenue growth, excluding corporate income taxes, is not quite as slow as the CBO's projected growth rate for all revenues, but it still trails GDP growth for several years starting in 2000 and then in later years grows no more rapidly.

Tax collections have been running much higher than the CBO had previously forecast mainly in the area of personal income not subject to withholding. Due to the government's slowness in analyzing tax return data, the sources of that taxable income are not yet known with certainty. Two oftenmentioned possibilities are non-corporate business income and capital gains realizations. Business income has been strong and capital gains realizations have been bolstered by lower tax rates and a strong stock market. If business income and capital gains realizations are the sources of the robust revenue growth, there is no reason to expect them to evaporate, barring undesirable policy changes such as higher taxes, more government regulations, or higher inflation.

The CBO argues, however, that because the sources of the higher-than-it-expected taxable income are not yet entirely clear, the

income from those sources should be assumed to be atypically high in 1998, and the CBO arbitrarily excludes part of it in projecting future taxable income and tax collections. This arbitrary exclusion is a key reason the CBO projects that revenues will increase more slowly than GDP for several years and then increase no more rapidly. As explained, this result is peculiar because, unless taxes are cut from time to time, revenues tend to increase relative to GDP due to inflation and real growth.

The uncertainty about the source of higher-than-anticipated current revenues could be resolved very quickly if the Internal Revenue Service immediately analyzed a sample of recently received tax returns. With literally billions of dollars of tax relief perhaps hanging in the balance, such a sample should be examined at once.

In the discussion thus far, it has been assumed that the CBO's assumptions about GDP growth are accurate. In reality, they may be too pessimistic—especially if pro-productivity tax relief is enacted to invigorate the U.S. economy. The CBO assumes that real GDP will grow less than 2.2% annually over the next decade and that for most of the period the unemployment rate will be more than a percentage point higher than it is presently. The CBO is apparently still wedded to the idea of the Phillips curve and cannot believe that unemployment much under 6% can coexist for very long with low inflation. If the CBO did not assume the economy would expand so little in the future, its revenue projection would be much higher (the size of the economy is one of the most powerful determinants of tax revenues), leading to far larger surpluses.

The strong possibility that the CBO is still underestimating budget surpluses underscores the desirability of tax relief. As surpluses mount, there is less and less reason to endure tax inefficiencies and complexities that could be corrected through well designed relief.

Changes that ease anti-production tax biases will tend to strengthen the economy and sustain the economic expansion, leading to further benefits for everyone, and recouping much of the static revenue loss in the process. In contrast, if tax relief is not forthcoming, the American people may be condemned to paying a steadily mounting share of their incomes and output to the government, weakening the economy and income growth in the process. Further, while some claim that Washington will use the projected surpluses to pay off the federal debt, a more realistic appraisal is that Washington will soon channel into increased government spending whatever it does not relinquish through tax cuts, notwithstanding the waste, inefficiency, and perverse incentives of many government spending programs.

Note: Nothing here is to be construed as necessarily reflecting the views of IRET or as an attempt to aid or hinder the passage of any bill before the Congress.●

By Mr. SESSIONS (for himself, Mr. GRAHAM, Mr. MCCONNELL, and Mr. COVERDELL):

S. 2425. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education; to the Committee on Finance.

"THE COLLEGIATE LEARNING AND STUDENT SAVINGS ACT"

Mr. SESSIONS. Mr. President, I rise today to introduce "The Collegiate Learning and Student Savings Act" a common sense piece of legislation which will help more than 2.5 million students afford a college education.

This legislation, cosponsored by Senators BOB GRAHAM, MITCH MCCONNELL and PAUL COVERDELL, will allow private colleges and universities to establish prepaid tuition plans and allow a family's investment in ALL state or private tuition savings and prepaid plans to be tax-free.

Let me take a few minutes to discuss the concept of prepaid tuition plans and why they are critically important to America's families.

As a parent who has put two children through college and who has another currently enrolled in college, I know first-hand that America's families are struggling to meet the rising costs of higher education. In fact, American families have already accrued more college debt in the 1990s than during the previous three decades combined. The reason is twofold: the federal government subsidizes student debt with interest rate breaks and penalizes educational savings by taxing the interest earned on that savings.

In recent years, however, many families have tackled rising tuition costs by taking advantage of pre-paid college tuition plans. These plans allow families to purchase tuition credits years in advance. Thanks to innovative programs already established by 17 states, like my home state of Alabama, parents can actually lock in today's tuition rates for tomorrow's education.

Congress has supported participating families by expanding the scope of the pre-paid tuition plans and by deferring the taxes on the interest earned until the student goes off to college.

My legislation, modeled after the efforts of the House Ways and Means Chairman BILL ARCHER and Senator COVERDELL's efforts on the "A+ Education Accounts" bill, will make earnings in state AND private education pre-paid plans completely tax-free.

Currently, most of the interest earned by families saving for college is taxed twice. Families are taxed on the income they earn and then again on the interest they earn through savings. On the other hand, the federal government subsidizes student loans by deferring interest payments until graduation. It is no wonder that families are struggling to save for college and instead are going heavily into debt. This trend must not continue.

In order to provide families a new alternative, "The Collegiate Learning and Student Savings Act" will provide tax-free treatment to all pre-paid plans for public and private colleges and universities. This would place all savings plans and all schools on an equal playing field.

This bipartisan piece of legislation would not only provide American families with more than $1 billion dollars in much-needed tax relief over the next decade, but would also help control the cost of college for all students. In fact, the track record of existing state prepaid plans indicates that working, middle-income families, not the rich, benefit the most from pre-paid plans.

Mr. President, It is erroneous to assume that tuition savings and prepaid plans benefit mainly the wealthy. In fact, the experience of existing state plans indicates that working, middle-income families benefit most. For example, families with an annual income of less than $35,000 purchased 62 percent of the prepaid tuition contracts sold by Pennsylvania in 1996. The average monthly contribution to a family's college savings account during 1995 in Kentucky was $43.

Prepaid tuition plans must become law. The federal government can no longer subsidize student debt with interest rate breaks and penalize educational savings by taxing the interest earned by families who are trying to save for college. Both public and private prepaid tuition plans should be held equal by the federal government and must be completely tax free. If these goals are achieved, the federal government would be providing families the help they need to meet the cost of college through savings rather than through debt.

Mr. President, American families accumulated more college debt during the first five years of the 1990s than in the previous three decades combined. Recognizing that this trend cannot continue, several states have established tuition savings and prepaid tuition plans. Now, a nationwide consortium of more than 50 private schools, with more than 1 million alumni, has launched a similar plan for private institutions. These plans are extremely popular with parents, students, and alumni. They make it easier for families to save for college, and the prepaid tuition plans also take the uncertainty out of the future cost of college.

"The Collegiate Learning and Student Savings Act" eliminates the double taxation that exists on interest earned through the programs and ends the disparity that currently exists between public and private colleges.

Mr. President, I would like to thank the cosponsors of "The Collegiate Learning and Student Savings Act", Senators GRAHAM, MCCONNELL and COVERDELL, for their assistance and dedication to this issue.

ADDITIONAL COSPONSORS

S. 246

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 246, a bill to amend title XVIII of the Social Security Act to provide greater flexibility and choice under the medicare program.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Oregon (Mr.

WYDEN) was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 388

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 388, a bill to amend the Food Stamp Act of 1977 to assist States in implementing a program to prevent prisoners from receiving food stamps.

S. 413

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.

S. 1195

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1195, a bill to promote the adoption of children in foster care, and for other purposes.

S. 1215

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1215, a bill to prohibit spending Federal education funds on national testing.

S. 1225

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1225, a bill to terminate the Internal Revenue Code of 1986.

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1520

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1520, a bill to terminate the Internal Revenue Code of 1986.

S. 1581

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1581, a bill to reauthorize child nutrition programs, and for other purposes.

S. 1759

At the request of Mr. HATCH, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1759, supra.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1929

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2049

At the request of Mr. KERREY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2099

At the request of Mr. CAMPBELL, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 2099, a bill to provide for enhanced Federal sentencing guidelines for counterfeiting offenses, and for other purposes.

S. 2141

At the request of Mr. CAMPBELL, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2141, a bill to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes.

S. 2145

At the request of Mr. SHELBY, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 2145, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 2180

At the request of Mr. LOTT, the names of the Senator from New York (Mr. D'AMATO) and the Senator from Ohio (Mr. GLENN) 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. 2201

At the request of Mr. TORRICELLI, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2201, a bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network.

S. 2217

At the request of Mr. FRIST, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2263

At the request of Mr. GORTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2263, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health with respect to research on autism.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2308

At the request of Mr. GRAHAM, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 2308, a bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

S. 2354

At the request of Mr. BOND, the name of the Senator from Louisiana (Ms. LANDRIEU) 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. 2364

At the request of Mr. CHAFEE, the names of the Senator from New York (Mr. D'AMATO) and the Senator from Virginia (Mr. ROBB) were added as cosponsors of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2366

At the request of Mr. JOHNSON, the name of the Senator from Colorado

(Mr. CAMPBELL) was added as a cosponsor of S. 2366, a bill to amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self- Determination Act of 1996 shall be treated for purposes of the low-income housing credit in the same manner as comparable assistance.

S. 2370

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of 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".

S. 2371

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. 2371, a bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates and to provide tax incentives for farmers.

At the request of Mr. HAGEL, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2371, supra.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of Senate Concurrent Resolution 94, A concurrent resolution supporting the religious tolerance toward Muslims.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. DORGAN, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of Senate Concurrent Resolution 108, A concurrent resolution recognizing the 50th anniversary of the National Heart, Lung, and Blood Institute, and for other purposes.

SENATE RESOLUTION 264—DESIGNATING OCTOBER 8, 1998 AS THE DAY OF NATIONAL CONCERN ABOUT YOUNG PEOPLE AND GUN VIOLENCE

Mrs. MURRAY (for herself and Mr. KEMPTHORNE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 264

Whereas every day in America, 15 children under the age of 19 are killed with guns;

Whereas in 1994, approximately 70 percent of murder victims aged 15 to 17 were killed with a handgun;

Whereas in 1995, nearly 8 percent of high school students reported having carried a gun in the past 30 days;

Whereas young people are our Nation's most important resource, and we, as a society, have a vested interest in helping children grow from a childhood free from fear and violence into healthy adulthood;

Whereas young people can, by taking responsibility for their own decisions and actions, and by positively influencing the decisions and actions of others, help chart a new and less violent direction for the entire Nation;

Whereas students in every school district in the Nation will be invited to take part in a day of nationwide observance involving millions of their fellow students, and will thereby be empowered to see themselves as significant agents in a wave of positive social change; and

Whereas the observance of this day will give American students the opportunity to make an earnest decision about their future by voluntarily signing the "Student Pledge Against Gun Violence", and sincerely promise that they will never take a gun to school, will never use a gun to settle a dispute, and will use their influence to prevent friends from using guns to settle disputes: Now, therefore, be it

Resolved, That (1) the Senate designates October 8, 1998, as "the Day of National Concern About Young People and Gun Violence"; and

(2) the President should be authorized and requested to issue a proclamation calling upon the school children of the United States to observe that day with appropriate ceremonies and activities.

• Mrs. MURRAY. Mr. President, I submit a resolution that passed the Senate last year unanimously. My resolution, which I am introducing today with Senator KEMPTHORNE and more than 50 original cosponsors, establishes October 8 as the Day of Concern about Young People and Gun Violence.

Tragically, this resolution has special meaning for all of us after the events of last Friday. While, thankfully, no children were directly involved in the slayings of Officer Jacob Chestnut and Special Agent John Gibson, certainly the officers' children and young people across the nation were hurt and horrified by the violence that occurred in our nation's Capitol.

I am once again submitting this resolution because I am convinced the best way to prevent gun violence is by reaching out to individual children and helping them make the right decisions. This resolution gives parents, teachers, government leaders, service clubs, police departments, and others a special day to focus on the problems today of young people and gun violence. October is National Crime Prevention Month—the perfect time to center our attention of the special needs of our kids and gun violence.

A Minnesota Homemaker, Mary Lewis Grow, developed this idea for a "Day of Concern for Young People and Gun Violence". Other groups, such as Mothers Against Violence in America, the National Parent Teacher Association, and the American Medical Association have joined the effort to establish a special day in which to express our concern about our children and gun violence. The proclamation of a special day of recognition also provided support to a national effort to encourage students to sign a pledge against gun violence. In 1997, 47,000 students in Washington State signed the pledge card, as did more than 200,000 children in New York City, and tens of thousands more across the nation.

The Student Pledge Against Gun Violence calls for a national observance on October 8 to give students the chance to make a promise, in writing, that they will do their part to prevent gun violence. The students' pledge promises three things: (1) they will never carry a gun to school; (2) they will never resolve a dispute with a gun; and (3) they will use their influence with friends to discourage them from resolving disputes with guns.

Just think of the lives we could have saved if all students had signed—and lived up to—such a pledge last year. Consider that in the months between today and the day we demonstrated our concern about youth violence last year, we've had an outbreak of school violence. Eleven students and two teachers have been killed and more than 40 students have been wounded in shootings by children. In addition, we've lost thousands of children in what has become the all-too-common violence of drive-by shootings, drug wars, and other crime and in self-inflicted and unintentional shootings.

Last year, Senator KEMPTHORNE and I led the cosponsorship drive of this resolution after his 17-year-old neighbor was murdered by a 19-year-old in a random act of violence in Washington state. Ann Harris' parents vowed to transform their grief into an opportunity to help teach our young people to care about each other and to stop the violence. We both pledged our support.

We all have been heartened by statistics showing crime in America on the decline. Many factors are involved, including community-based policing, stiffer sentences for those convicted, youth crime prevention programs, and population demographics. None of us intend to rest on our success because we still have far, far too much crime and violence in this society.

So, we must find the programs that work and focus our limited resources on those. We must get tough on violent criminals—even if they are young—to protect the rest of society from their terrible actions. And we, each and every one of us, must make time to spend with our children, our neighbor's children, and the children who have no one else to care about them. Only when we reach out to our most vulnerable citizens—our kids—will we drop youth violence to zero.

Mr. President, I urge all of my colleagues to join in this simple effort to focus attention on gun violence among youth by proclaiming October 8 the "Day of Concern about Young People and Gun Violence." We introduce this resolution today in the hopes of getting all 100 Senators to cosponsor this resolution prior to its passage, which we hope will occur in September. This is an easy step for us to help facilitate

the work that must go on in each community across America, as parents, teachers, friends and students try to prevent gun violence before it continues to ruin countless lives.●

SENATE RESOLUTION 265—COMMENDING THE NAVAL NUCLEAR PROPULSION PROGRAM ON ITS 50TH ANNIVERSARY

Mr. WARNER submitted the following resolution; which was considered and agreed to:

S. RES. 265

Whereas in 1948, Admiral (then Captain) Hyman G. Rickover first assembled his team of Navy professionals, other Government professionals, and contractor professionals that would adapt the relatively new technology of atomic energy to design and build the United States' fleet of nuclear-powered warships;

Whereas over the next seven years, Admiral Rickover and his team developed an industrial base in a new technology, pioneered new materials, designed and built a prototype reactor, established a training program, and took the world's first nuclear-powered submarine, the U.S.S. Nautilus, to sea thus ensuring America's undersea superiority;

Whereas since 1955, when the U.S.S. Nautilus first sailed, the Navy has put to sea 209 nuclear-powered ships whose propulsion plants have given the Navy unparalleled mobility, flexibility, and, additionally for submarines, stealth, with an outstanding record of safety;

Whereas during its 50 years of existence, the Naval Nuclear Propulsion Program has developed, built, and managed the operation of 246 nuclear reactors of more than 30 different designs with a combined total of 4,900 reactor years of operation, thereby leading the world in reactor construction, servicing, and operational experience;

Whereas since its inception, the Naval Nuclear Propulsion Program has trained over 90,000 reactor operators and the Navy's nuclear-powered warships have achieved over 113,000,000 miles of safe steaming on nuclear power; and

Whereas nuclear energy now propels more than 40 percent of the Navy's major combatant vessels and these nuclear-powered warships are accepted without reservation by over 50 countries and territories into 150 ports: Now, therefore, be it

Resolved, That—

(1) the Senate commends the past and present personnel of the Naval Nuclear Propulsion Program for the technical excellence, accomplishment, and oversight demonstrated in the program and congratulates those personnel for the 50 years of exemplary service that has been provided to the United States through the program; and

(2) it is the sense of the Senate that the Naval Nuclear Propulsion Program should be continued into the next millennium to provide exemplary technical accomplishment in, and oversight of, Naval nuclear propulsion plants and to continue to be a model of technical excellence in the United States and the world.

SENATE RESOLUTION 266—HONORING THE CENTENNIAL OF THE FOUNDING OF DEPAUL UNIVERSITY IN CHICAGO, ILLINOIS

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 266

Whereas 1998 marks the 100th anniversary of the founding of DePaul University in Chicago, Illinois, which is the largest Catholic university in the Nation with over 17,000 students;

Whereas DePaul University was originally founded by the Vincentian Fathers to teach immigrants who were otherwise denied access to a college education, and has been guided for the past 100 years by the mission to foster in higher education a deep respect for the God-given dignity of all persons and to instill in educated persons a dedication to the service of others;

Whereas DePaul University has matured into a major regional resource that drives the Illinois economy at many levels and with over 65,000 alumni who live and work in Illinois, DePaul graduates are prominent in the State's business community, the law profession and the judicial system, the educational institutions of the State, and music and theatre;

Whereas DePaul University is nationally recognized for the diversity of its faculty and student population as the University enrolls the largest combined number of African-American and Latino students of any private college or university in Illinois;

Whereas DePaul University has distinguished itself in such fields as education, business, performance art, telecommunications, and law;

Whereas the School of Education has provided the Chicago metropolitan area with many of its elementary and high school teachers, and has joined forces with the Chicago Public School system to develop innovative educational techniques;

Whereas DePaul University has a nationally ranked graduate School of Business, which is one of the largest in the United States, and a part-time MBA program that has received national recognition as 1 of the top 10 programs in the Nation for the past 4 years;

Whereas DePaul's School of Music and Theatre School are nationally recognized institutions;

Whereas DePaul's School of Computer Science, Telecommunication and Information Systems is the largest graduate school of its kind in the United States; and

Whereas the DePaul School of Law has produced many of Chicago's lawyers and jurists while obtaining an international reputation for its work in international human rights, and the International Criminal Justice and Weapons Control Center of DePaul University is working in support of the establishment of an International Criminal Court: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the important educational contributions that DePaul University has made to the State of Illinois and the Nation; and

(2) congratulates the students, alumni, faculty, and staff of DePaul University on the occasion of the centennial anniversary of the founding of DePaul University.

SENATE RESOLUTION 267—EXPRESSING THE SENSE OF THE SENATE RELATIVE TO THE PRESIDENT, THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, AND EMERGENCY RELIEF FOR THE PEOPLE OF SUDAN

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 267

Whereas the National Islamic Front regime in Khartoum, Sudan, continues to wage a brutal war against its own people in southern Sudan;

Whereas that war has already caused the death of more than 1,500,000 Sudanese since 1983;

Whereas famine conditions now threaten areas of southern Sudan as a direct consequence of the concerted and sustained effort by the regime in Khartoum to subdue its southern regions by force and including violations of basic human rights;

Whereas famine conditions are exacerbated by diversions of humanitarian assistance by armed parties on all sides of the conflict;

Whereas the United Nations World Food Program has now targeted 2,600,000 Sudanese for famine relief aid, to be distributed through an umbrella arrangement called "Operation Lifeline Sudan";

Whereas the regime in Khartoum retains the ability to deny the relief agencies operating in Operation Lifeline Sudan the clearance to distribute food according to needs in Sudan;

Whereas the regime in Khartoum has used humanitarian assistance as a weapon by routinely denying the requests by Operation Lifeline Sudan and its members to distribute food and other crucial items in needy areas of Sudan both within the Khartoum regime's control and areas outside the Khartoum regime's control, including the Nuba Mountains;

Whereas the United States Agency for International Development provides famine relief to the people of Sudan primarily through groups operating within Operation Lifeline Sudan and, thus, subjects that relief to the arrangement's associated constraints imposed by the regime in Khartoum;

Whereas several relief groups already operate successfully in areas of southern Sudan where Operation Lifeline Sudan has been denied access in the past, thus providing crucial assistance to the distressed population;

Whereas it is in the interest of the people of Sudan and the people of the United States, to take proactive and preventative measures to avoid any future famine conditions in southern Sudan;

Whereas the United States Agency for International Development, when it pursues assistance programs most effectively, encourages economic self-sufficiency;

Whereas assistance activities should serve as integral elements in preventing famine conditions in southern Sudan in the future;

Whereas the current international and media attention to the starving populations in southern Sudan and to the causes of the famine conditions that affect them have pushed the regime in Khartoum and the rebel forces to announce a tentative but temporary cease-fire to allow famine relief aid to be more widely distributed; and

Whereas the current level of attention weakens the resolve of the regime in Khartoum to manipulate famine relief for its own agenda: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President, acting through the United States Agency for International Development, should—

(A) aggressively seek to secure emergency famine relief for the people of Sudan who now face widespread starvation;

(B) immediately take appropriate steps to distribute that famine relief to affected areas in Sudan, including the use of relief groups operating outside the umbrella of Operation Lifeline Sudan and without regard to a group's status with respect to Operation Lifeline Sudan; and

(C) encourage and assist Operation Lifeline Sudan and the ongoing efforts to develop relief distribution networks for affected areas of Sudan outside of the umbrella and associated constraints of Operation Lifeline Sudan;

(2) both bilaterally and within the United Nations, the President should aggressively seek to change the terms by which Operation Lifeline Sudan and other groups are prohibited from providing necessary relief according to the true needs of the people of Sudan;

(3) the President, acting through the United States Agency for International Development, should—

(A) begin providing development assistance in areas of Sudan not controlled by the regime in Khartoum with the goal of building self-sufficiency and avoiding the same conditions which have created the current crisis, and with the goal of longer-term economic, civil, and democratic development, including the development of rule of law, within the overall framework of United States strategy throughout sub-Saharan Africa; and

(B) undertake such efforts without regard to the constraints that now compromise the ability of Operation Lifeline Sudan to distribute famine relief or that could constrain future multilateral relief arrangements;

(4) the Administrator of the United States Agency for International Development should submit a report to the appropriate congressional committees on the Agency's progress toward meeting these goals; and

(5) the policy expressed in this resolution should be implemented without a return to the *status quo ante* policy after the immediate famine conditions are addressed and international attention has decreased.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Administrator of the United States Agency for International Development.

AMENDMENTS SUBMITTED

RICKY RAY HEMOPHILIA RELIEF FUND ACT OF 1998

JEFFORDS AMENDMENT NO. 3483

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill (H.R. 1023) to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Ricky Ray Hemophilia Relief Fund Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEMOPHILIA RELIEF FUND

Sec. 101. Ricky Ray Hemophilia Relief Fund.
Sec. 102. Compassionate payment.
Sec. 103. Determination and payment.
Sec. 104. Limitation on transfer of rights and number of petitions.
Sec. 105. Time limitation.
Sec. 106. Certain claims not affected by payment.
Sec. 107. Limitation on agent and attorney fees.
Sec. 108. Definitions.

TITLE II—TREATMENT OF CERTAIN PRIVATE SETTLEMENT PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE MEDICAID AND SSI PROGRAMS

Sec. 201. Treatment of certain private settlement payments in hemophilia-clotting-factor suit under the Medicaid and SSI programs.

TITLE I—HEMOPHILIA RELIEF FUND

SEC. 101. RICKY RAY HEMOPHILIA RELIEF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Ricky Ray Hemophilia Relief Fund", which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on and proceeds from any such investment shall be credited to and become part of the Fund.

(c) AVAILABILITY OF FUND.—Amounts in the Fund shall be available only for disbursement by the Secretary of Health and Human Services under section 103.

(d) TERMINATION.—The Fund shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of the 5-year period, investments of amounts in the Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Fund, and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund to carry out this title $1,771,400,000.

SEC. 102. COMPASSIONATE PAYMENT.

(a) ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—If the conditions described in subsection (b) are met and if there are sufficient amounts in the Fund to make the payment involved, the Secretary shall make a single payment of $100,000 from the Fund to any individual—

(A) who—

(i) has an HIV infection; or

(ii) is diagnosed with AIDS; and

(B) who is described in paragraph (2).

(2) REQUIREMENT.—An individual described in this paragraph is any of the following individuals:

(A) An individual who—

(i) has any form of blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any time during the period beginning on July 1, 1982, and ending on December 31, 1987; or

(ii) was treated with HIV contaminated blood transfusion, HIV contaminated blood components, or HIV contaminated human tissue during the period beginning on January 1, 1982, and ending on March 31, 1985.

(B) An individual who—

(i) is the lawful spouse of an individual described in subparagraph (A); or

(ii) is the former lawful spouse of an individual described in subparagraph (A) and was the lawful spouse of the individual at any time after a date, within the applicable period described in such subparagraph, on which the individual was treated as described in such paragraph and through medical documentation can assert reasonable certainty of transmission of HIV from the individual described in such subparagraph.

(C) The individual acquired the HIV infection through perinatal transmission from a parent who is an individual described in subparagraph (A) or (B).

(b) CONDITIONS.—The conditions described in this subsection are, with respect to an individual, as follows:

(1) SUBMISSION OF MEDICAL DOCUMENTATION.—The individual submits to the Secretary written medical documentation that—

(A) the individual has (or had) an HIV infection; and

(B)(i) in the case of an individual described in subsection (a)(2)(A)(i), that the individual has (or had) a blood-clotting disorder, such as hemophilia, and was treated as described in such section; and

(ii) in the case of an individual described in subsection (a)(2)(A)(ii), the individual was treated with HIV contaminated blood transfusion, HIV contaminated blood components, or HIV contaminated human tissue provided by a medical professional during the period described in such subsection.

(2) PETITION.—A petition for the payment is filed with the Secretary by or on behalf of the individual.

(3) DETERMINATION.—The Secretary determines, in accordance with section 103(b), that the petition meets the requirements of this title.

SEC. 103. DETERMINATION AND PAYMENT.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Secretary of Health and Human Services shall establish procedures under which individuals may submit petitions for payment under this title.

(b) DETERMINATION.—For each petition filed under this title, the Secretary shall determine whether the petition meets the requirements of this title.

(c) PAYMENT.—

(1) IN GENERAL.—To the extent there are sufficient amounts in the Fund to cover each payment, the Secretary shall pay, from the Fund, each petition that the Secretary determines meets the requirements of this title in the order received.

(2) PAYMENTS IN CASE OF DECEASED INDIVIDUALS.—

(A) IN GENERAL.—In the case of an individual referred to in section 102(a)(1)(A)(ii) who is deceased at the time that payment is made under this section on a petition filed by or on behalf of the individual, the payment shall be made as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, the payment shall be made to such surviving spouse.

(ii) If the individual is not survived by a spouse described in clause (i), the payment

shall be made in equal shares to all children of the individual who are living at the time of the payment.

(iii) If the individual is not survived by a person described in clause (i) or (ii), the payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If the individual is not survived by a person described in clause (i), (ii), or (iii), the payment shall revert back to the Fund.

(B) FILING OF PETITION BY SURVIVOR.—If an individual eligible for payment under section 102(a) dies before filing a petition under this title, a survivor of the individual may file a petition for payment under this title on behalf of the individual if the survivor may receive payment under subparagraph (A).

(C) DEFINITIONS.—For purposes of this paragraph:

(i) The term "spouse" means an individual who was lawfully married to the relevant individual at the time of death.

(ii) The term "child" includes a recognized natural child, a stepchild who lived with the relevant individual in a regular parent-child relationship, and an adopted child.

(iii) The term "parent" includes fathers and mothers through adoption.

(3) TIMING OF PAYMENT.—The Secretary may not make a payment on a petition under this title before the expiration of the 120-day period beginning on the date of the enactment of this Act or after the expiration of the 5-year period beginning on the date of the enactment of this Act.

(d) ACTION ON PETITIONS.—The Secretary shall complete the determination required by subsection (b) regarding a petition not later than 120 days after the date the petition is filed under this title.

(e) HUMANITARIAN NATURE OF PAYMENT.—This Act does not create or admit any claim of or on behalf of the individual against the United States or against any officer, employee, or agent thereof acting within the scope of employment or agency that relate to an HIV infection arising from treatment described in section 102(a)(2). A payment under this Act shall, however, when accepted by or on behalf of the individual, be in full satisfaction of all such claims by or on behalf of that individual.

(f) ADMINISTRATIVE COSTS NOT PAID FROM FUND.—No costs incurred by the Secretary in carrying out this title may be paid from the Fund or set off against, or otherwise deducted from, any payment made under subsection (c)(1).

(g) TERMINATION OF DUTIES OF SECRETARY.—The duties of the Secretary under this section shall cease when the Fund terminates.

(h) TREATMENT OF PAYMENTS UNDER OTHER LAWS.—A payment under subsection (c)(1) to an individual—

(1) shall be treated for purposes of the Internal Revenue Code of 1986 as damages described in section 104(a)(2) of such Code;

(2) shall not be included as income or resources for purposes of determining the eligibility of the individual to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits, and such benefits shall not be secondary to, conditioned upon reimbursement from, or subject to any reduction because of receipt of, any such payment; and

(3) shall not be treated as a third party payment or payment in relation to a legal liability with respect to such benefits and shall not be subject (whether by subrogation or otherwise) to recovery, recoupment, reimbursement, or collection with respect to such benefits (including the Federal or State governments or any entity that provides such benefits under a contract).

(i) REGULATORY AUTHORITY.—The Secretary may issue regulations necessary to carry out this title.

(j) TIME OF ISSUANCE OF PROCEDURES.—The Secretary shall, through the promulgation of appropriate regulations, guidelines, or otherwise, first establish the procedures to carry out this title not later than 120 days after the date of the enactment of this Act.

SEC. 104. LIMITATION ON TRANSFER OF RIGHTS AND NUMBER OF PETITIONS.

(a) RIGHTS NOT ASSIGNABLE OR TRANSFERABLE.—Any right under this title shall not be assignable or transferable.

(b) 1 PETITION WITH RESPECT TO EACH VICTIM.—With respect to each individual described in subparagraph (A), (B), or (C) of section 102(a)(2), the Secretary may not make payment with respect to more than 1 petition filed in respect to an individual.

SEC. 105. TIME LIMITATION.

The Secretary may not make any payment with respect to any petition filed under this title unless the petition is filed within 3 years after the date of the enactment of this Act.

SEC. 106. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT.

A payment made under section 103(c)(1) shall not be considered as any form of compensation, or reimbursement for a loss, for purposes of imposing liability on the individual receiving the payment, on the basis of such receipt, to repay any insurance carrier for insurance payments or to repay any person on account of worker's compensation payments. A payment under this title shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 107. LIMITATION ON AGENT AND ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the petition of an individual under this title, more than 5 percent of a payment made under this title on the petition. Any such representative who violates this section shall be fined not more than $50,000.

SEC. 108. DEFINITIONS.

For purposes of this title:

(1) The term "AIDS" means acquired immune deficiency syndrome.

(2) The term "Fund" means the Ricky Ray Hemophilia Relief Fund.

(3) The term "HIV" means human immunodeficiency virus.

(4) Unless otherwise provided, the term "Secretary" means Secretary of Health and Human Services.

TITLE II—TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE SSI PROGRAM

SEC. 201. TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE MEDICAID AND SSI PROGRAMS.

(a) PRIVATE PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of—

(A) medical assistance under title XIX of the Social Security Act, or

(B) supplemental security income benefits under title XVI of the Social Security Act .

(2) PRIVATE PAYMENTS DESCRIBED.—The payments described in this subsection are—

(A) payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96–C–5024 (N.D. Ill.); and

(B) payments made pursuant to a release of all claims in a case—

(i) that is entered into in lieu of the class settlement referred to in subparagraph (A); and

(ii) that is signed by all affected parties in such case on or before the later of—

(I) December 31, 1997, or

(II) the date that is 270 days after the date on which such release is first sent to the persons (or the legal representative of such persons) to whom the payment is to be made.

(b) GOVERNMENT PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of supplemental security income benefits under title XVI of the Social Security Act.

(2) GOVERNMENT PAYMENTS DESCRIBED.—The payments described in this subsection are payments made from the fund established pursuant to section 101 of this Act.

• Mr. JEFFORDS. Mr. President, in October of last year I held a hearing on "HIV/AIDS: Recent Developments and Future Opportunities." A good portion of that hearing was devoted to a discussion on the blood crisis of the 1980s, resulting in the HIV infection of thousands of Americans who trusted that the blood or blood product with which they were treated was safe. Witnesses at the hearing included John Williams, the father of a child who contracted HIV from the clotting factor and died at the age of 18, and Donna McCullough, a young woman who contracted HIV when she received a blood transfusion after a miscarriage. Although Ms. McCullough remains relatively healthy, she lost her only son to AIDS. Ms. McCullough did not know of her own infection until her infant son was diagnosed.

The tragedy of the blood supply's infection has brought unbearable pain to families all over the country. I have heard from dozens, perhaps hundreds of them over the past months. As Mr. Williams testified, the community hit by this tragedy has found it nearly impossible to make recovery through the courts because of blood shield laws in most states that raise the burden of proof for product liability claims for blood and blood products. In addition, all States have statutes of limitations that prohibit litigation if the suit was not filed within a certain period of time. Other witnesses spoke of the stigma associated with HIV/AIDS and the hesitancy many felt to bring suit and thus be public about their infection.

My heart goes out to the victims and families of this terrible tragedy. I sincerely hope that we will, in this Congress, bring some peace to these families with the passage of the Ricky Ray Hemophilia Relief Fund Act. The House passed this bill by voice vote on May 19, 1998. Its companion in the Senate was introduced by Senators

DEWINE and GRAHAM, and I have pledged to move that bill forward in my Committee.

Sadly, the Ricky Ray bill as introduced does not include all victims of the blood supply crisis. I feel strongly that the bill we pass in the Senate must include not only hemophiliacs, but also people who received a blood transfusion or blood product in the course of medical treatment for other illnesses. Transfusion-associated AIDS victims are subject to the same laws that Mr. Williams mentioned. While in some cases individuals in this group were able to track the source of their infection and bring suit against the blood bank, the vast majority were not.

There is the perception that most transfusion cases recovered millions of dollars in court, and that is simply not the case. Fewer than 10%—and the most credible estimates put the number at 2%—of transfusion cases made any financial recovery. Even among those transfusion cases who reached settlement the majority recovered far less than the reputed millions, the average settlement for transfusion cases is more like $40,000.

I am introducing today an amendment to the House passed HR 1023 in the nature of a substitute. While the change to include transfusion cases increases the cost of this bill, many have already noted that this bill is not about money, it's about fairness. I urge my colleagues to join me in recognizing the terrible tragedy the blood supply crisis of the 1980s bestowed upon all of its victims.●

HEALTH PROFESSIONS EDUCATION PARTNERSHIPS ACT OF 1998

FRIST AMENDMENT NO. 3484

Mr. GORTON (for Mr. FRIST) proposed an amendment to the bill (S. 1754) A bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes; as follows:

Beginning on page 299, strike line 20 and all that follows through line 2 on page 300.

On page 300, line 3, strike "(d)" and insert "(c)".

Beginning on page 305, strike line 21 and all that follows through line 14 on page 306, and insert the following:

"SEC. 143. INSURANCE PROGRAM.

"Section 710(a)(2)(B) of".

DASCHLE AMENDMENT NO. 3485

Mr. GORTON (for Mr. DASCHLE) proposed an amendment to the bill, S. 1754, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Fetal Alcohol Syndrome and Fetal Alcohol Effect Prevention and Services Act".

(b) FINDINGS.—Congress finds that—

(1) Fetal Alcohol Syndrome is the leading preventable cause of mental retardation, and it is 100 percent preventable;

(2) estimates on the number of children each year vary, but according to some researchers, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effect, also known as Alcohol Related Neurobehavioral Disorder (ARND), a related and equally tragic syndrome;

(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1000) than children of those women who do not use alcohol (8.6 per 1000);

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effect are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effect are up to 30 times greater than national averages;

(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effect pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately $2,500,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least $1,400,000;

(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effect increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

(c) PURPOSE.—It is the purpose of this section to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effect nationwide and to provide effective intervention programs and services for children, adolescents and adults already affected by these conditions. Such program shall—

(1) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effect;

(2) coordinate, support, and conduct prevention and intervention studies as well as epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect;

(3) coordinate, support and conduct research and demonstration projects to develop effective developmental and behavioral interventions and programs that foster effective advocacy, educational and vocational training, appropriate therapies, counseling, medical and mental health, and other supportive services, as well as models that integrate or coordinate such services, aimed at the unique challenges facing individuals with Fetal Alcohol Syndrome or Fetal Alcohol Effect and their families; and

(4) foster coordination among all Federal, State and local agencies, and promote partnerships between research institutions and communities that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effect research, programs, surveillance, prevention, and interventions and otherwise meet the general needs of populations already affected or at risk of being impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effect.

(d) ESTABLISHMENT OF PROGRAM.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART O—FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES PROGRAM

"SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES PROGRAM.

"(a) FETAL ALCOHOL SYNDROME PREVENTION, INTERVENTION AND SERVICES DELIVERY PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effect prevention, intervention and services delivery program that shall include—

"(1) an education and public awareness program to support, conduct, and evaluate the effectiveness of—

"(A) educational programs targeting medical schools, social and other supportive services, educators and counselors and other service providers in all phases of childhood development, and other relevant service providers, concerning the prevention, identification, and provision of services for children, adolescents and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effect;

"(B) strategies to educate school-age children, including pregnant and high risk youth, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect;

"(C) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect; and

"(D) strategies to coordinate information and services across affected community agencies, including agencies providing social services such as foster care, adoption, and social work, medical and mental health services, and agencies involved in education, vocational training and civil and criminal justice;

"(2) a prevention and diagnosis program to support clinical studies, demonstrations and other research as appropriate to—

"(A) develop appropriate medical diagnostic methods for identifying Fetal Alcohol Syndrome and Fetal Alcohol Effect; and

"(B) develop effective prevention services and interventions for pregnant, alcohol-dependent women; and

"(3) an applied research program concerning intervention and prevention to support and conduct service demonstration projects, clinical studies and other research models providing advocacy, educational and vocational training, counseling, medical and mental health, and other supportive services, as well as models that integrate and coordinate such services, that are aimed at the unique challenges facing individuals with Fetal Alcohol Syndrome or Fetal Alcohol Effect and their families.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—The Secretary may award grants, cooperative agreements and contracts and provide technical assistance to eligible entities described in section 399H to carry out subsection (a).

"(c) DISSEMINATION OF CRITERIA.—In carrying out this section, the Secretary shall develop a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effect diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals.

"(d) NATIONAL TASK FORCE.—

"(1) IN GENERAL.—The Secretary shall establish a task force to be known as the National task force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (referred to in this subsection as the 'task force') to foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effect research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effect.

"(2) MEMBERSHIP.—The Task Force established pursuant to paragraph (1) shall—

"(A) be chaired by an individual to be appointed by the Secretary and staffed by the Administration; and

"(B) include the Chairperson of the Interagency Coordinating Committee on Fetal Alcohol Syndrome of the Department of Health and Human Services, individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and representatives from advocacy and research organization such as the Research Society on Alcoholism, the FAS Family Resource Institute, the National Organization of Fetal Alcohol Syndrome, the Arc, the academic community, and Federal, State and local government agencies and offices.

"(3) FUNCTIONS.—The Task Force shall—

"(A) advise Federal, State and local programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect, including programs and research concerning education and public awareness for relevant service providers, school-age children, women at-risk, and the general public, medical diagnosis, interventions for women at-risk of giving birth to children with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and beneficial services for individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effect and their families;

"(B) coordinate its efforts with the Interagency Coordinating Committee on Fetal Alcohol Syndrome of the Department of Health and Human Services; and

"(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies.

"(4) TIME FOR APPOINTMENT.—The members of the Task Force shall be appointed by the Secretary not later than 6 months after the date of enactment of this part.

"SEC. 399H. ELIGIBILITY.

"To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

"(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

"SEC. 399I. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $27,000,000 for each of the fiscal years 1999 through 2003.

"(b) TASK FORCE.—From amounts appropriate for a fiscal year under subsection (a), the Secretary may use not to exceed $2,000,000 of such amounts for the operations of the National Task Force under section 399G(d).

"SEC. 399J. SUNSET PROVISION.

"This part shall not apply on the date that is 7 years after the date on which all members of the national task force have been appointed under section 399G(d)(1).".

TECHNOLOGY ADMINISTRATION AUTHORIZATION ACT

FRIST (AND ROCKEFELLER) AMENDMENT NO. 3486

Mr. GORTON (for Mr. FRIST, for himself and Mr. ROCKEFELLER) proposed an amendment to the bill (S. 1325) to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes; as follows:

On page 11, line 2, after "receives" insert "from the government".

On page 11 strike lines 5 through 7 and insert the following: "shall not exceed one-third of the total costs of operation of a center under the program.".

On page 26 strike lines 6 through 18 and insert the following:

SEC. 17. FASTENER QUALITY ACT STANDARDS.

(a) AMENDMENT.—Section 15 of the Fastener Quality Act (15 U.S.C. 5414) is amended—

(1) by inserting "(a) TRANSITIONAL RULE.—" before "The requirements of this Act"; and

(2) by adding at the end the following new subsection:

"(b) AIRCRAFT EXEMPTION.—

"(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

"(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards of specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.".

(b) DELAYED IMPLEMENTATION OF REGULATIONS.—The regulations issued under the Fastener Quality Act by the National Institute of Standards and Technology on April 14, 1998, and any other regulations issued by the National Institute of Standards and Technology pursuant to the Fastener Quality Act, shall not take effect until after the later of June 1, 1999, or the expiration of 120 days after the Secretary of Commerce transmits to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a report on—

(1) changes in fastener manufacturing processes that have occurred since the enactment of the Fastener Quality Act;

(2) a comparison of the Fastener Quality Act to other regulatory programs that regulate the various categories of fasteners, and an analysis of any duplication that exists among programs; and

(3) any changes in that Act that may be warranted because of the changes reported under paragraphs (1) and (2).

The report required by this section shall be transmitted to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, by February 1, 1999.

FRIST AMENDMENT NO. 3487

Mr. GORTON (for Mr. FRIST) proposed an amendment to the bill, S. 1325, supra; as follows:

On page 17, strike lines 11 through 15.

MCCAIN AMENDMENT NO. 3488

Mr. GORTON (for Mr. MCCAIN) proposed an amendment to the bill, S. 1325, supra; as follows:

On page 11, after line 13, insert the following:

"(F) Environmental technology providers.".

JOINT RESOLUTION FINDING THE GOVERNMENT OF IRAQ IN UNACCEPTABLE AND MATERIAL BREACH OF ITS INTERNATIONAL OBLIGATIONS

LOTT AMENDMENT NO. 3489

Mr. GORTON (for Mr. LOTT) proposed an amendment to the resolution (S.J. Res. 54) finding the Government of Iraq in unacceptable and material breach of its international obligations; as follow:

Strike all after the resolving clause and insert the following:

"That the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action, in accordance with the Constitution and relevant laws for the United States, to bring Iraq into compliance with its international obligations."

AMERICAN GI FORUM LEGISLATION

HATCH AMENDMENT NO. 3490

Mr. GORTON (for Mr. HATCH) proposed an amendment to the bill (S. 1759) to grant a Federal charter to the American GI Forum of the United States; as follows:

On page 1, line 7, strike "New Mexico" and insert "Texas"

On page 2, line 5, strike "New Mexico" and insert "Texas"

On page 2, line 6, strike "New Mexico" and insert "Texas"

On page 3, line 15, strike "New Mexico" and insert "Texas"

On page 4, line 3, strike "New Mexico" and insert "Texas"

On page 4, line 9, strike "New Mexico" and insert "Texas"

On page 5, line 7, strike "New Mexico" and insert "Texas"

On page 5, line 10, strike "New Mexico" and insert "Texas"

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Monday, August 24, 1998, from 9:00 a.m. to 11:30 a.m., at the Anchorage Museum of History and Art, 121 West 7th Avenue, Anchorage, Alaska.

The purpose of this hearing is to receive testimony on high altitude rescue activities on Mt. McKinley within Denali National Park and Preserve, as well as, the potential for cost recovery for expenses incurred by the United States for rescue activities.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Committee staff at (202) 224–6969.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. NICKLES. 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 Friday, July 31, 1998. The purpose of this meeting will be to review pending nominations to the U.S. Department of Agriculture and the Commodity Futures Trading Commission and vote on confirmation.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. NICKLES. 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 Friday, July 31, 1998. The purpose of this meeting will be to mark-up legislation related to the year 2000 computer problem and the U.S. Department of Agriculture.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, July 31, 1998, to conduct an oversight hearing on mandatory arbitration agreements in employment contracts in the securities industry.

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

COMMITTEE ON THE JUDICIARY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, July 31, 1998 at 10:00 a.m. in room 226 of the Senate Hart Office Building to hold a hearing on: "Drugs, Dignity and Death: Physician Assisted Suicide?"

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

SPECIAL COMMITTEE ON YEAR 2000 TECHNOLOGY PROBLEM

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on the Year 2000 Technology Problem be permitted to meet on July 31, 1998 at 9:30 a.m. for the purpose of conducting a hearing.

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

ADDITIONAL STATEMENTS

"PRIVATE HEALTH INSURANCE: IMPACT OF PREMIUM INCREASES ON THE NUMBER OF COVERED INDIVIDUALS IS UNCERTAIN" (GAO/HEHS–98–203R)

• Mr. JEFFORDS. Mr. President, today, I am releasing a new U.S. General Accounting Office (GAO) report entitled "Private Health Insurance: Impact of Premium Increases on the Number of Covered Individuals Is Uncertain" (GAO/HEHS–98–203R). In November, 1997, the Lewin Group published a study that estimates for every one percent increase in health insurance premiums, 400,000 people would lose their health care coverage. This GAO report assesses the methodology used in the Lewin Group report and evaluates the factors that could determine how premium increases relate to the number of individuals with health insurance coverage.

Over the past 14 months, the Committee on Labor and Human Resources has held nine hearings on issues relating to health care quality and two hearings on ways to increase health insurance coverage. At each of these hearings, the point was made that proposed health care legislation could increase the cost of health care and have the unintended consequence of reducing the number of individuals covered by employer-sponsored health care.

The GAO report found several problems with the original November, 1997, Lewin Group estimate. GAO concluded that, based on a more recent Lewin Group report, if health insurance premiums increase by 1 percent for only some types of insurance (for example, HMOs), then the coverage loss would be less than 300,000.

The first concern identified by the GAO with the November, 1997, Lewin Group report is that it was based on the effects of insurance premium subsidies on an employer's decision to offer insurance. The Lewin Group concluded from its studies that a one percent decrease in premiums would induce employers to offer coverage to an additional 400,000 employees. The Lewin Group then assumed that this same relationship could be reversed to represent accurately the number of employees who would lose coverage if premiums increased. The GAO analysis concludes that a more important variable in assessing the impact on health insurance coverage is not whether an employer decides to offer insurance coverage, but whether an employee will choose to accept it.

According to the Current Population Survey data, in 1996, about 70 percent of the population under the age of 65 was covered by health insurance purchased through an employer or purchased privately. About 12 percent of the population was covered by Medicare, Medicaid, or the Civilian Health and Medical Program of the Uniformed Services. And the remaining 18 percent of the population was uninsured.

Between 1987 and 1996, the number of workers who were offered insurance by their employers rose from 72.4 percent to 75.4 percent; but, at the same time, the number of workers who accepted coverage actually fell from 88.3 percent to 80.1 percent. There could be several reasons for this declining acceptance rate. In 1988, employees in small firms with fewer than 200 workers paid an average of 12 percent of their premiums. However, by 1996, the employees' premium contributions had risen to 33 percent. Also, during this same period, the States were expanding the eligibility requirements for their Medicaid programs, and the real incomes of workers declined.

The studies available to the Lewin Group in preparing their November, 1997, report were primarily focused on an employer's decision to offer coverage, not on the relationship between the cost of insurance and the number of individuals covered by insurance. These studies also varied widely in their research questions and their findings. Some of the older studies used data from 1971 and earlier.

The second factor identified by the GAO was the release by the Lewin Group, in January, 1998, of a revised estimate of the coverage loss due to health care premium increases. The

Lewin Group now believes that approximately 300,000 people could lose their employer-sponsored coverage for every one percent increase in premiums. The new estimate is based on a new statistical analysis of the relationship between what employees pay for health insurance, and the likelihood that their families have access to employer-sponsored health insurance.

The Lewin Group estimates also assume equal premium increases for all types of insurance products. Since the legislation that Congress is considering will primarily affect HMO premiums, employees faced with higher premiums may switch to other types of insurance rather than drop coverage entirely. Based on the work of the Barents Group, the GAO found that this change in plans by employees would further reduce the Lewin Group estimate to a number less than 300,000.

In conclusion, the GAO report indicates that if health insurance premiums increase by one percent for only some types of insurance (for example, HMOs), then the coverage loss predicted by the Lewin Group would be less than 300,000. However, the GAO urges that this figure must be used cautiously. There are still many factors that were not included in the Lewin Group estimate, such as: changes in benefits offered by an insurance plan; changes in real wages; and what percentage of a premium increase is passed on from the employer to the employee.

Mr. President, as we consider legislation to ensure that Americans have access to high-quality health care, we must also be concerned that new health plan requirements do not lead to increased numbers of the uninsured. The GAO report, "Private Health Insurance: Impact of Premium Increases on the Number of Covered Individuals Is Uncertain," will be a valuable resource for the Congress in achieving an appropriate balance between these two important societal goals.•

FISCAL YEAR 1999 DEFENSE APPROPRIATIONS BILL

• Mr. DODD. Mr. President, I want to congratulate the Chairman and Ranking Member of the Defense Appropriations Subcommittee—Senator STEVENS and Senator INOUYE, respectively—for finishing work on this appropriations bill. Every year their Subcommittee does the vitally important work of balancing the multitude of priorities that make up this nation's defense. Their work becomes more important every year as our nation leaves behind the more predictable Cold War era.

I am pleased that this bill contains full funding for the second New Attack Submarine. This highly capable and relatively inexpensive class of submarines will take a lead role in the defense of this nation well into the 21st century. This submarine is exactly the type of military asset that we will rely on in the years to come. It is multi-mission capable, it will make use of new technology as it develops, and it will be able to remain on station at all corners of the earth.

This bill also provides for the helicopter needs of the Army and the National Guard. Both the Blackhawk and the Comanche helicopter programs achieved significant increases beyond the President's request. This year, strong Congressional support brought the number of Blackhawk-type helicopters from the 22 requested by the Administration to 34. I hope that as the Administration develops the Fiscal Year 2000 defense budget, it will take into account the fact that the Army, Navy, and National Guard need these helicopters sooner rather than later. We need 36 helicopters per year to fulfill requirements expeditiously and to trigger the savings that would come from a purchase of that size. The Comanche helicopter, still in development, enjoys a similar level of Congressional support that is matched only by the support it enjoys at the Pentagon. This bill's support for the Comanche is reassuring.

I am particularly pleased that two amendments that I offered to this bill were accepted. The first will expand the Defense Department's programs aimed at monitoring and researching Lyme Disease. The disease is a serious problem in the Northeast and is listed by the Defense Department as a militarily significant disease for troops stationed within the United States and deployed worldwide. The sooner we confront this disease with the necessary resources, the sooner the Defense Department and this nation will be able to avoid the significant losses from this terrible disease.

Also, I am glad that the Senate included my amendment that will eliminate the delay in processing Army pensions. All military retirees are due a pension and medical benefits beginning at age 60. My amendment will ensure that pensioners receive their payments and benefits on time. Mr. Arthur Greenberg, of Hamden, Connecticut, first brought this problem to my attention several weeks ago. He wrote a letter to me and stated that the Army had told him that he would not receive his pension or medical benefits until nine months after his 60th birthday. To my surprise, Mr. Greenberg's case was not an isolated incident. The Army told me that 40% of its caseload was backlogged. This is absolutely unsatisfactory, and that is why I put this amendment forward. This amendment directs the Secretary of the Army to eliminate the backlog by the end of this calendar year and to submit a report to Congress on the matter. I fully expect that those who put their lives at risk to defend this nation will soon begin to receive their pensions and benefits, as expected, on their 60th birthday.

In sum, this bill is a responsible effort to provide for the national defense for Fiscal Year 1999. The New Attack Submarine, Comanche and Blackhawk helicopters, F–22 and F/A–18 fighters, C–17 cargo aircraft, and the many other assets that this bill funds are vitally important to protecting our way of life and our interests throughout the world. As usual, the men and women in my home state of Connecticut, whether they serve in the military or in the defense industry, will play important roles with respect to this bill. Overall, I support this bill, and I am glad that this body has nearly unanimously agreed on it.•

IDAHO'S 116TH—THE SNAKE RIVER BRIGADE

• Mr. KEMPTHORNE. Mr. President, I rise today to offer my praise for the men and women of the Idaho National Guard as they prepare to complete their exercise at our nation's crown jewel for desert warfare training.

It is, Mr. President, the National Training Center (NTC) at Fort Irwin, California. It is in those harsh and challenging conditions that our Army and National Guard personnel receive the best training of any armed force in the world.

I had the pleasure of spending this past weekend with the 116th Cavalry Brigade of the Idaho Army National Guard as they conducted Operation Desert Avenger at the NTC. The 116th, also called the Snake River Brigade, is only the second National Guard brigade to train at NTC in eight years. And from what I saw, Mr. President, they are more than holding their own.

Under the leadership of The Adjutant General, Major General Jack Kane, Brigade Commander Colonel Lawrence LaFrenz, Sergeant Major Austin Cummins and Brigade Sergeant Major Patrick Murphy, the men and women of the 116th have set an example that all future National Guard units will be hard-pressed to match.

Mr. President, the Snake River Brigade spent over two years preparing for their training rotation at NTC. Not only was there the logistical problems associated with getting more than 1,700 Idahoans and their equipment to California, but they supplemented the Idaho Guard with units from 41 other states and Canada. Nearly 5,000 men and women of the National Guard are taking part in Operation Desert Avenger. One can only imagine the myriad details that had to be handled to make this exercise a success. Think of all the planning that had to be done years ahead of the actual training. Mr. President, under the guidance of the Adjutant General and his staff, I believe Idaho's 116th Brigade has developed the model for how Guard units should prepare for this high intensity training.

Not only was the Snake River Brigade prepared, they performed above expectations. While these training exercises are not a test, the performance is observed and evaluated. The goal is to make the leadership and troops perform to the best of their ability. On the day I visited, the 116th beat the opposition forces. That is significant. Active duty Army units that come to NTC on a regular basis that don't do that. Those Idahoans can now go home with their heads held high. Talking with the tank crews, artillery units and support teams later, you can see the devotion they have and how high morale is. I'll tell you, Mr. President, had there been a National Guard recruiter on the field right after that battle, many of those soldiers would have immediately signed up for another tour of duty.

All Idahoans can be proud of the citizen-soldiers of the Snake River Brigade, and I would like to salute them here in the United States Senate.

These men and women are on call, prepared to defend our freedom. Mr. President, we owe a tremendous debt of gratitude to the families of these patriots, who support them at home, and to the employers, who allow them the time away from work to attend training like NTC.•

THE SECOND INTERNATIONAL CONFERENCE FOR WOMEN IN AGRICULTURE, HELD IN WASHINGTON, D.C., ON JUNE 28–JULY 2, 1998

• Mr. LEAHY. The role of women in the production and development of the global agriculture system has historically been largely overlooked. Women, however, are an indispensable part of the system, producing 65% of the world's food supply. They have historically held the primary burden for the production, acquisition, and preparation of food for their households. According to the International Food Policy Research Institute, in Africa women produce up to 80% of the total food supply.

Women contribute a great deal to the agricultural backbone upon which we all rely, and yet they too often go without praise or thanks. I want to recognize the invaluable role that women play in feeding the world.

In the last few years, several important steps have been taken to assure that women working in agriculture around the world are given the recognition they deserve. In 1994, the First International Conference on Women in Agriculture was held in Melbourne, Australia. It was designed as a forum for women involved in agriculture to come together and share their experiences while learning more about successful farming and agri-business techniques. This conference was one of the first attempts to call attention to the specific roles women play in the agricultural world.

The following year, the Fourth United Nations World Conference on Women was held in Beijing, China. It was at this international conference that a decision was made to call on the world's governments to finally measure and value uncompensated work by women, including agricultural labor, in their respective country's official statistics.

In 1997, President Clinton proclaimed October 15 as International Rural Women's Day. In doing so, he again brought to the world's attention that rural women comprise more than one-quarter of the world's population and form the basis of much of the world's agricultural economy. These important events provide a substantial foundation that we must continue to build upon.

The Second International Conference for Women in Agriculture, recently held here in our nation's capitol, continued to capitalize upon the efforts of the past by focusing on the status of women and their agricultural contributions to the world. Women from all parts of world, including my home state of Vermont, gathered to discuss and learn about the major concerns of women in agriculture.

Ten Vermonters, including farmers and representatives from the Vermont Department of Agriculture and the Vermont State Farm Bureau, attended the conference. Linda Aines, Beverly Bishop, Diane Bothfeld, Nancy Bruce, Kate Duesterberg, Bunny Flint, Debra Heleba, Sandra Holt, Martha Izzi, Lindsey Ketchel, Daphne Makinson, Kristin Mason, and Mary Peabody participated in the conference and contributed to the events with an extremely well-received exhibit of photographs and goods produced by Vermont women, including cheese and maple syrup. These women joined with representatives from throughout the country and the world to discuss agriculture issues while celebrating their roles as food producers. Issues ranged from protection from banned chemicals and hazardous equipment to biotechnology, some of the most debated and contentious agriculture issues facing our world today.

We need to continue to nurture the seed of promise and hope planted by the Women in Agriculture Conference. At the conclusion of the conference a caucus of women representatives, including Vermont's, presented a resolution declaring that the role and rights of women in agriculture should be respected and supported by the nations and societies they serve and that they be valued and consulted as equal partners in the production and trade of agricultural goods around the world. We must not ignore this resolution and the movement it represents. Mr. President, I ask that the text of resolution be placed in the RECORD after my remarks.

Women involved in agriculture around the globe deserve our appreciation and respect and have gone far too long without it. Conferences such as the one held in Washington bring attention to the plight of women in agriculture while aiding the communication between women in agriculture in the advanced world and women in the developing one.

A great deal more work needs to be done, however, before the dreams and ambitions of women involved in agriculture everywhere are realized. I implore all the members of Congress to join me in acknowledging our debts to the women of the agricultural world, celebrate their attempts to bring their work to the attention of the world, and help to make their ambitions and goals reality.

The resolution follows:

RESOLUTION OF THE SECOND INTERNATIONAL CONFERENCE FOR WOMEN IN AGRICULTURE

Whereas women are an integral and critical part of the global food production system, producing 65 percent of the world's food supply; and

Whereas a stable and reliable supply of safe and nutritious food is an essential component of human health and a hallmark of national prosperity, and is in the best interest of global security; and

Whereas maintaining an ample food supply depends on an agriculture that is respectful of those who work the land, respectful of the environment, and sustainable over the long term, be it therefore

Resolved, That the role and rights of women in agriculture must be respected and supported by the nations and the societies that they serve; that women involved in agriculture, whether by choice or by need, shall be valued and consulted as equal partners in the production and trade of agricultural goods, and that women in agriculture shall be valued and consulted as well in the best practicable methods of agricultural production to sustain human health, international prosperity, and the global environment.•

U.S. GEOLOGICAL SURVEY ESTIMATES OF THE 1002 AREA

• Mr. MURKOWSKI. Mr. President, the Nation's gold repository at Fort Knox, Kentucky is an acknowledged asset—cuddled, counted and cared for.

But the Nation has a potential "black gold" repository under the Arctic Oil Reserve (AOR) that is largely ignored by the Administration—denied, discounted and disputed.

Should someone try to tunnel under Fort Knox to borrow a few tons of gold from the vaults, retribution would be swift—remember "Goldfinger"?

Yet safe, environmentally sound development at the edge of ANWR at the Sourdough site could potentially siphon off barrels of oil belonging to the U.S. Government. Where is James Bond when we need him?

Certainly not in the person of Secretary of the Interior Bruce Babbitt, the purported watchdog of the Nation's natural resources.

To the contrary, Secretary Babbitt put his head in the tundra back in 1995

and pronounced the Arctic Oil Reserve's oil possibilities to be very low at about 898 million barrels.

In May 1998, the Secretary's own scientists at the U.S. Geological Survey begged to differ. Their estimate based on three years of work by more than 40 geologists and other professionals is that a mean of 7.7 billion barrels of producible oil may reside in the 1002 Area of the AOR.

In the interest of looking at this amazing leap in the estimate of ANWR's producible oil, I chaired a hearing of the Senate Energy and Natural Resources Committee last week, and invited the U.S. Geological Survey to participate.

Three things rang clear at that hearing.

First, while these estimates were the highest ever and proved the 1002 area of the AOR has the greatest potential of securing our Nation's energy needs—they were extremely conservative.

For instance, these estimates were based on a minimum economic field size of 512 million barrels. When in practice the minimum economic field size in Alaska is much lower than that.

Northstar: 145 mm/bb (With a sub-sea pipeline) is deemed economic; Badami: 120 mm/bb is deemed economic; Liberty: 120 mm/bb is deemed economic Sourdough: 100+ mm/bb (adjacent to AOR) is deemed economic.

The Second fact that rang clear is while these new estimates show a clearer picture of the Western portion of the AOR, much remains unclear about the oil and gas potential of the massive structures present in the Eastern portion.

While the USGS has slightly downgraded the potential of that specific area, they do not have the data that industry has from actually drilling a well.

And I can assure you that those with knowledge of what that well contained—the select few—remain very optimistic about the potential oil and gas reserves of the Eastern portion.

Third, technology has increased so dramatically that we can now extract greater amounts of oil from wells with far less impact on the environment at a cost 30% less than 10 years ago.

Consider this, Mr. President. In June of 1994, Amerada Hess concluded the Northstar field in Alaska was uneconomic because development would exceed $1.2 billion and eventually sold the field to BP.

Today, BP expects to begin production of that field's 145 million barrels of reserves in 2000. Estimated development costs: $350 million—a 70% reduction from just 4 years ago.

Mr. President, all these factors point toward the logical conclusion that underlying the 1.5 million-acre oil reserve in Alaska lies greater reserves than recently estimated, and we need to confirm them with better science.

Dr. Thomas J. Casadevall, acting director of the USGS, was very clear in his explanation that if the newer three dimensional (3D) seismic data were available from the Arctic Oil Reserve, their high May estimates of producible oil could soar even higher.

Casadevall explained that their new estimates, while supported by sound science and peer review, were still based on 2D seismic tests done more than a decade ago.

Kenneth A. Boyd, director, division of Oil and Gas of the Alaska Department of Natural Resources, likened the advance of the new testing to the difference between an x-ray and a CAT-scan.

He said the available information from 2D seismic as opposed to 3D seismic is that the former produces a line of data while the latter produces a cube of data. The cube can be turned and examined from all sides and the geologic information proves invaluable for exploration.

This data has revolutionized exploration and development of the North Slope of Alaska. Modern 3-D data provides enhanced and incredibly accurate imaging of potential subsurface reservoirs.

This in turn reduces exploration and development risk, reduces the number of drilled wells, and in turn reduces both overall costs and environmental impacts.

Of course the Administration is under little pressure to allow testing or exploration of the Coastal Plain with gas prices at a 30-year low. However, the Department of Energy's Information Administration predicts, in ten years, America will be at least 64 percent dependent on foreign oil. It would take that same ten-year period to develop any oil production in AOR.

Therefore, it seems prudent to plan ahead to protect our future energy security.

I intend to introduce legislation that would allow 3D seismic testing on the Coastal Plain. This testing leaves no footprint. In fact, just last year the U.S. Fish and Wildlife Service allowed such testing to be done in the Kenai National Wildlife Refuge, declaring such testing would have "no significant impact."

It would have even less impact on the frozen tundra in ANWR. It is also a possibility that the oil industry would be willing to share in the cost of such testing. Let's at least find out what kind of resource we are talking about.

It the Nation were to be crunched in an energy crisis—like the Gulf War—that would require the speedup of development; that development could impact the environment negatively because it would not have the benefit of thoughtful planning.

I believe it is as criminal as stealing gold to refuse to acknowledge the potential for producible oil in the Coastal Plain of the AOR. If we don't know what the resource is, how can we protect it or make an informed decision about its use?

And how can those in this Administration or the environmental community argue it is a bad idea to seek a greater understanding of our public lands?

If we are just guessing that the Sourdough drillers may have tapped an underground AOR vein then we deserve to lose the resource. It is time to get rid of the guesswork and 3D testing will help to do that.•

TRIBUTE TO ALAN J. GIBBS

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to an individual who dedicated his life to public service, and who died leaving that legacy as a model for all of us.

Alan Gibbs began his career in Baltimore, Maryland. After serving several years on the National Labor Relations Board he joined the Equal Employment Opportunity Commission right here in Washington, D.C. His work at the EEOC was recognized by his peers when he received the Commission's meritorious service award. Wherever Alan served there was always public acknowledgment of his contributions. New York City, Seattle and my home state of New Jersey were fortunate beneficiaries of Alan's energy, tenacity and commitment to bettering the lives of others.

In 1977, Alan was appointed Assistant Secretary of the Army by President Carter. He was awarded the Distinguished Civilian Service Award—an honor not many are given but few deserve as much.

In New Jersey, Alan served as the Commissioner of the Department of Human Services. During his tenure, Alan made sure that individuals were not lost in the shuffle or became faceless statistics. He was always compassionate and caring. The principle that guided his tenure, and is his most enduring legacy, was to give each individual the resources to live a life with dignity and hope. The job was not easy, but Alan got it done.

Alan also gave of his time to teaching. He recognized the importance of education and helped equip students for their careers.

Mr. President, I extend my deep condolences to Alan's wife Barbara, and their children Jordan, Philip and Cynthia. The outpouring of tributes to Alan are in reality a celebration of his life. I hope they bring comfort and a measure of joy in remembrance to his family.•

MEDICARE HOME HEALTH BENEFICIARY PROTECTION ACT OF 1998

• Mr. FRIST. Mr. President, I rise today to add my name as a cosponsor

to S. 2354, the "Medicare Home Health Beneficiary Act of 1998".

This bill amends title XVIII of the Social Security Act to impose a moratorium on the implementation of the Interim Payment System (IPS) for home health agencies. This IPS was set up by Congress at the recommendation of the Health Care Financing Administration (HCFA) as a transition to a Prospective Payment System. However, the IPS, along with surety bond requirements and other regulatory implementations of the Balanced Budget Act, has had a negative influence on the home health care providers and their patients, forcing many providers out of business.

The IPS has hurt home health care in Tennessee. For example, in Tennessee, the amount of funding each agency receives per patient per year was based on each agency's costs for Fiscal Year 1994. This method of calculation has the potential to penalize agencies who acted responsibly to hold down costs. One Tennessee provider, who had very low 1994 costs due to aggressive cost control, is concerned that the IPS may force them out of business. We cannot afford to sacrifice quality in home health care, and we must not punish agencies that have always tried to provide quality care at reasonable costs.

In addition, some home health providers who have a good reputation in their communities, built on years of service, did not submit a full cost report for Fiscal Year 1994 due to accounting methods. Regrettably, these agencies are now classified by HCFA as "new agencies." If the agency is classified as a new agency, then their historic costs are disregarded in their reimbursement, and they will receive a payment based on a national average. Well, Mr. President, we know that the cost of care in Tennessee may be very different from the cost of care in another region. In fact, in Tennessee, home health costs tend to be higher than the national average. This will make it extremely difficult for these agencies to meet the IPS budget constraint.

Home health care provides a critical service to our nation's Medicare beneficiaries. The IPS was created to address some of the problems with cost control in the home health industry. However, it appears that this interim plan manages to create more problems than it solves. In fact, I believe it can do more harm than good. We need to impose a moratorium on IPS and encourage implementation of a system of fair reimbursement payment rates that ensures all home health providers are cost-effective without sacrificing quality of care for patients. We must find a way to terminate those agencies that take advantage of seniors and the Medicare system, while ensuring continuity of high quality home health care for our nation's most vulnerable populations.•

CURT FLOOD ACT

• Mr. KOHL. Mr. President, last night the Senate passed, on a voice vote, S. 53, a measure dealing with antitrust matters and Major League Baseball. Let the record show that if this bill had come before the Senate in a recorded vote, I would have recused myself on this vote.•

TRIBUTE TO THE UNITED STATES CUSTOMS SERVICE ON ITS 209TH ANNIVERSARY SINCE IT WAS ESTABLISHED

• Mr. GRAMS. Mr. President, I rise today to pay tribute to the men and women of the U.S. Customs Service as it celebrates its 209th anniversary today.

As our young nation was on the verge of economic despair and in search of revenue, the First Congress passed and President George Washington signed into law the Tariff Act of July 4, 1789, which authorized the collection of duties on imported goods. This, the fifth act of the 1st Congress, established Customs and its ports of entry as the collector and protector of the revenue on July 31, 1789, essentially creating what we now know as the U.S. Customs Service.

For approximately 125 years, until the passage of the Federal Income Tax Act in 1913, Customs provided our federal government with its only source of revenue. During this time, the incoming revenue from Customs funded the purchases of Alaska and Florida, and the territories of Louisiana and Oregon. In addition, Customs collections built Washington, D.C., the U.S. military and naval academies, and many of the nation's lighthouses from the Great Lakes to the Gulf of Mexico. Most impressively, by 1835, Customs revenues alone reduced the national debt to zero.

Customs offices first appeared in Minnesota around 1851, seven years before Minnesota achieved statehood. Minnesota's geographical layout as head of three great navigation systems—the Red River to the North, the Mississippi to the south, the Great Lakes-Saint Lawrence River to the east, and 395 miles along the Canadian border to the north—was a key to handling the traffic of people and goods that passed through these ports.

In its first year of existence, Customs collected $2 million in revenue in 59 ports of entry. Today, the U.S. Customs Service has a total of 301 ports of entry which collect over $20 billion annually in revenue. In addition, Customs processes over 450 million persons entering the United States each year. As for Minnesota, there are 14 ports of entry throughout the entire state. These ports of entry collected nearly $2 billion in revenue for the U.S. Customs Service during FY 1997. Besides all the products that are processed, many people enter the United States through Minnesota. An estimated 1.1 million people have entered through Minnesota's ports of entry since last October alone. This number continues to grow at an increasing rate over previous years.

The U.S. Customs Service has grown from being the chief collector of revenue on imports into what has become our nation's first defense against the threat of terrorism, combatting the illegal drug trade, and ensuring that all imports and exports comply with U.S. laws and regulations.

Mr. President, I commend the U.S. Customs Service for its long history protecting the American public. But most of all, I want to pay tribute to the many men and women who continue to stand as symbols of national pride and enforce the mission of the U.S. Customs Service: to ensure that all goods and persons entering and exiting the United States do so in accordance with all United States laws and regulations.•

HAPPY BIRTHDAY, PURPLE HEART

• Mr. WELLSTONE. Mr. President, I rise today to say "Happy Birthday" to the Purple Heart. The Purple Heart is the oldest military decoration in the country, and it turns 216 years old on August 7th.

The Purple Heart honors combat-wounded veterans who have given their blood for their country. It is the only medal which is earned, not awarded. It is earned by being wounded by an enemy during a hostile action toward the United States or an ally.

I want to thank my friend, Jim Wendt of the Purple Heart in Minnesota, for bringing my attention to this important occasion. The Purple Heart was created by George Washington on August 7, 1782, almost 216 years ago, and the first three medals were awarded during the Revolutionary War.

On the Purple Heart's 216th birthday, I want to thank Jim and all my friends at the Purple Heart for all their great work. Thank you, and Happy Birthday.•

TRIBUTE TO DR. KARL K. WALLACE, JR.

• Mr. WARNER. Mr. President, I would like to take this opportunity to recognize and congratulate a devoted and energetic physician for his tireless service to his patients, students, and fellow radiologists. On September 12, 1998, the American College of Radiology (ACR) will bestow the 1998 Gold Medal to Karl K. Wallace Jr., MD at their annual meeting in Pittsburgh, Pennsylvania. The prestigious Gold Medal is ACR's highest award, and will honor this distinguished doctor as a national leader as well as a dedicated servant for Radiology.

K.K., as he is known to those in medicine and Radiology, was a long time community hospital clinician at the Virginia Beach General Hospital. After 28 years as the director of the Virginia Beach General Hospital Department of Radiology, Dr. Wallace made an unusual career move. He undertook a "second career" as a professor at the University of Virginia Health Sciences Center, where he is currently co-director of thoraco-abdominal imaging and the medical director of chest diagnosis.

Dr. Wallace's active commitment to medicine has been characteristic ever since his career began. Two years after starting his practice, he became an officer in the Virginia Beach Medical Society. One year later he was elected to the House of Delegates of the Medical Society of Virginia where he was speaker from 1977 to 1980. His history of service to the American College of Radiology goes back to 1967 where he was elected secretary/treasurer of the Virginia Chapter. Six years later, he served as its president and held a number of key leadership positions for the following 14 years, including speaker of the council and chairman of the Board of Chancellors.

During those 14 years, Dr. Wallace continued to lead Radiology in its efforts to work on national health policy such as physician payment reform and the Mammography Quality Standards Act. He worked with members of the U.S. Senate to develop reasonable approaches to legislation in our rapidly changing health care system. He provided honest, fair and meaningful input efforts. I know all of my colleagues join me in congratulating my fellow Virginian, Dr. Wallace, on being chosen as a recipient of the Gold Medal.•

LEO B. FLAHERTY, JR.

• Mr. DODD. Mr. President, I rise today to pay tribute a good friend to me and my family, and a pillar of the Connecticut legal and political community: Leo Flaherty of Vernon, Connecticut. Sadly, Mr. Flaherty recently died at the age of 75.

Leo Flaherty was Vernon's elder statesman. For years, young attorneys and political aspirants in town have looked to Leo Flaherty as a role model and for his advice and leadership. He was respected by all who knew him for his integrity as a lawyer, his instincts as a politician, and, in general, his strong moral character.

While remembered as possessing a great legal mind, Leo's intelligence was not limited to any one discipline. In 1942, he left Connecticut to attend Georgia Tech. A year later he received an appointment to the United States Naval Academy, where he was a classmate of President Jimmy Carter. After graduating from the Academy, he earned a degree in engineering from the University of Connecticut, and he worked at both Pratt & Whitney and Hamilton Standard.

But despite his ventures into engineering, there was always something drawing him to politics. It was in his blood. His father, Leo, Sr. served as a Rockville city alderman and Democratic Town Committee Chairman—a position that Leo, Jr. held for 10 years.

He held several positions in Rockville from tax collector to a member of the State Board of Education. In 1960, he became Rockville's mayor. The most significant accomplishment of his tenure in the mayor's office was managing the consolidation of Rockville with the neighboring, more rural town of Vernon. This was a controversial proposal, but Rockville had one of the worst urban poverty rates in the state, and he saw the merger of the two cities as key to Rockville's future prosperity.

The Rockville mayor's job was eliminated upon completion of the merger. So, in the end, Leo Flaherty worked himself out of a job. But Leo Flaherty never regretted his actions because he knew that this was the right thing to do, not for him, but for his community.

The final political office that he ever held was chairman of Connecticut's members of the Electoral College, which chooses the President. True to form and his principles, his first act in this position was to call for the elimination of the college. He always believed that the popular vote should prevail.

His tenure as an attorney lasted even longer than his political career. Leo Flaherty earned a reputation as a lawyer who would help anyone. Oftentimes he found himself representing some of society's undesirables, but he never wavered in his belief that every individual, rich or poor, had certain rights and was entitled to effective legal representation. He never sought the high powered clients, and he never became a millionaire. But, as was said after his passing, Leo Flaherty died a rich man because he owned his soul.

In a 1996 interview, Leo Flaherty said that he had no intention of retiring unless he had to. This prophecy was fulfilled. He worked until his body would no longer allow it, as he contracted Lou Gehrig's disease—a terminal degenerative nerve condition.

Leo Flaherty was a man whom I looked up to with the highest respect and admiration. He will be dearly missed.•

GERALD R. AND BETTY FORD CONGRESSIONAL GOLD MEDAL ACT

• Mr. D'AMATO. Mr. President, I rise today, pleased to urge bipartisan support for and passage of H.R. 3506, the Gerald R. and Betty Ford Congressional Gold Medal Act.

Mr. President, this bill commemorates a number of anniversaries that few individuals succeed in reaching. This year is quite a milestone for our former thirty-eighth President and First Lady. First and foremost, Gerald Ford celebrated his 85th birthday on July 14 and Betty Ford celebrated her 80th birthday on April 8.

This October marks another anniversary well worth mentioning—the 50th wedding anniversary of Gerald and Betty Ford. In 1948, they were wed only a few weeks before Gerald Ford won his first term in the House of Representatives. The Fords returned to Washington every term thereafter until 1974. Gerald Ford served as House Minority Leader from 1965 to 1973.

And finally Mr. President, this year commemorates the 25th anniversary of Gerald Ford becoming the first Vice President chosen under the terms of the Twenty-fifth Amendment. Less than a year later, he succeeded the first President ever to resign.

President and First Lady Ford led our country with bravery and dignity during a time that he declared upon his inauguration, ". . . troubles our minds and hurts our hearts." Gerald Ford was faced with seemingly unsurmountable tasks when he took the oath of office of the Presidency on August 9, 1974. There were the challenges of mastering inflation, reviving a depressed economy, solving chronic energy shortages, and trying to ensure world peace.

For their first twenty five years in Washington, Betty Ford not only was instrumental in rearing the four Ford children, she supervised the home, did the cooking, undertook volunteer work, and took part in the "House wives" and "Senate wives" for Congressional and Republican clubs. In addition, she was an effective campaigner for her husband. In 1974, Mrs. Ford set aside personal need for privacy when she openly discussed her experience from radical surgery for breast cancer. She reassured troubled women across the country with her openness, care and bravery.

H.R. 3506, a bill authorizing the President to award Gerald R. and Betty Ford the congressional gold medal, passed the House by unanimous consent on July 29, 1998. It is my sincere hope that the Senate act expeditiously on this legislation.

Mr. President, this honor, the highest award bestowed by the United States Congress, is a fitting tribute to life-long public service and dedication bestowed upon the American people by the thirty-eighth President and First Lady, Gerald and Betty Ford. In addition, it is a wonderful way for all of Congress to commemorate and congratulate the Fords on their fifty years of commitment to one another. On behalf of all my colleagues, I wish them many more happy years together.•

VIRGINIA S. BAKER

• Ms. MIKULSKI. Mr. President, I rise today to pay special tribute to a special lady who passed away Wednesday July 30, 1998 in Baltimore, Maryland. Virginia S. Baker was special to me, my family and the entire city of Baltimore.

Virginia Baker started as a volunteer playground monitor in Baltimore, where she brought joy and fun to the city's streets and neighborhoods. But more importantly, she always kept an eagle eye out for the children with a broken heart or the ones from a broken home. Without notice she would find a way to bring those children into her circle of compassion, to let them know they always had a home at her recreation center. She had the special gift of mending children's hearts.

She came to serve in the recreation departments of nine Baltimore Mayors and always made sure children had a safe place to play. When I was a City Councilwoman I became friendly with Virginia because she was always hustling the City Council for more money. She took me to the playgrounds and community events, got me to play hopscotch, and got me leapfrogging over the bureaucracy to ensure strong community programs for the city of Baltimore. Virginia was also friends with my dear mother. My mother volunteered for me for several years when I served on the Baltimore City Council. When my schedule wouldn't allow me to tour the city streets, Virginia would take Pearl, her assistant, and my mother out to visit the senior centers and community playgrounds. They would never forget to stop at Faidley's for a crabcake, Greektown for a few stuffed grape leaves, or countless other diners and snack shops where Baltimoreans gathered.

Virginia Baker was just a special person. She had a God-given gift of compassion and caring and used it selflessly. Today, I have humbly tried to express my personal experience with Virginia and her gift. I also request the Baltimore Sun article on Virginia's life be printed in the RECORD. It really expresses Virginia's effect on Baltimore and its citizens best.

The article follows:

[From the Baltimore Sun, July 31, 1998]

CITY'S QUEEN OF FUN DIES AT 76—VIRGINIA BAKER RAN RECREATIONAL ACTIVITIES

(By Rafael Alvarez)

Baltimore's oldest kid has died at the age of 76.

Virginia S. Baker—who began her career in fun and games as an East Baltimore playground monitor in 1940 and hopscotched her way up to City Hall in the silly-hat regime of William Donald Schaefer—died yesterday at St. Joseph Medical Center of complications from pneumonia.

"I've made a lot of kids happy," she said in a 1995 interview. "That's what I get paid for."

Never married, Miss Baker counted generations of Baltimore youngsters as her own special brood.

Her secret?

The girl who grew up as "Queenie" in her father's confectionary at Belnord Avenue and Monument Street—where she honed her child-like playfulness and steely resolve—never stopped thinking like a kid.

In a century that whittled an American child's idea of a good time down to pushing buttons on plastic gadgets, Miss Baker championed timeless fun: hog-calling contests, frog-jumping races, turtle derbies, sack races, beanbag tosses, peanut shucking and doll shows.

"And don't forget her annual Elvis salute," said Sue McCardell, Miss Baker's longtime assistant in the Department of Recreation and Parks. "We'll keep going with all the things Virginia started."

Bob Wall, a recreation programmer in Patterson Park—where the rec center is named in Miss Baker's honor—first met his mentor as an 11-year-old Little Leaguer in 1968.

"It was a Saturday and our game was rained out and we were walking past the rec center in our uniforms. I'd never been inside it before," Mr. Wall remembered. "This boisterous lady yelled out to us: 'You boys want to catch frogs for me today?'"

Of course they did. And that was Mr. Wall's initiation into a world he unexpectedly found himself eulogizing yesterday when the city's 58th annual doll show—launched by Miss Baker at the start of her career—coincided with her death.

"We had a moment of silence," said Mr. Wall. "And then we said the show's got to go on."

The Virginia Baker show started in 1921. Her father was a Czech immigrant who changed the family name from Pecinka to Baker. Her mother, Hattie, was a Baltimorean of Czechoslovakian descent.

"Daddy mixed the syrup for the sodas and milkshakes and Mama cooked the chocolate for the sundaes," she said of the family store, now a carryout restaurant and liquor store protected by iron bars and bulletproof plastic. "Boy, did this neighborhood smell good!"

Miss Baker had a voice so quintessentially Baltimore that Washington disc jockeys regularly put her on the radio just to let the nation's power brokers believe everything they'd ever heard about this city.

On the sidewalks of her beloved hometown, young Virginia learned the tricks she would turn into a career.

"We played every game you can imagine out here," she said during a 1995 visit to the old store that was her home from infancy until her father died in 1954.

Miss Baker rode scooters, shot marbles, made kites out of newspapers and sticks, played tag, spun tops, and made yo-yos sing and puppets dance. She collected matchbook covers and wagered hundreds of them at a time in card games of pitch, poker and pinochle down at Sprock's Garage on Lakewood Avenue.

And when she got black eyes from roughhousing—Queenie was a bruiser, she freely admitted—the local butcher put beef on them to keep down the swelling.

As a youngster, Miss Baker became a volunteer at the old Patterson Park recreation center. After graduating from Eastern High School in 1940, she made play her work, soon becoming director of recreation for the park.

From that time, she served nine Baltimore mayors, from Howard W. Jackson to Kurt L. Schmoke. She became best known during the 15-year tenure of Mr. Schaefer, who installed her at City Hall as perhaps the only civil servant in America in charge of an office called Adventures in Fun.

Miss Baker turned City Hall Plaza into a staging area for endless contests—marbles, pogo sticks, chess, checkers, Hula-Hoops, yo-yos, roller skates, bicycles, kites and tops.

She invented the Fun Wagon, a small trailer with a basketball hoop on back and stuffed with toys. Five of them toured the city. She started the Kid Swap Shop, where children traded toys, an event copied across the nation because of Miss Baker's knack for publicity.

"She was a great old girl," Mr. Schaefer said yesterday. "She initiated all sorts of hokey things and everybody loved them. I hog-called one year. I didn't have my own frog for the jumping contest, but she gave me one. He didn't win. But Virginia always had young people around her. She made them work hard and feel good."

For six decades, her motto never changed: "A kid is still a kid."

Miss Baker lived at the Marylander Apartments from 1954 until a stroke in 1992. She did not officially retire until 1995. She resided in recent years at a Towson nursing home and is survived by several nieces and nephews.

Services will be held a 10 a.m. Saturday at Church of the Nativity, Cedarcroft and York roads.

Donations may be made to the Virginia S. Baker Recreation Memorial Fund, c/o Friends of Patterson Park, 27 S. Patterson Park Ave., Baltimore 21231.•

WORKFORCE INVESTMENT ACT CONFERENCE REPORT

• Mr. JEFFORDS. Mr. President, last night, the Senate passed the Workforce Investment Act conference report, H.R. 1385. This legislation makes important reforms to our job training, adult education, and vocational rehabilitation programs.

The Workforce Investment Act is one of the most significant proposals that has passed the Senate this year. H.R. 1385 proposes a streamlined, practical, business-oriented approach to job training which empowers states with the ability to transform a current patchwork of programs into a comprehensive system.

This bill is the result of more than four years of hard work. The last Congress, under the leadership of Senator Nancy Kassebaum, spent a considerable amount of time on similar legislation. Senator Kassebaum did not act alone in championing the workforce legislation in the last Congress. Senator DEWINE, Senator KENNEDY and myself and many other members were also involved in that effort.

Senator KENNEDY and I have been working on job training legislation for over two decades. I count the Job Training Partnership Act (JTPA), which I co-authored along with Representative Hawkins and Senators KENNEDY, HATCH, and Quayle as a significant legislative accomplishment. Today, over twenty years later, it is clear that JTPA is not sufficient to meet the increasing demands being made on our education and training system.

The Workforce Investment Act conference report as passed by the Senate

will enable states to better coordinate employment and training programs and related activities, with a special emphasis on coordinating adult education and job training initiatives. This coordination will lead to customer satisfaction—which is perhaps the most important aspect of this bill. Individuals seeking job training and adult education services will choose to enroll in high quality programs which will lead to better paying jobs. In addition, employers will also be satisfied customers because they will have the ability to hire better skilled employees.

The Workforce Investment Act is a product of many efforts. In particular, I would like to thank Senator MIKE DEWINE, the chairman of the Subcommittee on Employment and Training for his leadership in this area. He has done an outstanding job in putting this bill together and his contribution regarding the redesigning of our youth training programs will be of great benefit to our nation's disadvantaged youth. I would also like to thank Senator PAUL WELLSTONE, the Employment and Training Subcommittee's ranking member for his work on the bill.

Senator TED KENNEDY and I have been working for many years on employment and training issues. The Workforce Investment Act has been a bipartisan effort. I would like to thank Senator KENNEDY for his leadership.

Not only has this been a bipartisan effort, but it has also been bicameral. Representative BILL GOODLING, the chairman of the House Education and Workforce Committee and the chair of this conference has also been working on job training legislation for over twenty years. I commend him on his leadership and thank him for all of his hard work in completing action on H.R. 1385.

Chairman GOODLING was joined by Representative BILL CLAY, Representative BUCK MCKEON, and Representative DALE KILDEE. This bill is a product of their expertise and commitment to improving job training and adult education.

In addition, I would like to thank the staff of the Congressional Research Service: Ann Lordeman, Rick Apling, and Paul Irwin. I would also like to thank the Legislative Counsel staff: Liz King, Mark Sigurski, and Mark Synnes. Their dedication and hard work were essential in completing the Workforce Investment Act Conference Report.

In May of 1997, I held a hearing at Vermont Technical College in Randolph, Vermont. The testimony that I received at that hearing was my touchstone for the Workforce Investment Act. Witness after witness discussed the urgency for a skilled workforce. I would like to thank my home state of Vermont for serving as an inspiration for this legislation. I would especially like to thank Susan Auld, the Commissioner for Vermont's Department of Employment and Training, and Kathy Finck, the director of Vermont's Adult and Vocational Education program for their contributions to this legislation.

As I mentioned earlier, customer satisfaction, flexibility, and stronger accountability are the themes of H.R. 1385. A provision of the bill which relates to these issues is the ability of states to submit one plan to Washington for a variety of federal programs. This encourages states to coordinate their programs; also cuts through bureaucratic red tape by giving states the option to submit one plan versus several plans. Another provision which emphasizes the importance of customer satisfaction and accountability is the opportunity for states to be rewarded, through incentive grants, for exceeding their performance standards in delivering employment and training and education related services.

When this bill originally passed the Senate, vocational education was a major section of the legislation. The one disappointment I have is that we were unable to include vocational education in this conference report. However, I do hope that the House and Senate conferees will be able to bring a vocational education conference report to the Congress before the October adjournment.

The final section of the conference report is the reauthorization of the Vocational Rehabilitation Act. The rehabilitation provisions in this bill will open up more employment opportunities to individuals with disabilities. They will also provide state vocational rehabilitation agencies and other agencies and organizations that offer employment-related assistance to individuals with disabilities with the tools they need to give appropriate, timely help to individuals with disabilities who want to work. These provisions bring us closer to a seamless system for job training and employment assistance for individuals with disabilities.

The Workforce Investment Act lays the groundwork to establish an outstanding employment and training system nationwide that will meet the economic demands of the next century. The business community and the Administration have been very helpful in this endeavor. I want to especially thank Secretary Herman and Secretary Riley and their staffs for their work and who literally worked on this legislation up to the last minute. The passage of H.R. 1385 means that this nation will have a better skilled workforce.●

BILL TUTTLE, 69, VICTIM AND OPPONENT OF SMOKELESS TOBACCO

● Mr. DURBIN. Mr. President, a baseball star died this week. Bill Tuttle, centerfielder for the Detroit Tigers, Kansas City Athletics, and Minnesota Twins over a period of 11 years, succumbed to oral cancer after a five-year battle. Among baseball fans, Mr. Tuttle's baseball card picture, with a bulging cheek full of chewing tobacco, is well-known. Unfortunately, that ever-present wad of tobacco was his undoing. Over the past five years, it cost him part of his jaw, his cheek, a number of teeth, his taste buds, and ultimately his life.

To his credit, when Mr. Tuttle realized what spit tobacco, as he accurately called it, had begun to do to him, he devoted the last years of his life to warning other ballplayers about what might happen to them if they too use spit tobacco. But he did more than reach out to his fellow ballplayers. He spent many hours and days working to prevent young people from starting to use this addictive product.

I ask that a letter be printed in the RECORD that I received from Bill Tuttle during the debate on the tobacco bill earlier this year. It describes his firsthand experience of the ravages of spit tobacco and his efforts to educate children, as well as Major League players, about the dangers of spit tobacco use.

Spit tobacco is addictive, causes cancer and other serious illnesses, and leaves a trail of devastation among its victims and their families. It is essential that we listen to the words of Bill Tuttle and others like him, and continue to fight to prevent the use of smokeless tobacco by our Nation's kids.

The letter follows:

May 18, 1998.

THE HONORABLE MEMBERS OF THE UNITED STATES SENATE: My name is Bill Tuttle. I hope that some of you remember me as a former Major League Baseball player who played with the Minnesota Twins, Detroit Tigers, and Kansas City Athletics. But, I hope more of you know me as a staunch anti-spit tobacco fighter who, at this very moment, is literally fighting for his life. Little did I know when I started experimenting with spit tobacco some forty years ago at the invitation of a fellow ballplayer, that spit tobacco would become such a major part of my life and death. I chewed every day for many years, right up until the time I was diagnosed with oral cancer five years ago. I have undergone numerous operations to remove cancerous growths in my head and neck. I have endured unimaginable pain and disfigurement from the surgeries and treatments and I have been literally cut apart and patched back together. My family has suffered with me every step of the way. Life has been a living hell for several years now.

I have been blessed, however, with the opportunity to talk to others about the dangers of spit tobacco, particularly young people. I know that the temptation to try new things, especially forbidden things, can be tough for young people. In my message to

the thousands of youngsters that I have talked to, I have emphasized that they just should not start using any form of tobacco. If you don't start, you'll never need to stop. But once started, tobacco use can literally addict you to a substance that stands a good chance of killing you. Even after enduring several surgeries and having half of my face cut away, I hate to admit that I still have a craving to try spit tobacco. That's how addicting spit tobacco can be.

I have had some excellent partners in the fight against spit tobacco. Joe Garagiola, Oral Health America, The Robert Wood Johnson Foundation, Major League Baseball, the Major League Baseball Player Association, the Professional Baseball Athletic Trainers Society, and others have supported me in many ways. But my most ardent supporter and best friend is my wife Gloria. She has accompanied me on my visits to schools, community meetings, and spring training. She has become an expert on spit tobacco, particularly what it can do to destroy lives and families.

I am sorry that I can not meet you in person to talk about his matter as my physical condition just won't permit it. But I wish to implore you to become a partner in the fight against spit tobacco. So many of you have already done so much to move badly needed tobacco legislation forward that we must not stop short of the goal—that is to make tobacco products, including spit tobacco, as unavailable and unattractive to young people as possible. I urge you to take the necessary action that will address spit tobacco as aggressively as you will smoking. We need taxes that make all tobacco equally unattractive for young people. We need to monitor not just highly addicted daily users, but also experimenters, if we are to practice prevention and be able to measure progress. And we need to tell people the truth about the addictive nature of spit tobacco, including putting the nicotine content on labels. None of us wishes to see spit tobacco become the bargain basement pathway for young people into a lifetime of tobacco addiction.

On May 19, 1998, my wife Gloria and I will be honored at the Metrodome in Minneapolis as the first recipients of the Bill Tuttle Award. This recognition of our efforts to try to save American children from hazards of tobacco use is greatly appreciated. At the same time, however, this is a very sad occasion for us. We both know that my remaining time in this fight and our remaining time together is limited. It would honor us greatly if you, as the distinguished elected leaders of our country, would commit to an aggressive course of action against spit tobacco. That would be a big league accomplishment and one for which you would never be forgotten.

Sincerely,

BILL TUTTLE.•

THE NATIONAL TRAINING CENTER

• Mr. KEMPTHORNE. Mr. President, I rise today to talk about a national resource that is training the military leaders of today and tomorrow. It is the National Training Center at Fort Irwin, California.

The commanding officer of the National Training Center, Brigadier General Dean Cash, is a soldier's soldier. He is dedicated to developing leaders, and he leads by example. General Cash is also dedicated to the soldiers' families. Despite the long hours and tough duty, General Cash makes sure none of the soldiers or officers in his command misses the birth of their child or a birthday celebration. He believes those are significant events that cannot be missed.

And General Cash wants to make sure the families are cared for. Whether its child care, shopping or support groups, the families of the soldiers assigned to Fort Irwin get the best available. The base takes an active role in the schools and also has extended its reach to at-risk children in the Los Angeles basin.

The soldiers at Fort Irwin and the National Training Center are professionals. They present the greatest challenge for units training at the center. This is their mission, and they do it well.

I believe, Mr. President, that the reason our forces were successful against Saddam Hussein in Operation Desert Storm was the training they received at NTC. They were in an environment very similar to conditions in the Middle East. They were fighting against forces simulating the style of the former Soviet bloc. And they were fighting against tanks, artillery and infantry units with a "home field" advantage. The permanent opposition force at NTC knows every rock, every hill and every ravine. That is a tremendous advantage, and really tests the leadership skills of the training forces.

As we see the downsizing of our active Army force, we must have a National Guard and Reserve component acting as an integral part of our military if we have a significant crisis anywhere in the world that we have to deal with. That is why, Mr. President, I am so pleased that the Idaho Snake River Brigade is able to train at NTC. We need to make sure they're ready if called upon.

The facilities at NTC are, to say the least, very impressive. Using the latest state-of-the-art computer, laser and satellite technology, the instructors and observers at NTC can tell, in real time, where every tank, every piece of artillery and every humvee is at any moment. And each soldier's movements, radio communications and weapons are continuously monitored.

When a simulated battle is complete, the instructors go through each exercise with the individual unit commanders. They find out what went right, what went wrong, and what can be done to improve. This attention to detail is vital. The only way our nation is going to maintain the best military in the world is to have the best leaders leading the best-trained forces. They're getting that education at the National Training Center.

Countless individuals provide that education. I met two who I'd like to highlight. Colonel J.D. Thurman is Chief of the Operations Group, and Colonel John Rosenberger is Commander of the 11th Armored Cavalry Regiment. Both men are soldiers. But both are educators. They take their jobs very seriously, and they see the value to what they're doing. It's because of their dedication and skill that our Army turns out commanders for the next century—commanders who will be on the front lines of defending democracy.

I would like to encourage my colleagues on the Senate Armed Services Committee and others in the Senate to visit the National Training Center and see it first hand. You can't leave there without being totally impressed with the dedication of the officers and the enlisted personnel at Fort Irwin and their belief in what they're doing. To see how it enhances the morale and training of units that rotate through NTC, is impressive. This is a national resource that deserves our utmost support.•

RETIREMENT OF JOHN TURNER

• Mr. BUMPERS. Mr. President, John Turner will retire this year after more than twenty-five years of service to the forest products industry. A native of Camden, Arkansas, John is completing a long and distinguished career with the Georgia-Pacific Corporation.

John joined Georgia-Pacific Corporation in 1972 as Public Relations Manager for the Crossett, Arkansas, Division. His responsibilities were expanded to include government relations in 1977 for the states of Alabama, Mississippi, and Arkansas. In 1983, he assumed responsibility for state-level government affairs for the corporation and relocated to Washington, D.C.

In his present position as Vice President of Government Affairs, John has directed and coordinated the corporation's Federal and State government affairs staff and legislative policy for the corporation in Washington and in the eight state office locations.

In addition to a long association with various entities in the forest products industry, John also had a career in radio and television broadcasting. John was educated at Southern Arkansas University in Magnolia, Arkansas, receiving a degree in communications.

Active in forestry and trade associations, John serves on the American Forest and Paper Association's Energy Council and chairs the Endangered Species Reauthorization Committee. John has also served two terms on the Arkansas Natural Heritage Commission and one term on the Arkansas Forestry Commission. He is also a member of the Public Relations Society of America.

Despite his consuming dedication to his industry, John has made time for numerous civic duties, including work with the Jaycees, Lions Club, Rotary Club, Boys Club of America, and United

Way. He has served his local community as a city airport commission member and as a member of the hospital board of directors.

Mr. President, I am proud of the association I have had with John Turner over the years. He has been a steadfast friend and a trusted adviser on issues of importance not only to his industry, but to the economy of our beloved State as well. His preparedness, integrity and willingness to compromise have served him and his industry well.

I wish John and his lovely wife Jean a long and relaxing retirement. Perhaps John's retirement from his "day" job will give them time to more faithfully follow their beloved Razorbacks football and basketball teams, as well as enjoy their two daughters and two granddaughters.

Mr. President, John Turner leaves big shoes to fill in the forest products industry. I hope his successors will look to his fine example of the role of the lobbyist and spokesperson in our system.•

TRIBUTE TO LIEUTENANT COLONEL KEVIN "SPANKY" KIRSCH, USAF

• Mr. WARNER. Mr. President, I rise today to pay tribute to Lieutenant Colonel Kevin "Spanky" Kirsch, United States Air Force, on the occasion of his retirement after over twenty years of exemplary service to our nation. Colonel Kirsch's strong commitment to excellence will leave a lasting impact on the vitality of our nation's military procurement and information technology capabilities. His expertise in these areas will be sorely missed by his colleagues both in the Pentagon and on Capitol Hill.

Before embarking on his Air Force career, Colonel Kirsch worked as an estimator/engineer for Penfield Electric Co. in upstate New York, where he designed and built electrical and mechanical systems for commercial construction. In 1978, Colonel Kirsch received his commission through the Officer Training School at Lackland AFB in San Antonio, TX. Eagerly traveling to Williams AFB in Arizona for flight training, Colonel Kirsch earned his pilot wings after successful training in T–37 and T–38 aircraft.

In 1980, Colonel Kirsch was assigned to Carswell AFB, in Fort Worth, TX, as a co-pilot in the B–52D aircraft. While serving in this capacity on nuclear alert for the next five years, he earned his Masters degree, completed Squadron Officer School and Marine Corps Command and Staff School by correspondence, and earned an engineering specialty code with the Civil Engineering Squadron.

An experienced bomber pilot serving with the 7th Bomb Wing, Colonel Kirsch, then a First Lieutenant, served as the Resource Manager for the Director of Operations—a position normally filled by an officer much more senior in rank. He was selected to the Standardization Evaluation (Stan-Eval) Division and became dual-qualified in the B–52H. Subsequently, he was selected ahead of his peers to be an aircraft commander in the B–52H.

Colonel Kirsch was selected in 1985 as one of the top 1% of the Air Force's captains to participate in the Air Staff Training (ASTRA) program at the Pentagon. His experience during that tour, working in Air Force contracting and legislative affairs, would serve him well in later assignments.

In 1986, Colonel Kirsch returned to flying in the FB–111 aircraft at Plattsburgh AFB, NY. He joined the 529th Bomb Squadron as an aircraft commander and was designated a flight commander shortly thereafter. He employed his computer skills to help automate the scheduling functions at the 380th Bomb Wing and was soon designated chief of bomber scheduling.

Following his tour with the 529th, Colonel Kirsch was assigned to Strategic Air Command (SAC) Headquarters at Offutt AFB, NE. As Chief of the Advanced Weapons Concepts Branch, he served as a liaison with the Department of Energy on nuclear weapons programs and worked on development of new strategic systems—including the B–2 bomber. Colonel Kirsch was one of four officers chosen to be part of the commander-in-chief's (CINC's) staff group to facilitate the transition of SAC to Strategic Command (STRATCOM). Originally picked as a technical advisor for weapon systems, he soon became the legislative liaison for STRATCOM. In this capacity, Colonel Kirsch organized congressional delegations to visit STRATCOM, and managed CINC STRATCOM's interaction with Capitol Hill.

In 1994, Colonel Kirsch traveled here, to Washington, to begin his final assignment on active duty. Initially serving as a military assistant to the Assistant Secretary of Defense for Legislative Affairs, Colonel Kirsch once again quickly distinguished himself and was designated the special assistant for acquisition and C3 policy. Representing the Secretary of Defense, the Under Secretary of Defense for Acquisition and Technology and the Assistant Secretary of Defense for C3I, Colonel Kirsch managed myriad critical initiatives including acquisition reform and information assurance. He also served as the principal architect for the organization's web page, computer network, and many of the custom applications used to automate the office's administrative functions.

Colonel Kirsch's numerous military awards include the Defense Superior Service Medal, the Defense Meritorious Service Medal with Oak Leaf Cluster, the Air Force Meritorious Service Medal, the Air Force Commendation Medal with Oak Leaf Cluster, and the Air Force Achievement Award.

Following his retirement, Colonel Kirsch and his wife Carol will continue to reside in Springfield, VA with their children Alicia and Benjamin.

Mr. President, our nation, the Department of Defense, the United States Air Force, and Lieutenant Colonel Kirsch's family can truly be proud of this outstanding officer's many accomplishments. His honorable service will be genuinely missed in the Department of Defense and on Capitol Hill. I wish Lieutenant Colonel Spanky Kirsch the very best in all his future endeavors.•

FIGHTING VIOLENT CRIME IN SANTA ANA, CALIFORNIA

• Mrs. BOXER. Mr. President, on July 11, I had the pleasure of visiting the Santa Ana Police Department to observe its community policing program. Santa Ana is the largest city in Orange County and the ninth largest city in the State of California. Thanks in part to their aggressive community policing program, violent crime in Santa Ana has fallen dramatically.

According to the FBI, violent crime in Santa Ana has dropped 39 percent since 1992; homicides alone are down more than 60 percent, property crimes have dropped 51 percent, and grand theft is down 43 percent.

As one of the first recipients of a Department of Justice Law Enforcement Assistance Administration grant over twenty years ago, the Santa Ana Police Department has been a leader in community policing programs. The Santa Ana Police Department initiated a test program called Community Oriented Policing (COP), designed to create greater interaction between the police department and the community.

The COP philosophy utilizes two strategies: prevention and response. The prevention element aims to remove many of the causes of crime in a community. The Santa Ana Police Department, for example, adopted the "Broken Windows" philosophy of James Wilson and George Kelling. This theory states that minor crimes, disorder, and community disrepair breed crime. Santa Ana put this theory to the test with its "Operation: Round Up" program. By making cosmetic improvements to crime-ridden neighborhoods—repairing homes and removing abandoned cars for example—and by prosecuting minor violations, the police sent a strong message that crime of any and all magnitude is not acceptable. As a result, the "Operation: Round Up" program was able to eliminate a notorious street gang and improve the infrastructure and appearance of the neighborhood.

The response element of the COP philosophy focuses on improved reaction to crime and effective use of police resources. As part of the COPS MORE 96

grant from the Department of Justice, the city received a $1.8 million grant that allowed for the purchase of 150 laptop computers for its police department, which do the work of 55 police officers. These computers enable officers to file police reports from the field electronically, allowing them to patrol the community longer. The increase in the number of available officers has decreased the number of calls for assistance. The COP program has allowed the Santa Ana Police Department to concentrate all available resources on fighting and preventing crime.

Mr. President, I am so pleased to recognize Police Chief Paul Walters and the entire Santa Ana Police Department for providing outstanding service to the people of California. Their actions serve as a model for other communities to follow. I hope Congress will continue to help communities such as Santa Ana improve the quality of life for its citizens.•

TRIBUTE TO THE UNITED STATES COAST GUARD

• Mr. GRAMS. Mr. President, I rise today to pay tribute to the United States Coast Guard as it celebrates the 208th Anniversary of its founding on August 4, 1998.

On August 4, 1790, Congress passed a law creating within the Department of Treasury a service to enforce customs laws. The passage of this law was the foundation for the modern day Coast Guard. The following year, Hopley Yeaton was commissioned as "Master of a Cutter in the service of the United States for the protection of revenue." Yeaton's commission, which was signed by President George Washington, marks the first commission of a seagoing officer, thus giving the Coast Guard the distinction of being the oldest continuous seagoing service of the United States Armed Forces.

Today, the Coast Guard has grown into a force of over 35,000 men and women on active-duty and 8,000 reservist. On a daily basis, the dedicated members of the Coast Guard carry out a number of task which ensure the safety of our waters. These tasks include Search and Rescue, Maritime Law Enforcement, Aids to Navigation, Ice Breaking, Environmental Protection, Port Security and Military Readiness.

In times of war, the Coast Guard has performed valiantly to protect our national interests. From the War of 1812 to the Persian Gulf War, members of the Coast Guard have served and given their lives during our Nation's most trying times. The Coast Guard's wartime service was especially noteworthy during the Second World War when 241,093 Americans answered the call to service as members of the Coast Guard, 1,917 of whom were either killed or wounded in the service of their country.

Equally impressive are the often unsung acts of heroism performed by the Coast Guard on a daily basis. Whether the action is a preventative measure such as ensuring our waterways are clear of hazardous ice, or saving the lives of boaters in danger in the high seas, the work of the Coast Guard affects us all and is a contributing factor to the security we enjoy as Americans.

Mr. President, the Coast Guard motto of "Semper Paratus", meaning "Always Ready", indeed speaks to the dedication and efficiency of the Coast Guard as it stands watch over America's waters. For more than two centuries the Coast Guard has responded with the utmost dedication to service, and for this, Mr. President, all Americans have reason to be grateful.•

WORKFORCE INVESTMENT ACT OF 1998

• Mrs. HUTCHISON. Mr. President, I wish to engage my colleague, Senator DEWINE, in a colloquy.

I thank Senator JEFFORDS, and the other members of the Senate Committee on Labor and Human Resources for your collective efforts in passing H.R. 1385, the Workforce Investment Act of 1998. This bill promises to improve and revitalize our country's workforce system and will enhance the effectiveness and efficiency of our federal job training programs.

As you know, Texas has been in the forefront of the remaking its state and local workforce delivery system. Beginning in 1993, Texas created a system very similar to one embodied in HR 1385. As with this federal legislation, the new Texas system is based on the principles of local control, customer service, and consolidation.

In this regard, I commend you for recognizing in the bill the uniqueness and foresight of the Texas workforce system by providing flexibility in the bill for our state to fully implement its new laws.

Specifically, I understand that HR 1385 provides that Texas will be able to maintain use of its Human Resource Investment Council (known as the Texas Council for Workforce and Economic Competitiveness) as defined in Texas statute and regulation to fulfill the State Board requirements under Section 111. In addition, Section 117(I) provides that Texas will be able to maintain the Local Workforce Development Boards as defined in Texas statute and regulation to fulfill the Local Board requirements under Section 117. Section 189(I)(2) provides that Texas may maintain the current local workforce board areas as defined in Texas statute and regulation to fulfill the requirements under section 116, and that no other language in HR 1385 may be construed to force Texas to change the configuration of its 28 local workforce areas. Section 189(I)(3) provides that Texas may maintain its sanctioning process for local boards. Section 194(a)(1)(A) provides that Texas may maintain it current process and formulas for allocating funds under sections 127 and 132 to its local workforce boards and that Texas may maintain it current procedures for disbursing money that is allocated to local workforce boards. Section 194(a)(1)(B) provides that local workforce boards in Texas may maintain their disbursal processes and procedures for monies provided under sections 127 and 132. Section 194(a)(2) provides that Texas may maintain the procedure as defined in Texas statute and regulation through which fiscal agents are designated by local boards for monies provided under sections 127 or 132. Section 194(a)(3) provides that Texas may maintain its process by which local boards designate or select one-stop partners and one-stop operators, notwithstanding any requirements set forth in section 121. Section 194(a)(4) provides that Texas may maintain its requirements that service providers shall not be permitted to perform both intake and training services. Section 194(a)(5) provides that Texas may maintain the roles and functions of its state board (otherwise known as the Texas Council for Workforce and Economic Competitiveness) and that no requirements for elements of state plans shall be construed to force a role or function upon Texas' State Board that is inconsistent with Texas statute or regulation. Section 194(a)(6) provides that Texas may maintain the roles and functions of its Local Boards and that no requirements for elements of state or local plans shall be construed to force a role or function upon Texas' local board that is inconsistent with Texas statute or regulation.

Mr. DEWINE. The Senator is correct, and I, too, share your commitment to preserving the leading edge reforms Texas is implementing.

Mrs. HUTCHISON. I thank the Senator. There is, however, one final item on which I request clarification. It is my understanding that the intent of Section 194(a)(4) is to allow Texas to limit providers to provide either intake or training services as defined under section 134.

Mr. DEWINE. The Senator is correct. It was the intent of the Conference Committee to allow Texas this specific flexibility with regard to intake and training providers.

Mrs. HUTCHISON. I thank the Senator for his leadership and his assistance and cooperation in ensuring that the intent of this important bill is allowed to be carried-out according to specific state needs and laws.•

STATUS OF THE HAWAIIAN MONK SEAL

• Mr. AKAKA. Mr. President, a we continue to celebrate the International

Year of the Ocean, I would like to inform members of the status and efforts to save the endangered Hawaiian monk seal, the only seal endemic to the Hawaiian islands.

As you may know, the Hawaiian monk seal is one of three species of monk seal known in the world. The other two are the Caribbean and Mediterranean monk seal. The last Caribbean monk seal was sighted in 1952 and is thought to be extinct; the Mediterranean monk seal still survives, but barely, with a population of only 500–1,000 individuals. The rarity of the monk seal makes efforts to save the Hawaiian variety all the more urgent.

Monk seals belong to an order known as pinnipedia, which in Latin means feather or flipper footed. This order includes seals, sea lions, and walruses. Walruses are not found in Hawaii because the weather is not cold enough for them to survive; sea lions are also not natural to the area. The only pinniped found in Hawaiian waters is a seal—the Hawaiian monk seal. Although, Hawaiian monk seals predominately inhabit the Northwestern Hawaiian islands, including Kure Atoll, French Frigate Shoals, Laysan Island, Lisianski Island, Pearl and Hermes Reef, they are occasionally found in the main Hawaiian islands. In fact, the Hawaiian monk seal is one of only two mammals that are endemic to the Hawaiian islands, the other being the Hoary bat.

The National Marine Fisheries Service (NMFS) estimates that there is a population of approximately 1,200–1,400 Hawaiian monk seals. This is half of what the population was in the 1950s. Factors threatening this species include entanglement and consumption of marine debris, disturbance by humans and animals on pupping and haul out beaches, mobbing of females by males, and shark predation.

The NMFS is leading the effort to save the Hawaiian monk seal from further endangerment and ultimate extinction. Under federal law, the agency protects Hawaiian monk seals through education, research, and recovery programs. For example, NMFS has appointed a Hawaiian Monk Seal Recovery team to help with research programs, data analysis, population assessment, and addressing specific problems such as mobbing, human disturbance, and fishing line/net entanglement. The recovery team's mission is to eliminate the causes leading to the declining monk seal population and recommend how further efforts should be managed to stabilize and impede endangerment of this species.

Throughout the years, NMFS has monitored activity on primary breeding locations and taken appropriate actions to aid young monk seal pups and their mothers to a full and healthy life. In order to do this, NMFS has initiated recovery plans to protect females and their offspring from vicious male mobbing which occurs when adult male monk seals attack pups, juveniles, and sub-adult females, probably mistaking them for breeding females. Some of the efforts that NMFS has launched include removing weaned pups from the beach and placing them in enclosed pens until they are strong enough to be released on their own, relocating monk seal males from areas where they greatly outnumber females, and rehabilitating small abandoned pups until they can be released back into the wild.

NMFS also strives to decrease indirect and direct human activities that result in harmful occurrences, like a seal swallowing marine debris or entangling itself in fishing lines or nets. In order to accomplish the task of cleaning up beaches and ridding the oceans of debris, NMFS offers information to schools, marine parks, organizations, and individuals who want to learn what they can do to help the recovery of this species. NMFS also sets up signs on beaches where monk seals are most likely to breed or visit informing visitors how to avoid disturbing the sea animals.

Fortunately, the agency is supported by other organizations that have fostered efforts for the recovery of this unique and beautiful species. These include: the Hawaii Department of Land and Natural Resources, which assists and supports NMFS's recovery efforts; Earthtrust and the Hawaii Wildlife Fund, which promote awareness of and education about the Hawaiian monk seal; Sea Life Park Hawaii, which has in the past offered rehabilitation for monk seal pups; and Dolphin Quest, which financially supports monk seal recovery efforts.

In addition to these organized efforts to save the monk seal, I should recognize the conservation conscious beachgoers, fishermen, and other individuals, who go out of their way to ensure that their activities do not disturb or harm Hawaiian monk seals or other marine life. By simply picking up trash before they leave the beach, beachgoers can do much to promote the survival of the Hawaiian monk seal. Fishermen can also help by being aware of where they fish and making sure that they do not cast their lines in an area where Hawaiian monk seals may inhabit and accidentally bite onto a baited hook. It is also important to make sure that fishing lines and nets are not left in the ocean for a monk seal to swallow or become entangled in. Thus, conscientious citizens can do much to perpetuate the existence of this special creature.

Mr. President, the Hawaiian monk seal is one of Hawaii's biological treasures. Through the combined efforts of government agencies, community organizations, and ordinary citizens, we may one day witness the full recovery of the Hawaiian monk seal. It is my hope that through the education and preservation of this rare species, more people will learn to respect and value all marine life and, by extension, understand our own relationship to our living environment.•

CONGRATULATIONS TO ST. THERESA OF THE LITTLE FLOWER CATHOLIC CHURCH ON ITS APPROACHING FIFTIETH ANNIVERSARY

• Mr. REID. Mr. President, I rise today to pay tribute to Reno, Nevada's Little Flower Catholic Church, which will soon be marking its fiftieth anniversary. This amazing church has truly been a blessing for the people of northern Nevada, as it has become a pillar of strength, inspiration, and hope for the thousands who have passed through its doors.

Little Flower has truly blossomed since its first mass was celebrated on October 17, 1948. Senator Patrick McCarran, Representive Walter Baring and area religious leaders of all denominations were just a few of those who filled the church's 200 seats on that special day. By the time Father Robert Bowling became pastor in 1974, facilities has expanded and the parish had grown to several hundred people. And, during the following year, the parish actually doubled in size. Today, under Father Bowling's continued stewardship, the church ministers to almost four thousand families, reflecting an extraordinary increase—particularly over the last twenty-five years. Moreover, each month, a Little Flower worship service is taped and later aired on local television for the benefit of those who would like to attend mass but are too infirm to do so.

In celebrating this anniversary, I am reminded of the well-known biblical passage that refers to our duty as our brother's keeper. This message is clearly not lost on the Little Flower congregation. While the church is by no means what one would consider wealthy, its parishioners' generosity is boundless. In addition to monthly donations to St. Vincent's shelter, the Little Flower distributes food vouchers to the hungry on a daily basis. A local supermarket honors the certificates and then bills the church at the end of each month. Likewise, gas vouchers are provided to stranded motorists. Bus fare is available for runaways looking to return home and for others caught in similarly difficult straits. Even money for medicine is given to the uninsured poor. Little Flower's policy holds that nobody in need is turned away, and no questions are ever asked.

Yet, Little Flower Catholic Church is not just about worship and charity; it's also a garden of personal and community development. The church operates a school that enrolls three hundred

youngsters, providing top-notch religious and academic instruction. In addition, the church sponsors countless organizations such as a Mom's Group, Altar Society, Knights of Columbus, as well as Filipino, Hispanic, and youth-centered choirs. Of course, standard Marriage, Baptism and Sunday school classes are also included in the Little Flower's crowded slate of activities. Sometimes I think that if a book could be written about the church's history, it may well be called the Little Flower That Could.

Father Omar, one of the parish priests, is a more recent example of Little Flower's devotion to its parishioners. Born in Colombia, with a heart big enough to fill the world, Father Omar today sets the standard for spirituality and community activism. He is truly a man for others.

Hanging over the entrance of the church chapel is a sign declaring that "love is spoken here." Indeed, it's a language the folks at Little Flower Catholic Church have clearly mastered. The church has embraced newcomers, comforted and cheered the downtrodden, and is one of those special places that brings out the best in all of us. While its history is grand, Little Flower Catholic Church's future promises to be equally as rosy. Congratulations on the approaching fiftieth anniversary to Reno Bishop Phillip Straling, Father Bowling, the church's charter members, and all of the parishioners that have made it such a sanctuary of unconditional love.•

CATHERINE KENNEDY

• Mr. DODD. Mr. President, our nation's struggle against the AIDS virus has been a difficult one. More and more Americans are beginning to learn the facts about this disease that has become the leading killer of U.S. adults between the ages of 25 and 44. And in recent years, we have finally begun to devote significant resources toward quality treatment and the search for a cure. But as my colleagues know, for many years, attention to the disease was severely lacking, and only a handful of people in this country were actively working for better treatment of its victims. I am proud to say that one of the true heroes and pioneers in the fight against AIDS hails from Connecticut: Catherine Kennedy of New Haven. Sadly, Mrs. Kennedy recently died of pancreatic cancer at the age of 51.

Catherine Kennedy was active on many fronts in the fight against AIDS, but she is best known for her efforts to establish Connecticut's first nursing home for people afflicted with this disease.

A native of England, Catherine Kennedy moved to New Haven in 1983. Shortly after moving to Connecticut, she noticed the lack of nursing centers and services for people in the area living with AIDS. She saw nursing homes that were refusing care to many individuals. Patients were being kept, at enormous expense, at hospitals that were essentially unequipped to treat them. And other patients were in fact homeless.

Catherine Kennedy took it upon herself to create a nursing home designed specifically to treat persons living with HIV/AIDS who were too sick to stay at home but too healthy to need hospital care. Her efforts were met with great resistance along the way.

But she eventually gained the help of Lucie McKinney, the widow of U.S. Representative Stewart McKinney, who had died of AIDS. Together they were able to convince the Governor and state legislature to support the idea of a treatment center, and a law was passed which provided funding to cover non-hospital care costs for AIDS patients and to convert an old factory in New Haven into a nursing home. She was also able to secure a grant from Yale-New Haven Hospital to help finance the home.

In 1995, eight years after Catherine Kennedy began her efforts to establish this center, Leeway, Inc. opened its doors and became the first nursing home in Connecticut for the treatment of persons with AIDS or the HIV virus. Since it opened, Leeway has treated more than 150 individuals. And while Catherine Kennedy's original idea was to create a center to primarily provide quality care for dying patients, today nearly half of their patients are able to go home and resume their everyday lives.

Catherine Kennedy is a shining example of what one person can accomplish if they are willing to fully commit themselves to the betterment of their community. She overcame tremendous resistance and even greater odds to open this nursing home. Her determination has resulted in a better life for hundreds of people living with HIV/AIDS in Connecticut, as well as in communities all across the country who look at Leeway as a model for providing quality care.

But Catherine Kennedy touched the lives of many more people than just those who struggle with this deadly disease. She was a beloved figure by all who knew her, and she inspired those around her to ask more of themselves and reach out to others in need. She will be dearly missed.

She is survived by her husband Paul, her three sons, two brothers and two sisters. I offer my heartfelt condolences to them all.•

ELIMINATING THE BACKLOG OF VETERANS REQUESTS FOR MILITARY MEDALS

• Mr. HARKIN. Mr. President, I would like to take some time to address an unfilfilled obligation we have to our nation's veterans. The problem is a substantial backlog of requests by veterans for replacement military medals.

I first became aware of this issue a few years ago after dozens of Iowa veterans began contacting my State offices requesting assistance in obtaining medals and other military decorations they earned while serving the country. These veterans had tried in vain—usually for months, sometimes for years—to navigate the vast Pentagon bureaucracy to receive their military decorations. The wait for medals routinely exceeded more than a year, even after intervention by my staff. I believe this is unacceptable. Our nation must continue its commitment to recognize the sacrifices made by our veterans in a timely manner. Addressing this simple concern will fulfill an important and solemn promise to those who served to preserve democracy both here and abroad.

Let me briefly share the story of Mr. Dale Holmes, a Korean War veteran. Mr. Holmes fired a mortar on the front lines of the Korean War. Stacy Groff, the daughter of Mr. Holmes, tried unsuccessfully for three years through the normal Department of Defense channels to get the medals her father deserved. Ms. Groff turned to me after her letter writing produced no results. My office began an inquiry in January of 1997 and we were not able to resolve the issue favorably until September 1997.

Ms. Groff made a statement about the delays her father experienced that sums up my sentiments perfectly: "I don'ts think it's fair . . . My dad deserves—everybody deserves—better treatment than that." Ms. Groff could not be more correct. Our veterans deserve better than that from the country they served so courageously.

Another example that came through my district offices is Mr. James Lunde, a Vietnam-era veteran. His brother in law contacted my Des Moines office in January of this year for help in obtaining a Purple Heart and other medals Mr. Lunde earned. These medals have been held up since 1975. Unfortunately, there is still no determination as to when Mr. Lunde's medals will be sent.

The numbers are disheartening and can sound almost unbelievable. For example, a small Army Reserve staff at the St. Louis Office faces a backlog of tens of thousands of requests for medals. So why the lengthy delays? Why, at one personnel center, is there a backlog of 40,000 requests?

The primary reason DOD officials cite for these unconscionable delays is personnel and other resource shortages resulting from budget cuts and hiring freezes. For example, the Navy Liaison Office has gone from 5 or more personnel to 3 within the last 3 years. Prior to this, the turnaround time was 4–5 months. Budget shortages have delayed the agency's ability to replace

employees who have left, and in cases where they can be replaced, the "learning curve" in training new employees leads to further delays.

Yesterday, during the debate over the Defense Appropriations bill, I offered an amendment to eliminate the backlog of unfulfilled military medal requests. The amendment was accepted by unanimous consent.

My amendment directs the Secretary of Defense to allocate resources necessary to eliminate the backlog of requests for military medals. Specifically, the Secretary of Defense shall make available to the Army Reserve Personnel Command, the Bureau of Naval Personnel, the Air Force Personnel Center, the National Archives and Records Administration, and any other relevant office or command, the resources necessary to solve the problem. These resources could be in the form of increased personnel, equipment or whatever these offices need for this problem. In addition, this reallocation of resources is only to be made in a way that "does not detract from the performance of other personnel service and personnel support activities within the DOD."

Our veterans are not asking for much. Their brave actions in time of war deserve our highest respect, recognition, and admiration. My amendment will help expedite the recognition they so richly deserve. Our veterans deserve nothing less.•

HONORING THE COUNTRYSIDE FIRE PROTECTION DISTRICT

• Ms. MOSELEY-BRAUN. Mr. President, it is my distinct pleasure to bring to the attention of the Senate the achievements of one of the Nation's most accomplished firefighting districts.

The Countryside Fire Protection District, in my home state of Illinois, has recently received accreditation from the Commission on Fire on Accreditation International. The Countryside Fire Protection District, serving the towns of Hawthorn Woods, Indian Creek, Long Grove, Vernon Hills and portions of unincorporated Lake County, was the first district in the world to be awarded this prestigious mark of firefighting quality and excellence. The Village of Long Grove, the Lake County Board and the Office of the Illinois State Fire Marshall have since recognized this important achievement.

The Commission on Fire Accreditation International, created by the International Association of Fire Chiefs and the International City/County Manager Association, is a non-profit trust organization dedicated to the quality and improvement of fire and emergency service agencies. The Commission offers accreditation for local firefighting districts after a comprehensive evaluation. Accreditation is awarded if, among other qualifications, a district's firefighting program is broad, rigorous, contemporary and adaptive. The Countryside Fire Protection District, under the exemplary leadership of Chief A. Lewis Landry, has demonstrated those standards and continues to be a model for both this Nation and the international firefighting community to follow.

As a member of the Congressional Fire Services Caucus, I am deeply impressed by the caliber of services that the Countryside Fire Protection District Provides. With admirable distinction, Chief Landry and the fire fighters of his district have gallantly protected their district from the perils of disaster, ensuring the safety of their fellow citizens. I congratulate the members of the Countryside Fire Protection District on this momentous achievement, and I extend my gratitude to you for your selfless dedication to the safety of your community and your neighbors.•

RECOGNIZING SECRETARY OF EDUCATION RICHARD RILEY

• Mr. ROCKEFELLER. Mr. President, today, I would like to recognize the extraordinary work and dedication of our Secretary of Education, the Honorable Richard Riley. I am quite proud to call Secretary Riley a good friend. Over many years, I have had the privilege of working closely with the Secretary to promote quality education and help children and families. I believe everyone in the Senate understands the importance of quality education for every child, even if we may sometimes disagree on the best ways to achieve this fundamental goal.

I believe that education technology provides enormous promise for strengthening education, enhancing choice, and helping every child gain access to the wealth of information and educational resources on the Information Superhighway. In my our state of West Virginia, distance learning has provided access to advance courses in math, science, and even foreign languages like Japanese in some of the poorest, most rural areas. And this is just one example. There is much we can do, as noted by the Secretary's speech to the National Conference of Young Leaders about the role of technology and education. I ask that Secretary Riley's remarks be printed in the RECORD so that all of my colleagues can review these compelling remarks.

The remarks follow:

TECHNOLOGY AND EDUCATION—AN INVESTMENT IN EQUITY AND EXCELLENCE

(By Richard W. Riley)

Thank you Senator Glenn. I am so grateful that you could take the time out of your busy schedule—between being a Senator and preparing to return to space—to be here with us today. I am especially delighted by your presence because I can think of no American who better exemplifies the link between education and technology—and whose life has been a constant quest of new challenges, new experiences and, perhaps most importantly, new knowledge.

On that note, let me say what a great delight it is to address the many students who are taking part in the National Young Leaders Conference who are here in Washington to study our government. I also want to welcome those education and technology leaders who are with us today—as well as the students, teachers, librarians, and others who are joining us across the country on the Internet.

I am very pleased—and I think it is so appropriate—that this event, which focuses on the critical relationship between education and technology, is being Webcast via the Internet. It is an example of the kind of opportunity available to those who might not otherwise be able to participate in these kinds of discussions.

My friends, I come before you to talk about the promise and the possibilities of technology in education. I want to assure you that this future can be a rich and limitless one, full of opportunity for students of all ages. But I also want to make clear that to achieve this kind of bright future requires a real commitment by this nation to end the great disparity that exists between those who have, and those who do not have these exciting tools for learning. We have the potential to do great things with technology in our schools, but it is a potential still largely unrealized.

Right now, if I had to describe the application of technology in our nation's schools, I would say that it is a tale of two worlds. One world is a world of families and communities that have the best in educational technology and are reaping the benefits.

In the other world, the use of technology in schools to achieve maximum educational benefit is usually little more than a dream. Figures from the Commerce Department—just released—confirm that we are in the midst of a severe digital divide—a gap between those who have access to computers and the Internet—and those who do not. The figures show that it is a divide centered largely on racial, economic, and other demographic lines. But it is a divide that does not have to be.

The Commerce numbers show, for instance, that White Americans are more than twice as likely to own a computer as African Americans or Hispanics, 41% to 19%. Households earning more than $75,000 have more than 75 percent computer ownership, while households with incomes under $10,000 have 11 percent or less computer ownership. And Americans with a college degree are almost ten times more likely to own a personal computer than those with eight years of school or less.

The statistics are equally disappointing in our schools. Too many of our nation's classrooms lack the resources and connections to hook into these effective learning technologies. According to the National Center for Education Statistics, although 78 percent of our public schools are now connected to the Internet, thanks to communities and schools working together, only 27 percent of classrooms have access. What is more, in low income communities and minority neighborhoods, only 13 percent of classrooms have such access.

Now, it doesn't take a statistician to figure out what all these numbers mean. We, as a nation, are missing the opportunity of a

lifetime. It is the opportunity it offers a student living in a rural area to experience the greatest museums and libraries in our cities and around the world. It is the chance a student with a disability has to gain access to all kinds of information.

It is the ability of all students—no matter whether rich or poor, or whether they are from a small town, a city, a rural area, or a suburb—to learn at the highest levels with the greatest resources and have the promise of a future of real opportunity. This is the potential of technology.

Quite simply, technology can be one of the greatest equalizers of opportunity that has existed since the first textbook was distributed in our nation's public schools. But a single computer in the principal's office won't allow kids to benefit from these learning technologies. We need to get the technology to where kids learn—in the classroom.

I believe it is time to think seriously about the direction in which we want to go and the kind of investment we want to make in our nation and our children's future. It is time to break the cycle of technological inequity—not perpetuate it.

Today's students are the first generation that will be expected to have technology skills for careers and future success. These skills are the "new basics." By the year 2000, 60 percent of all jobs will require high tech computer skills. Over the next seven years, according to the Bureau of Labor Statistics, it is estimated that there will be a 70% growth in computer and technology related jobs—jobs with a real future.

In this Information Age, information is the currency that drives the economy. If people do not have access to information or the necessary tools, they cannot participate in this economy.

In some schools, students already are getting this kind of training. Covington High School in Covington, Louisiana, for instance—and I understand that Stephanie Piranio is here from that school today—has integrated technology into almost every aspect of learning to help students further their development of basic and advanced skills like reading, writing, mathematics, science, and geography.

In one environmental science class, students focused on cleaning up and restoring a local stream. They conducted research on restoration, worked at improving water quality and analyzed results. They wrote reports, prepared multimedia presentations, and met with local and state leaders. The Army Corps of Engineers even awarded a grant to the city, in large part due to the students' work, which it said was the equivalent of more than $50,000 in research and preparation.

The "Do-It Scholars" program at the University of Washington, is another exciting program that used technology to expand learning opportunities. High school students with disabilities who have interests in science and engineering are provided with special tools and training to use the Internet to explore academic and career interests.

One student, who was totally blind used a computer with speech output to explore the fields of biology and computer science. That student commented, "I have all of the information for school projects. I no longer have to get help from fellow students to do my research papers. In fact, a few have even asked me for help."

But it's not just students who can reap these benefits. Teachers can spend more individual time with students; they can communicate with each other and be exposed to new and engaging methods of teaching; and they can communicate with parents about their children's schoolwork.

I think a science teacher in Florida explained it best when she said that using technology to learn is "the difference between looking at a picture of a heart in a textbook, and looking at a beating heart and being able to slow it down and analyze it to see exactly how it works, step by step."

Research by David Dwyer and others shows significant links between computer-assisted instruction and achievement in traditional subject matter. Students with access to these technologies have shown better organizational and problem-solving skills when compared with students who do not have access to these technologies.

Perhaps even more important, research shows that students in schools that integrate technology into the traditional curriculum have higher attendance and lower dropout rates—which leads to greater academic success.

This can be seen at one of our Blue Ribbon schools, Westwood High School in Austin, Texas, which has developed a comprehensive program to use technology to enhance teaching and learning. I believe Stephanie Pan is here today from that school. Westwood's SAT and ACT test scores are among the highest in the state, and the school's AP placement programs rank 20th in the nation.

The use of computers has also been shown to be an especially effective way to improve learning and educational opportunities for at-risk students, as a recent study by City University of New York demonstrates.

Significant academic improvement was found, especially in reading, when computers were provided in the homes of at-risk middle school students. The greatest improvement was shown by those who spent the most time on their computers because it helped them learn to think and express themselves, and use their time more productively.

The strong connection between technology and learning only serves to highlight the utter injustice of the continuing inequity in computer ownership and access that was confirmed so clearly in the Commerce Department statistics I mentioned earlier.

President Clinton and Vice President Gore have been working hard to end this digital divide—and to give all young people in poorer communities the chance to use these kinds of resources and build stronger schools. One of the most important of these initiatives is called the E-Rate, or Education Rate.

Now "E" could also stand for equality or equal access—because the fastest way I know to help close the "digital divide" is by providing significantly discounted telecommunications services for schools and libraries. This initiative is critically important because it guarantees affordable telecommunications access to all schools—public and private.

Curiously, in spite of the great benefits it would bring to communities around the country, the E-Rate has faced a number of serious challenges. This offers a good example of how even the best ideas can get sidetracked or derailed by powerful special interests. Let me tell you what happened.

Two years ago, after months of public hearings and with bipartisan support, Congress passed, and the FCC implemented, the Telecommunications Act of 1996. This law deregulated the industry and provided telecommunications companies with broad new opportunities for growth.

Linked to this opportunity was a responsibility to continue Universal Service—a 60-year old program that has provided affordable telephone services to some rural communities and other areas with unusually high telephone costs. The Congress also expanded this critical program to provide schools and libraries with more affordable telecommunications services through what is referred to as the E-rate. It was a win-win situation.

In exchange for their continued support of Universal Service, the long distance telephone carriers were given significant reductions in their costs through reduced access fees. Unfortunately, after the plan was enacted, some of the long distance companies sought to change the way it was funded, jeopardizing the E-rate. And some members of Congress have sought short term political gain by trying to pull the plug on the program.

The long distance companies added a surcharge to phone bills purportedly to recover the cost of Universal Service. But we argue that they already had been reimbursed through the reduced access fees.

They also failed to distinguish between all Universal Service charges and the E-Rate. One large long distance company put a 95 cent surcharge on telephone bills. But only 19 cents of that was for the school and library program—which amounted to less than a penny a day. I can think of no more worthwhile investment for our children.

Now, I am pleased to say that grass roots groups and student organizations have fought diligently for this effort. As a result, we were able to save the E-rate, but attacks on it continue. If the E-rate is taken away or reduced any further, as a recent report by the National School Boards Association clearly demonstrates, students in schools and people in libraries across the country will be left high and dry. That is wrong and people need to speak out about it.

Let me tell you in no uncertain terms—President Clinton, Vice President Gore, and I will continue to fight any efforts to dismantle the e-rate and widen the digital divide.

What good is it to be the richest nation in the world—with the greatest technological resources in the world—if the ability to benefit from technology is dependent on whether a student goes to a particular school?

There are many who criticize the use of technology in our schools. The irony is that those who belittle this use of technology are those who already have access to computers and the preparation to participate fully in today's Information Age.

This debate has never been about technology. It has been about what our children have the opportunity to do. It's about much more than just giving a young person a computer or connecting that person to the Internet. It's about connecting students to a whole new world of learning resources and offering the mind the opportunity to expand and take on a new and challenging future.

As I'm sure many of you already know, the web is a wondrous resource for those of you thinking about college. A recent survey of college-bound high school seniors found that 78% had used college web sites during their hunt for campus information—up from 4% just two years earlier.

The Department of Education's own web site provides publications such as "Getting Ready for College Early," the "Student Guide to Financial Aid" and "Funding your Education." You can even get and fill out your financial aid forms for college (FAFSA) via the web.

I am delighted to announce that today we are unveiling our "Think College Early" web site. This new site (www.ed.gov/thinkcollege) will provide middle school students, parents, and teachers critical information they need to know to begin to get prepared for college. If parents are not computer literate, I would encourage students to download a copy of the Department's own "Parents Guide to the Internet"—so that parents and children can discuss and research these issues together.

We also need to improve opportunities for teachers to use technology—so that it is just as easy as it is for most teachers to use a chalkboard today. The best high tech learning equipment is of little value if a teacher doesn't know how to use it effectively in the classroom. Colleges of education need to incorporate technology resources and training into their curriculum. Some already use this, most do not, and all of them should.

This Administration has proposed a number of initiatives designed to strengthen teacher training, with an emphasis on application of technology in the classroom. One such effort would provide $75 million to help ensure that all new teachers entering the workforce can integrate technology effectively in the curriculum.

This is particularly important, given the expected need over the next 10 years for more than two million new teachers. And I hope when the full House of Representatives takes up this issue, it will reverse the decision of the House Appropriations Committee, which refused to fund this important initiative.

Now before I close, I want to emphasize another very important point. While we know that technology makes a very real difference in helping teaching and learning, it is not—I repeat—it is not a panacea for fixing all of the challenges that our schools face. It is a not a substitute for solid teaching and learning, but an opportunity to enhance and build upon it.

The benefits of technology in schools can only be achieved by entire communities coming together. And this Administration is fighting to make the investment to improve education and our schools. We want to give every community more resources—through efforts to raise standards, lower class size, strengthen teaching, improve reading, build and modernize schools, and expand after-school programs. And technology is an important part of this.

The majority in Congress has so far been only negative and opposed full investment in these initiatives. But I hope with the new school year they will get the education spirit.

Quite simply, we need to work together—in our local communities and with national leadership and assistance—to make sure that all schools have the hardware, software, wiring, and teacher training they need and every child has the opportunity to click into the educational promise of technology.

We have it in our power to make sure that this tool for learning not only does not exacerbate the divide between rich and poor—but also works to close it.

Most parents and educators understand the value of technology even if they don't understand the technology itself. It is a reflection of Americans' overall deep feeling about the promise and the power of education—its enormous capacity to open doors, create opportunities and help make people better citizens. Americans understand that without education, we can have neither excellence nor equity. I hope Congress will hear the voices of America.

As President Clinton said recently, "We can extend opportunity to all Americans—or leave many behind. We can erase lines of inequity—or etch them indelibly. We can accelerate the most powerful engine of growth and prosperity the world has ever know—or allow that engine to stall."

I say it is time we take on the challenge and commit ourselves to ending the digital divide. I challenge this nation to work to ensure that every young person in America has the opportunity to sign on to the Internet, to conduct research, look for information about colleges, and just express a natural curiosity and strengthen a love for learning.

What we can not do is let this opportunity pass us by. We must fulfill the promise of this new age of education and information.●

TRIBUTE TO CHRISTINE JACOBS

● Mr. CLELAND. Mr. President, I rise today to honor the many accomplishments of Christine Jacobs of Norcross, Georgia. Chris is the President, CEO and Chairman of the Board of Theragenics Corporation which markets, sells and distributes the FDA-licensed medical device TheraSeed for treating cancer.

She has had many remarkable accomplishments during her career, but today I would like to call attention to yet another important milestone. On August 6, 1998 Chris will switch Theragenics from the NASDAQ exchange, which the company has been trading on publicly since 1986, to the New York Stock Exchange. Chris will become the first female CEO to enroll a company on the New York Stock Exchange. She will also be ringing the bell to open the exchange that morning.

Chris Jacobs is truly a remarkable and successful business-savy member of the Georgia business community. She also dedicates time to civic and medical organizations in Georgia including the Georgia Bio-Medical Partnership, the Board of Councilors of the Carter Center, the State's Small Business Taskforce and the Georgia Chamber of Commerce.

Chris Jacobs possesses the tenacity and vision that has changed the world as we have known it and paved the road to the next millennium in regard to medical treatment. I ask my colleagues in the Senate to join me in honoring the innumerable achievements of Chris Jacobs and her work at Theragenics, and wish her luck and much success on the New York Stock Exchange. She proves that if we can perceive it we can achieve it—Chris will continue to rewrite history and achieve unending successes.●

CURT FLOOD ACT OF 1998

● Mr. WELLSTONE. Mr. President, late last night, the Senate passed by unanimous consent S. 53. I have been contacted by the Attorney General of my State, Hubert H. Humphrey III, and asked to try to clarify a technical legal point about the effect of this legislation. The State of Minnesota, through the office of Attorney General, and the Minnesota Twins are currently involved in an antitrust-related investigation. It is my understanding that S. 53 will have no impact on this investigation or any litigation arising out of the investigation.

Mr. HATCH. That is correct. The bill simply makes it clear that major league baseball players have the same rights under the antitrust laws as do other professional athletes. The bill does not change current law in any other context or with respect to any other person or entity.

Mr. WELLSTONE. Thank you for that clarification. I also note that several lower courts have recently found that baseball currently enjoys only a narrow exemption from antitrust laws and that this exemption applies only to the reserve system. For example, the Florida Supreme Court in Butterworth v. National League, 644 So.2d 1021 (Fla. 1994), the U.S. District Court in Pennsylvania in Piazza v. Major League Baseball, 831 F. Supp. 420 (E.D. Pa. 1993) and a Minnesota State court in a case involving the Twins have all held the baseball exemption from antitrust laws is now limited only to the reserve system. It is my understanding that S. 53 will have no effect on the courts' ultimate resolution of the scope of the antitrust exemption on matters beyond those related to owner-player relations at the major league level.

Mr. HATCH. That is correct. S. 53 is intended to have no effect other than to clarify the status of major league players under the antitrust laws. With regard to all other context or other persons or entities, the law will be the same after passage of the Act as it is today.

Mr. LEAHY. I concur with the statement of the Chairman of the Committee. The bill affects no pending or decided cases except to the extent that courts have exempted major league baseball clubs from the antitrust laws in their dealings with major league players. In fact, Section 3 of the legislation makes clear that the law is unchanged with regard to issues such as relocation. The bill has no impact on the recent decisions in federal and state courts in Florida, Pennsylvania and Minnesota concerning baseball's status under the antitrust laws.

Mr. WELLSTONE. I thank the Senator. I call to my colleagues attention the decision in Minnesota Twins v. State by Humphrey, No. 62-CX-98-568 (Minn. dist. Court, 2d Judicial dist., Ramsey County April 20, 1998) reprinted in 1998-1 Trade Cases (CCH) ¶72,136.●

BLONDIE LABOUISSE, 1915–1998

• Ms. LANDRIEU. Mr. President, I note with sadness the passing of a leading citizen of my hometown, New Orleans, Louisiana. Carolyn Gay Labouisse, a community leader and civic activist for many decades, died this past weekend at the age of 83. She was the daughter of Edward James Gay, a Senator from Louisiana from 1918 until 1921.

Known to everyone as "Blondie," she was the classic Southern woman who, when she saw something lacking in the community, would immediately step forward, roll up her sleeves, and set about making things right. For example, when she saw that New Orleans had an inadequate, out-of-date library facility, she immediately began to spearhead efforts to build a new, modern Main Library. She also worked to develop and expand public affairs programming at our local public television station (WYES). She was an active participant in several task force committees dealing with education in New Orleans.

Blondie was dedicated to progressive politics. In the 1940's and 1950's, she was part of a circle of young people in New Orleans who fought hard to eliminate corruption from politics and to make state and local government more responsive to the needs of its citizens. She campaigned to elect reform candidates as governor of Louisiana and mayor of New Orleans. She was one of the founding members of the Independent Women's Organization, which is a leading reform organization in New Orleans.

She received the 1991 Times-Picayune Loving Cup, the single most prestigious award given annually in New Orleans for community service. The selection committee, in recommending her, noted that "few show more care and compassion for community and fellow man."

I extend my sympathies to her family. Blondie Labouisse meant a great deal to the people of New Orleans. She will be missed.•

RETIREMENT OF GENERAL RICHARD I. NEAL

• Mr. LEAHY. Mr. President, I rise today to honor a fine Marine Officer, General Butch Neal, the Assistant Commandant of the Marine Corps, who will soon retire from active duty.

General Neal's long and distinguished career began more than thirty years ago following his graduation from Northeastern University when he was commissioned a Second Lieutenant in the United States Marine Corps. Following the completion of The Basic School at Quantico, Butch was trained as an artillery officer and was assigned to duty in the Republic of Vietnam where he served tours as a Forward Observer and as an Advisor to the Vietnamese Marine Corps.

While serving in Vietnam, he was wounded and received the Purple Heart. He was also awarded the Silver Star Medal on two occasions for his heroism as well as the Bronze Star Medal with Combat "V" device.

General Neal distinguished himself over the years as one of the Marine Corps' finest commanding officers. Whether as a battery commander, artillery battalion commander, Deputy Marine Expeditionary Force Commander or Commanding General of the 2nd Marine Division, his reputation as an uncommonly gifted leader of Marines has grown with each billet he held. In the joint arena, he served with distinction as the Commanding General, Joint Task Force for Operation GITMO, the humanitarian relief effort for Haitian immigrants in Cuba and as the Deputy Commander in Chief/Chief of Staff for U.S. Central Command.

Day after day, year after year he demonstrated the rare quality of balancing difficult and often dangerous responsibilities with a keen concern for the welfare of his Marines. Butch has been a superb staff officer. Most Americans remember him from his no-nonsense daily briefings during the Persian Gulf War, but he also distinguished himself in personnel management as well as in operational planning.

This unique combination of leadership and administrative skills carried him to the very highest levels of the Marine Corps. His impeccable character and strong moral fiber make him a leader among the very best of our nation's military commanders. Yet what stands out most to me when I think of this fine officer is his simplicity and unassuming nature.

Despite all the accolades and all the honors, he remains a simple man from Massachusetts. I got to know him and his wife Kathy because they attend the same church as my wife Marcelle and I. He is a hard working New Englander who with love of God, country and Corps dedicated a lifetime in service to our nation. Too often we do not thank the Butch Neals of the world, those who choose a lifetime of service and sacrifice so that the rest of us can live safe and free.

Butch, we are grateful for the service you have rendered as a Marine, as well as the sacrifices made by both you and your family. I wish Butch, his wife Kathy and their children Andrew, Amy and Erin much health and happiness in the years ahead. Our country is better for the many contributions he has given us.•

PAUL O'DWYER

• Mr. DODD. Mr. President, I rise today to pay tribute to one of the most passionate and committed political leaders that this country has ever known: Paul O'Dwyer of New York City. Sadly, Mr. O'Dwyer recently died, one day before his 91st birthday.

A former New York City Council President, Paul O'Dwyer was the soul of political activism in New York for a half-century.

Author Frank McCourt mourned him as "one of the pure souls" who "developed convictions early in life and never wavered." And not only did Paul O'Dwyer hold deep convictions, he also acted on them. Mr. O'Dwyer once said, "Politics is the only machinery around on which you can really straighten things out." And hardly a day went by, where Paul O'Dwyer didn't work to "straighten things out" for the people of our country and our world who were most in need.

He was the quintessential champion of the underdog, and his thick white mane of hair became the symbol of most every significant social movement in New York during the past 50 years.

The causes he championed were as diverse as the people and places of our great nation, but at the soul of each of his endeavors was the pursuit of social justice.

He immigrated to the United States from Ireland when he was 17, and he worked his entire adult life for a united Ireland. He was the national coordinator for the American League for an Undivided Ireland. He worked very closely with Gerry Adams and fought for his historic trip to the United States so he could plead his case for peace and understanding in his homeland. And he insisted on meeting with Protestant leaders who visited our shores.

He fought diligently for the creation of the State of Israel. As chairman of the Lawyer's Committee for Justice in Palestine, he pleaded at the United Nations in the late 1940s for Israeli sovereignty.

He was deeply committed to ending segregation in our country. He successfully litigated a critical desegregation suit in 1951, which opened the way for blacks to live in Stuyvesant Town, a large Manhattan housing complex. He also went to the Deep South to register African-American voters, campaign for black candidates, and provide legal assistance.

He successfully argued before the Supreme Court for the right of mainland Puerto Ricans to take their voter literacy test in Spanish.

His constant support of minority causes helped deny him a mainstream role in American politics. In all his efforts to win elective public office, he succeeded just twice, once as Manhattan's councilman at large and the other time as New York City Council President. He also won the Democratic nomination for U.S. Senator in 1968, but lost the general election to Senator Jacob Javits. But Paul O'Dwyer didn't enter politics to win elections, he did so because he saw injustice in this country, and he was determined to eradicate it.

In the end, Paul O'Dwyer may have lost more elections than he won, but his leadership was not based on titles. It was built on principles.

Perhaps that is why few individuals have ever earned the level of respect and admiration that Paul O'Dwyer received from both his colleagues and his adversaries.

Paul O'Dwyer was truly one of a kind, and he will be dearly missed for his leadership and more importantly for his friendship.●

S. 53—THE CURT FLOOD ACT OF 1998

The text of S. 53, the Curt Flood Act of 1998, as passed by the Senate on July 30, 1998, is as follows:

S. 53

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 "Curt Flood Act of 1998".

SEC. 2. PURPOSE.

It is the purpose of this legislation to state that major league baseball players are covered under the antitrust laws (i.e., that major league baseball players will have the same rights under the antitrust laws as do other professional athletes, e.g., football and basketball players), along with a provision that makes it clear that the passage of this Act does not change the application of the antitrust laws in any other context or with respect to any other person or entity.

SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO PROFESSIONAL MAJOR LEAGUE BASEBALL.

The Clayton Act (15 U.S.C. §12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) Subject to subsections (b) through (d), the conduct, acts, practices, or agreements of persons in the business of organized professional major league baseball directly relating to or affecting employment of major league baseball players to play baseball at the major league level are subject to the antitrust laws to the same extent such conduct, acts, practices, or agreements would be subject to the antitrust laws if engaged in by persons in any other professional sports business affecting interstate commerce.

"(b) No court shall rely on the enactment of this section as a basis for changing the application of the antitrust laws to any conduct, acts, practices, or agreements other than those set forth in subsection (a). This section does not create, permit or imply a cause of action by which to challenge under the antitrust laws, or otherwise apply the antitrust laws to, any conduct, acts, practices, or agreements that do not directly relate to or affect employment of major league baseball players to play baseball at the major league level, including but not limited to—

"(1) any conduct, acts, practices, or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players;

"(2) the agreement between organized professional major league baseball teams and the teams of the National Association of Professional Baseball Leagues, commonly known as the 'Professional Baseball Agreement', the relationship between organized professional major league baseball and organized professional minor league baseball, or any other matter relating to organized professional baseball's minor leagues;

"(3) any conduct, acts, practices, or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting franchise expansion, location or relocation, franchise ownership issues, including ownership transfers, the relationship between the Office of the Commissioner and franchise owners, the marketing or sales of the entertainment product of organized professional baseball and the licensing of intellectual property rights owned or held by organized professional baseball teams individually or collectively;

"(4) any conduct, acts, practices, or agreements protected by Public Law 87-331 (15 U.S.C. §1291 et seq.) (commonly known as the 'Sports Broadcasting Act of 1961');

"(5) the relationship between persons in the business of organized professional baseball and umpires or other individuals who are employed in the business of organized professional baseball by such persons; or

"(6) any conduct, acts, practices, or agreements of persons not in the business of organized professional major league baseball.

"(c) Only a major league baseball player has standing to sue under this section. For the purposes of this section, a major league baseball player is—

"(1) a person who is a party to a major league player's contract, or is playing baseball at the major league level; or

"(2) a person who was a party to a major league player's contract or playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

"(3) a person who has been a party to a major league player's contract or who has played baseball at the major league level, and who claims he has been injured in his efforts to secure a subsequent major league player's contract by an alleged violation of the antitrust laws: *Provided however*, That for the purposes of this paragraph, the alleged antitrust violation shall not include any conduct, acts, practices, or agreements of persons in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

"(4) a person who was a party to a major league player's contract or who was playing baseball at the major league level at the conclusion of the last full championship season immediately preceding the expiration of the last collective bargaining agreement between persons in the business of organized professional major league baseball and the exclusive collective bargaining representative of major league baseball players.

"(d)(1) As used in this section, 'person' means any entity, including an individual, partnership, corporation, trust or unincorporated association or any combination or association thereof. As used in this section, the National Association of Professional Baseball Leagues, its member leagues and the clubs of those leagues, are not 'in the business of organized professional major league baseball'.

"(2) In cases involving conduct, acts, practices, or agreements that directly relate to or affect both employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including but not limited to employment to play baseball at the minor league level and the other areas set forth in subsection (b) above, only those components, portions or aspects of such conduct, acts, practices, or agreements that directly relate to or affect employment of major league players to play baseball at the major league level may be challenged under subsection (a) and then only to the extent that they directly relate to or affect employment of major league baseball players to play baseball at the major league level.

"(3) As used in subsection (a), interpretation of the term 'directly' shall not be governed by any interpretation of section 151 et seq. of title 29, United States Code (as amended).

"(4) Nothing in this section shall be construed to affect the application to organized professional baseball of the nonstatutory labor exemption from the antitrust laws.

"(5) The scope of the conduct, acts, practices, or agreements covered by subsection (b) shall not be strictly or narrowly construed.".

H.R. 1702—THE COMMERCIAL SPACE ACT OF 1997

The text of H.R. 1702, the "Commercial Space Act of 1997", as amended, and passed by the Senate on July 30, 1998, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 1702) entitled "An Act to encourage the development of a commercial space industry in the United States, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commercial Space Act of 1997".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

Sec. 101. Commercialization of space station.
Sec. 102. Commercial space launch amendments.
Sec. 103. Promotion of United States Global Positioning System standards.
Sec. 104. Acquisition of space science data.
Sec. 105. Administration of Commercial Space Centers.

TITLE II—REMOTE SENSING

Sec. 201. Land Remote Sensing Policy Act of 1992 amendments.
Sec. 202. Acquisition of earth science data.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

Sec. 301. Requirement to procure commercial space transportation services.
Sec. 302. Acquisition of commercial space transportation services.
Sec. 303. Launch Services Purchase Act of 1990 amendments.
Sec. 304. Shuttle privatization.
Sec. 305. Use of excess intercontinental ballistic missiles.
Sec. 306. National launch capability study.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "commercial provider" means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term "payload" means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload;

(4) the term "space-related activities" includes research and development, manufacturing, processing, service, and other associated and support activities;

(5) the term "space transportation services" means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term "space transportation vehicle" means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SEC. 101. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal year 1999 and 2000;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 2000, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar year 1998 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

(4) Each of the studies and reports required by paragraphs (1), (2), and (3) shall include consideration of the potential role of State governments as brokers in promoting commercial participation in the International Space Station program.

SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new items:

"70120. Regulations.

"70121. Report to Congress.".

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting ", reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "conduct of commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) in paragraph (3)—

(i) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth";

(ii) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a comma; and

(iii) by adding after subparagraph (C) the following:

"including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.";

(B) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(C) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(D) by inserting after paragraph (10) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle

designed to return from Earth orbit or outer space to Earth, substantially intact."; and

(E) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "commercial space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following: "The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 30 days after any occurrence when a license is not issued within the deadline established by this subsection.

"(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1);

(E) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(F) by striking "and" at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(I) by inserting ", including the requirement to obtain a license," after "waive a requirement" in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(D) by striking "source." in subsection (a)(2) and inserting "source, whether such source is located on or off a Federal range.";

(E) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(F) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(G) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.";

(H) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(I) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting "launch or reentry" after "(1) When a";

(B) by inserting "or reentry" after "one launch" in subsection (a)(3);

(C) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(D) in subsection (b)(1), by inserting "launch or reentry" after "(1) A";

(E) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(F) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(G) by striking ", Space, and Technology" in subsection (d)(1);

(H) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e);

(I) by inserting "or reentry site or a reentry" after "launch site" in subsection (e); and

(J) in subsection (f), by inserting "launch or reentry" after "carried out under a";

(13) in section 70113—by inserting "or reentry" after "one launch" each place it appears in paragraphs (1) and (2) of subsection (d);

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears;

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports, except that payloads launched pursuant to foreign trade zone procedures as provided for under the Foreign Trade Zones Act (19 U.S.C. 81a–81u) shall be considered exports with regard to customs entry."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, or operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2); and

(16) by adding at the end the following new sections:

"§ 70120. Regulations

"(a) IN GENERAL.—The Secretary of Transportation, within 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch;

"(4) procedures for requesting and obtaining launch site operator licenses; and

"(5) procedures for the application of government indemnification.

"(b) REENTRY.—The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

"(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

"(2) procedures for requesting and obtaining operator licenses for reentry; and

"(3) procedures for requesting and obtaining reentry site operator licenses.

"§ 70121. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 70119 of title 49, United States Code, is amended to read as follows:

"§ 70119. Authorization of appropriations

"There are authorized to be appropriated to the Secretary of Transportation for the activities of the Office of the Associate Administrator for Commercial Space Transportation—

"(1) $6,182,000 for the fiscal year ending September 30, 1998;

"(2) $6,275,000 for the fiscal year ending September 30, 1999; and

"(3) $6,600,000 for the fiscal year ending September 30, 2000.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

SEC. 103. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.

(a) FINDING.—The Congress finds that the Global Positioning System, including satellites, signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which provides Global Positioning System equipment and related services.

(b) INTERNATIONAL COOPERATION.—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, the Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees;

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide; and

(3) provide clear direction and adequate resources to United States representatives so that on an international basis they can—

(A) achieve and sustain efficient management of the electromagnetic spectrum used by the Global Positioning System; and

(B) protect that spectrum from disruption and interference.

SEC. 104. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—In order to satisfy the scientific and educational requirements of the National Aeronautics and Space Administration, and where practicable of other Federal agencies and scientific researchers, the Administrator shall to the maximum extent possible acquire, where cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space science data shall be considered to be a commercial item for purposes of such laws and regulations. Nothing in this subsection shall be construed to preclude the United States from acquiring sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) DEFINITION.—For purposes of this section, the term "space science data" includes scientific data concerning the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets, microgravity acceleration, and solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

SEC. 105. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from National Aeronautics and Space Administration headquarters in Washington, D.C.

TITLE II—REMOTE SENSING

SEC. 201. LAND REMOTE SENSING POLICY ACT OF 1992 AMENDMENTS.

(a) FINDINGS.—The Congress finds that—

(1) a robust domestic United States industry in high resolution Earth remote sensing is in the economic, employment, technological, scientific, and national security interests of the United States;

(2) to secure its national interests the United States must nurture a commercial remote sensing industry that leads the world;

(3) the Federal Government must provide policy and regulations that promote a stable business environment for that industry to succeed and fulfill the national interest;

(4) it is the responsibility of the Federal Government to create domestic and international conditions favorable to the health and growth of the United States commercial remote sensing industry;

(5) it is a fundamental goal of United States policy to support and enhance United States industrial competitiveness in the field of remote sensing, while at the same time protecting the national security concerns and international obligations of the United States; and

(6) it is fundamental that the states be able to deploy and utilize this technology in their land management responsibilities. To date, very few states have the ability to do so without engaging the academic institutions within their boundaries. In order to develop a market for the commercial sector, the states must have the capacity to fully utilize the technology.

(b) AMENDMENTS.—The Land Remote Sensing Policy Act of 1992 is amended—

(1) in section 2 (15 U.S.C. 5601)—

(A) by amending paragraph (5) to read as follows:

"(5) Commercialization of land remote sensing is a near-term goal, and should remain a long-term goal, of United States policy.";

(B) by striking paragraph (6) and redesignating paragraphs (7) through (16) as paragraphs (6) through (15), respectively;

(C) in paragraph (11), as so redesignated by subparagraph (B) of this paragraph, by striking "determining the design" and all that follows through "international consortium" and inserting in lieu thereof "ensuring the continuity of Landsat quality data"; and

(D) by adding at the end the following new paragraphs:

"(16) The United States should encourage remote sensing systems to promote access to land remote sensing data by scientific researchers and educators.

"(17) It is in the best interest of the United States to encourage remote sensing systems whether privately-funded or publicly-funded, to promote widespread affordable access to unenhanced land remote sensing data by scientific researchers and educators and to allow such users appropriate rights for redistribution for scientific and educational noncommercial purposes.";

(2) in section 101 (15 U.S.C. 5611)—

(A) in subsection (c)—

(i) by inserting "and" at the end of paragraph (6);

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(B) in subsection (e)(1)—

(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking ", and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(iii) by striking subparagraph (C);

(3) in section 201 (15 U.S.C. 5621)—

(A) by inserting "(1)" after "NATIONAL SECURITY.—" in subsection (b);

(B) in subsection (b)(1), as so redesignated by subparagraph (A) of this paragraph—

(i) by striking "No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply" and inserting in lieu thereof "The Secretary shall grant a license if the Secretary determines that the activities proposed in the application are consistent";

(ii) by inserting ", and that the applicant has provided assurances adequate to indicate, in combination with other information available to the Secretary that is relevant to activities proposed in the application, that the applicant will comply with all terms of the license" after "concerns of the United States"; and

(iii) by inserting "and policies" after "international obligations";

(C) by adding at the end of subsection (b) the following new paragraph:

"(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1997, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information."; and

(D) in subsection (c), by amending the second sentence thereof to read as follows: "If the Secretary has not granted the license within such 120-day period, the Secretary shall inform the applicant, within such period, of any pending issues and actions required to be carried out by the applicant or the Secretary in order to result in the granting of a license.";

(4) in section 202 (15 U.S.C. 5622)—

(A) by striking "section 506" in subsection (b)(1) and inserting in lieu thereof "section 507";

(B) in subsection (b)(2), by striking "as soon as such data are available and on reasonable terms and conditions" and inserting in lieu thereof "on reasonable terms and conditions, including the provision of such data in a timely manner subject to United States national security and foreign policy interests";

(C) in subsection (b)(6), by striking "any agreement" and all that follows through "nations or entities" and inserting in lieu thereof "any significant or substantial agreement"; and

(D) by inserting after paragraph (6) of subsection (b) the following:

"The Secretary may not seek to enjoin a company from entering into a foreign agreement the Secretary receives notification of under paragraph (6) unless the Secretary has, within 30 days after receipt of such notification, transmitted to the licensee a statement that such agreement is inconsistent with the national security, foreign policy, or international obligations of the United States, including an explanation of such inconsistency.";

(5) in section 203(a)(2) (15 U.S.C. 5623(a)(2)), by striking "under this title and" and inserting in lieu thereof "under this title or";

(6) in section 204 (15 U.S.C. 5624), by striking "may" and inserting in lieu thereof "shall";

(7) in section 205(c) (15 U.S.C. 5625(c)), by striking "if such remote sensing space system is licensed by the Secretary before commencing operation" and inserting in lieu thereof "if such private remote sensing space system will be licensed by the Secretary before commencing its commercial operation";

(8) by adding at the end of title II the following new section:

"SEC. 206. NOTIFICATION.

"(a) LIMITATIONS ON LICENSEE.—Not later than 30 days after a determination by the Secretary to require a licensee to limit collection or distribution of data from a system licensed under this title, the Secretary shall provide written notification to Congress of such determination, including the reasons therefor, the limitations imposed on the licensee, and the period during which such limitations apply.

"(b) TERMINATION, MODIFICATION, OR SUSPENSION.—Not later than 30 days after an action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 202(b) or section 203(a)(2), the Secretary shall provide written notification to Congress of such action and the reasons therefor.";

(9) in section 301 (15 U.S.C. 5631)—

(A) by inserting ", that are not being commercially developed" after "and its environment" in subsection (a)(2)(B); and

(B) by adding at the end the following new subsection:

"(d) DUPLICATION OF COMMERCIAL SECTOR ACTIVITIES.—The Federal Government shall not undertake activities under this section which duplicate activities available from the United States commercial sector, unless such activities would result in significant cost savings to the Federal Government, or are necessary for reasons of national security or international obligations or policies.";

(10) in section 302 (15 U.S.C. 5632)—

(A) by striking "(a) GENERAL RULE.—";

(B) by striking ", including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303,"; and

(C) by striking subsection (b);

(11) by repealing section 303 (15 U.S.C. 5633);

(12) in section 401(b)(3) (15 U.S.C. 5641(b)(3)), by striking ", including any such enhancements developed under the technology demonstration program under section 303,";

(13) in section 501(a) (15 U.S.C. 5651(a)), by striking "section 506" and inserting in lieu thereof "section 507";

(14) in section 502(c)(7) (15 U.S.C. 5652(c)(7)), by striking "section 506" and inserting in lieu thereof "section 507"; and

(15) in section 507 (15 U.S.C. 5657)—

(A) by amending subsection (a) to read as follows:

"(a) RESPONSIBILITY OF THE SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense on all matters under title II affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States, and for notifying the Secretary promptly of such conditions. The Secretary of Defense shall convey to the Secretary the determinations for a license issued under title II, consistent with this Act, that the Secretary of Defense determines necessary to meet the national security concerns of the United States.";

(B) by striking subsection (b)(1) and (2) and inserting in lieu thereof the following:

"(b) RESPONSIBILITY OF THE SECRETARY OF STATE.—(1) The Secretary shall consult with the Secretary of State on all matters under title II affecting international obligations and policies of the United States. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying the Secretary promptly of such conditions. The Secretary of State shall convey to the Secretary the determinations for a license issued under title II, consistent with this Act, that the Secretary of State determines necessary to meet the international obligations and policies of the United States.

"(2) Appropriate United States Government agencies are authorized and encouraged to provide to developing nations, as a component of international aid, resources for purchasing remote sensing data, training, and analysis from commercial providers. National Aeronautics and Space Administration, United States Geological Survey, and National Oceanic and Atmospheric Administration should develop and implement a program to aid the transfer of remote sensing technology and Mission to Planet Earth (OES) science at the state level"; and

(C) in subsection (d), by striking "Secretary may require" and inserting in lieu thereof "Secretary shall, where appropriate, require".

SEC. 202. ACQUISITION OF EARTH SCIENCE DATA.

(a) ACQUISITION.—For purposes of meeting Government goals for Mission to Planet Earth, and in order to satisfy the scientific and educational requirements of the National Aeronautics and Space Administration, and where appropriate of other Federal agencies and scientific researchers, the Administrator shall to the maximum extent possible acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that such data, services, distribution, and applications shall be considered to be a commercial item for purposes of such laws and regulations. Nothing in this subsection shall be construed to preclude the United States from acquiring sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(d) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SEC. 301. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall acquire space transportation services from United States commercial providers whenever such services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) EXCEPTIONS.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the Space Shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) the use of space transportation services from United States commercial providers is inconsistent with foreign policy purposes, or launch of the payload by a foreign entity serves foreign policy purposes;

(6) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(7) a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(c) DELAYED EFFECT.—Subsection (a) shall not apply to space transportation services

and space transportation vehicles acquired or owned by the Federal Government before the date of the enactment of this Act, or with respect to which a contract for such acquisition or ownership has been entered into before such date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from acquiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

SEC. 302. ACQUISITION OF COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) TREATMENT OF COMMERCIAL SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space transportation services shall be considered to be a commercial item for purposes of such laws and regulations.

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

SEC. 303. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

(2) in section 203—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

(4) in section 206—

(A) by striking "(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—"; and

(B) by striking subsection (b).

SEC. 304. SHUTTLE PRIVATIZATION.

(a) POLICY AND PREPARATION.—The Administrator shall prepare for an orderly transition from the Federal operation, or Federal management of contracted operation, of space transportation systems to the Federal purchase of commercial space transportation services for all nonemergency launch requirements, including human, cargo, and mixed payloads. In those preparations, the Administrator shall take into account the need for short-term economies, as well as the goal of restoring the National Aeronautics and Space Administration's research focus and its mandate to promote the fullest possible commercial use of space. As part of those preparations, the Administrator shall plan for the potential privatization of the Space Shuttle program. Such plan shall keep safety and cost effectiveness as high priorities. Nothing in this section shall prohibit the National Aeronautics and Space Administration from studying, designing, developing, or funding upgrades or modifications essential to the safe and economical operation of the Space Shuttle fleet.

(b) FEASIBILITY STUDY.—The Administrator shall conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that the National Aeronautics and Space Administration transition toward the privatization of the Space Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Space Shuttle is privatized, including—

(1) whether the Federal Government or the Space Shuttle contractor should own the Space Shuttle orbiters and ground facilities;

(2) whether the Federal Government should indemnify the contractor for any third party liability arising from Space Shuttle operations, and, if so, under what terms and conditions;

(3) whether payloads other than National Aeronautics and Space Administration payloads should be allowed to be launched on the Space Shuttle, how missions will be prioritized, and who will decide which mission flies and when;

(4) whether commercial payloads should be allowed to be launched on the Space Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(5) whether National Aeronautics and Space Administration and other Federal Government payloads should have priority over non-Federal payloads in the Space Shuttle launch assignments, and what policies should be developed to prioritize among payloads generally;

(6) whether the public interest requires that certain Space Shuttle functions continue to be performed by the Federal Government; and

(7) how much cost savings, if any, will be generated by privatization of the Space Shuttle.

(c) REPORT TO CONGRESS.—Within 60 days after the date of the enactment of this Act, the National Aeronautics and Space Administration shall complete the study required under subsection (b) and shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

SEC. 305. USE OF EXCESS INTERCONTINENTAL BALLISTIC MISSILES.

(a) IN GENERAL.—The Federal Government shall not—

(1) convert any missile described in subsection (c) to a space transportation vehicle configuration or otherwise use any such missile to place a payload in space; or

(2) transfer ownership of any such missile to another person, except as provided in subsection (b).

(b) AUTHORIZED FEDERAL USES.—

(1) A missile described in subsection (c) may be converted for use as a space transportation vehicle by the Federal Government if, except as provided in paragraph (2) and at least 30 days before such conversion, the agency seeking to use the missile as a space transportation vehicle transmits to the Committee on National Security and the Committee on Science of the House of Representatives, and to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate, a certification that the use of such missile—

(A) would result in cost savings to the Federal Government when compared to the cost of acquiring space transportation services from United States commercial providers;

(B) meets all mission requirements of the agency, including performance, schedule, and risk requirements;

(C) is consistent with international obligations of the United States; and

(D) is approved by the Secretary of Defense or his designee.

(2) The requirement under paragraph (1) that the assurance described in that paragraph must be transmitted at least 30 days before conversion of the missile shall not apply if the Secretary of Defense determines that compliance with that requirement would be inconsistent with meeting immediate national security requirements.

(c) MISSILES REFERRED TO.—The missiles referred to in this section are missiles owned by the United States that—

(1) were formerly used by the Department of Defense for national defense purposes as intercontinental ballistic missiles; and

(2) have been declared excess to United States national defense needs and are in compliance with international obligations of the United States.

SEC. 306. NATIONAL LAUNCH CAPABILITY STUDY.

(a) FINDINGS.—Congress finds that—

(1) a robust satellite and launch industry in the United States serves the interest of the United States by—

(A) contributing to the economy of the United States;

(B) strengthening employment, technological, and scientific interests of the United States; and

(C) serving the foreign policy and national security interests of the United States.

(b) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(2) TOTAL POTENTIAL NATIONAL MISSION MODEL.—The term "total potential national mission model" means a model that—

(A) is determined by the Secretary, in consultation with the Administrator, to assess the total potential space missions to be conducted by the United States during a specified period of time; and

(B) includes all United States launches (including launches conducted on or off a Federal range).

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator and appropriate representatives of the satellite and launch industry and the governments of States and political subdivisions thereof—

(A) prepare a report that meets the requirements of this subsection; and

(B) submit that report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(2) REQUIREMENTS FOR REPORT.—The report prepared under this section shall—

(A) identify the total potential national mission model for the period beginning on the date of the report and ending on December 31, 2007;

(B) identify the resources that are necessary to carry out the total potential national mission model described in subparagraph (A), including providing for—

(i) launch property and services of the Department of Defense; and

(ii) the ability to support commercial launch-on-demand on short notification at national launch sites or test ranges;

(C) identify each deficiency in the resources referred to in subparagraph (B); and

(D) with respect to the deficiencies identified under subparagraph (C), including estimates of the level of funding necessary to address those deficiencies for the period described in subparagraph (A).

(3) QUINQUENNIAL UPDATES.—The Secretary shall update the report required by paragraph (1) quinquennially beginning with 2012.

(d) RECOMMENDATIONS.—Based on the reports under subsection (c), the Secretary, after consultation with the Secretary of Transportation, the Secretary of Commerce, and representatives from interested private sector entities, States, and local governments, shall—

(1) identify opportunities for investment by non-Federal entities (including States and political subdivisions thereof and private sector entities) to assist the Federal Government in providing launch capabilities

for the commercial space industry in the United States;

(2) identify 1 or more methods by which, if sufficient resources referred to in subsection (c)(2)(D) are not available to the Department of Defense, the control of the launch property and launch services of the Department of Defense may be transferred from the Department of Defense to—

(A) 1 or more other Federal agencies;

(B) 1 or more States (or subdivisions thereof);

(C) 1 or more private sector entities; or

(D) any combination of the entities described in subparagraphs (A) through (C); and

(3) identify the technical, structural, and legal impediments associated with making national ranges in the United States viable and competitive.

COMMENDING THE NAVAL NUCLEAR PROPULSION PROGRAM ON ITS 50TH ANNIVERSARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 265, submitted earlier today by Senator WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 265) commending the Naval Nuclear Propulsion Program on its 50th Anniversary and expressing the sense of the Senate regarding continuation of the program into the 21st century.

The Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, I rise today to pay tribute to the Naval Nuclear Propulsion Program and to introduce a resolution to commemorate the 50th anniversary of this outstanding institution.

The Naval Nuclear Propulsion Program was founded by the legendary Admiral Hyman Rickover in 1948 when he was a Captain. At that time, the technology that enabled the release of nuclear power was in its infancy—a byproduct of the atomic bomb. Captain Rickover assigned himself the task of building a nuclear submarine. Just seven years later, U.S.S. *Nautilus* put to sea under nuclear power.

Admiral Rickover's legacy—the Naval Nuclear Propulsion Program—is a technical organization unequaled in accomplishment throughout the world.

The Program is truly a gem of efficiency in government and a crown jewel in our Nation's security. The program fulfills its multifaceted responsibilities over all aspects of naval nuclear propulsion with only 750 Government personnel led by a single Director, currently Admiral Skip Bowman, USN.

By law, the Director, Naval Nuclear Propulsion, is singularly responsible for the design, construction, operation, operator training, maintenance, refueling, and ultimate disposal of naval nuclear propulsion plants. During its 50 years of existence, the Naval Nuclear Propulsion Program has developed, built, and operated 246 nuclear reactors of more than 30 different designs. Since the *Nautilus* first sailed, the Navy has delivered 209 nuclear-powered warships which have safely steamed a combined total of over 113 million miles.

The accomplishments of the Naval Nuclear Propulsion Program provide evidence that good engineering does not happen by coincidence, or by clever management technique. Good engineering is the result of thoroughly trained, dedicated people who are committed to ensuring proper attention to technical details.

The high degree of public confidence in the Navy's nuclear-powered warships results from the Program's unparalleled operating, environmental, and safety record. This record is made possible because the Program has the requisite authority, structure, expertise, and experience necessary to focus all aspects of work on a common goal: Safe and reliable nuclear propulsion supporting military objectives.

Mr. President, I congratulate the Naval Nuclear Propulsion Program on its 50th anniversary and on all the accomplishments it has achieved during that time.

On a personal note, I wish to acknowledge the contributions of the Directors of the Naval Nuclear Propulsion Program past and present—Admiral Hyman G. Rickover, Admiral Kin McKee, Admiral Bruce DeMars and Admiral Skip Bowman—all of whom I am proud to have known and with whom I have worked closely over the years.

I urge my colleagues to join me in honoring this fine organization by cosponsoring this resolution.

Mr. GORTON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement by Senator WARNER in explanation appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 265) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 265

Whereas in 1948, Admiral (then Captain) Hyman G. Rickover first assembled his team of Navy professionals, other Government professionals, and contractor professionals that would adapt the relatively new technology of atomic energy to design and build the United States' fleet of nuclear-powered warships;

Whereas over the next seven years, Admiral Rickover and his team developed an industrial base in a new technology, pioneered new materials, designed and built a prototype reactor, established a training program, and took the world's first nuclear-powered submarine, the U.S.S. Nautilus, to sea thus ensuring America's undersea superiority;

Whereas since 1955, when the U.S.S. Nautilus first sailed, the Navy has put to sea 209 nuclear-powered ships whose propulsion plants have given the Navy unparalleled mobility, flexibility, and, additionally for submarines, stealth, with an outstanding record of safety;

Whereas during its 50 years of existence, the Naval Nuclear Propulsion Program has developed, built, and managed the operation of 246 nuclear reactors of more than 30 different designs with a combined total of 4,900 reactor years of operation, thereby leading the world in reactor construction, servicing, and operational experience;

Whereas since its inception, the Naval Nuclear Propulsion Program has trained over 90,000 reactor operators and the Navy's nuclear-powered warships have achieved over 113,000,000 miles of safe steaming on nuclear power; and

Whereas nuclear energy now propels more than 40 percent of the Navy's major combatant vessels and these nuclear-powered warships are accepted without reservation by over 50 countries and territories into 150 ports: Now, therefore, be it

Resolved, That—

(1) the Senate commends the past and present personnel of the Naval Nuclear Propulsion Program for the technical excellence, accomplishment, and oversight demonstrated in the program and congratulates those personnel for the 50 years of exemplary service that has been provided to the United States through the program; and

(2) it is the sense of the Senate that the Naval Nuclear Propulsion Program should be continued into the next millennium to provide exemplary technical accomplishment in, and oversight of, Naval nuclear propulsion plants and to continue to be a model of technical excellence in the United States and the world.

HONORING CENTENNIAL OF FOUNDING OF DEPAUL UNIVERSITY

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 266, submitted earlier today by Senator MOSELEY-BRAUN and Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 266) honoring the centennial of the founding of DePaul University in Chicago, IL.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. MOSELEY-BRAUN. Mr. President, it is my privilege to join my colleague from Illinois, Senator RICHARD DURBIN, in recognizing an important milestone in our nation's history of higher education. This year marks the 100th anniversary of the founding of the country's largest Catholic university, DePaul University, in my hometown of Chicago.

One hundred years ago, the Vincentian Fathers founded a college

to educate immigrants who were otherwise denied admission to many of the nation's colleges and universities. Today, DePaul University serves a student population of 17,000 young men and women. Over the course of these 100 years, DePaul's growth has been guided by the original mission of the Fathers to foster in higher education a deep respect for the God-given dignity of all persons, and to instill in educated persons a dedication to the service of others.

From its humble beginnings, DePaul University has grown to become a major educational and economic force in both the city of Chicago and the State of Illinois. The more than 65,000 DePaul alumni who live and work in Illinois are prominent in such diverse fields as law, education, business, music and art.

Mirroring its hometown of Chicago, DePaul is nationally recognized for the diversity of its faculty and student body. In fact, the University enrolls the largest combined number of African-American and Latino students of any private college or university in Illinois.

A few of the many areas of study in which DePaul has distinguished itself include the performing arts, education, law, telecommunication and business. The School of Music and Theater also are nationally recognized institutions. The School of Education has provided elementary and high school teachers to many schools throughout the Chicago metropolitan area. Furthermore, on an issue that is very near to my heart, the School of Education has joined forces with the Chicago Public School system in an effort to help develop new and innovative teaching techniques to meet the demands of the 21st century.

Many of Illinois' finest jurists and lawyers received their training at DePaul University's School of law. The Law School, internationally known for its work on human rights, is currently working with the University's International Criminal Justice and Weapons Control Center in support of the establishment of an International Criminal Court.

In the field of business, DePaul University has distinguished itself with a nationally ranked graduate school, which is one of the largest in the country, and whose part-time MBA program has received national recognition as one of the country's top ten programs for each of the past four years. Moreover, the School of Computer Science, Telecommunications Information Systems is one of the largest graduate schools of its kind in the United States.

Mr. President, there are but a few of the many ways in which DePaul University has repeatedly demonstrated its great worth to the State of Illinois and our nation as a purveyor of quality higher education and invaluable academic research. It is important, however, that it be mentioned that DePaul University accomplishes all this while maintaining a strong commitment to high moral ideals and the selfless service to others and to God.

It is, therefore, right and appropriate that the United States Senate pass this resolution, and join me and Senator DURBIN in congratulating DePaul University on its Centennial Anniversary, and in wishing the University much continued success for the next 100 years.

Mr. DURBIN. Mr. President, I rise today to join my colleague, Senator MOSELEY-BRAUN, in honoring DePaul University on its 100th anniversary.

The students, alumni, and faculty of DePaul University have much to be proud of. One hundred years ago, a group of Vincentian fathers founded what would become DePaul University in order to teach immigrants who would otherwise be denied access to a college education. Since that time, DePaul has been guided by its original mission: to foster in higher education a respect for all persons and a commitment to service of others.

It is no surprise that DePaul produces some of Illinois' top citizens and plays a significant role in the Illinois economy. The University has distinguished itself in major education fields such as business, law, telecommunications, and art. The School of Education has provided the Chicago metropolitan area with many devoted and innovative professional elementary and high school teachers. Further, DePaul's School of Business is a nationally ranked program that has been recognized as one of the best in the nation.

Moreover, the DePaul School of Law has garnered an international reputation for its work in international human rights. The International Criminal Justice and Weapons Control Center of DePaul University is working to establish an International Criminal Court in order to discourage war crimes.

In keeping with its original mission to teach immigrants who faced disadvantages, DePaul continues to be committed to educating minority students who still face barriers to their advancement. The University is nationally recognized for the diversity of its faculty and enrolls the largest number of African-American and Latino students of any private college or university in Illinois.

DePaul has matured into a prestigious university and an integral part of the city of Chicago. There are over 65,000 working DePaul graduates living in Illinois. Further, DePaul graduates are prominent in every facet of employment, including law, business, and the arts.

Again, I extend my congratulations to DePaul University. The University has proven itself to be a great asset to the state of Illinois and the city of Chicago. I hope that its second century proves to be as successful as its first.

Mr. GORTON. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating thereto be placed at the appropriate place in the RECORD.

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

The resolution (S. Res. 266) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 266

Whereas 1998 marks the 100th anniversary of the founding of DePaul University in Chicago, Illinois, which is the largest Catholic university in the Nation with over 17,000 students;

Whereas DePaul University was originally founded by the Vincentian Fathers to teach immigrants who were otherwise denied access to a college education, and has been guided for the past 100 years by the mission to foster in higher education a deep respect for the God-given dignity of all persons and to instill in educated persons a dedication to the service of others;

Whereas DePaul University has matured into a major regional resource that drives the Illinois economy at many levels and with over 65,000 alumni who live and work in Illinois, DePaul graduates are prominent in the State's business community, the law profession and the judicial system, the educational institutions of the State, and music and theatre;

Whereas DePaul University is nationally recognized for the diversity of its faculty and student population as the University enrolls the largest combined number of African-American and Latino students of any private college or university in Illinois;

Whereas DePaul University has distinguished itself in such fields as education, business, performance art, telecommunications, and law;

Whereas the School of Education has provided the Chicago metropolitan area with many of its elementary and high school teachers, and has joined forces with the Chicago Public School system to develop innovative educational techniques;

Whereas DePaul University has a nationally ranked graduate School of Business, which is one of the largest in the United States, and a part-time MBA program that has received national recognition as 1 of the top 10 programs in the Nation for the past 4 years;

Whereas DePaul's School of Music and Theatre School are nationally recognized institutions;

Whereas DePaul's School of Computer Science, Telecommunication and Information Systems is the largest graduate school of its kind in the United States; and

Whereas the DePaul School of Law has produced many of Chicago's lawyers and jurists while obtaining an international reputation for its work in international human rights, and the International Criminal Justice and Weapons Control Center of DePaul University is working in support of the establishment of an International Criminal Court: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the important educational contributions that DePaul University has made to the State of Illinois and the Nation; and

(2) congratulates the students, alumni, faculty, and staff of DePaul University on the occasion of the centennial anniversary of the founding of DePaul University.

HEALTH PROFESSIONS EDUCATION PARTNERSHIPS ACT OF 1998

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 424, S. 1754.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1754) to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health education programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Education Partnerships Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH PROFESSIONS EDUCATION AND FINANCIAL ASSISTANCE PROGRAMS

Subtitle A—Health Professions Education Programs

Sec. 101. Under-represented minority health professions grant program.
Sec. 102. Training in primary care medicine and dentistry.
Sec. 103. Interdisciplinary, community-based linkages.
Sec. 104. Health professions workforce information and analysis.
Sec. 105. Public health workforce development.
Sec. 106. General provisions.
Sec. 107. Preference in certain programs.
Sec. 108. Definitions.
Sec. 109. Technical amendment on National Health Service Corps.
Sec. 110. Savings provision.

Subtitle B—Nursing Workforce Development

Sec. 121. Short title.
Sec. 122. Purpose.
Sec. 123. Amendments to Public Health Service Act.
Sec. 124. Savings provision.

Subtitle C—Financial Assistance

CHAPTER 1—SCHOOL-BASED REVOLVING LOAN FUNDS

Sec. 131. Primary care loan program.
Sec. 132. Loans for disadvantaged students.
Sec. 133. Student loans regarding schools of nursing.
Sec. 134. General provisions.

CHAPTER 2—INSURED HEALTH EDUCATION ASSISTANCE LOANS TO GRADUATE STUDENTS

Sec. 141. Health Education Assistance Loan Program.
Sec. 142. HEAL lender and holder performance standards.
Sec. 143. Reauthorization.
Sec. 144. HEAL bankruptcy.
Sec. 145. HEAL refinancing.

TITLE II—OFFICE OF MINORITY HEALTH

Sec. 201. Revision and extension of programs of Office of Minority Health.

TITLE III—SELECTED INITIATIVES

Sec. 301. State offices of rural health.
Sec. 302. Demonstration projects regarding Alzheimer's Disease.
Sec. 303. Project grants for immunization services.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Technical corrections regarding Public Law 103-183.
Sec. 402. Miscellaneous amendments regarding PHS commissioned officers.
Sec. 403. Clinical traineeships.
Sec. 404. Project grants for screenings, referrals, and education regarding lead poisoning.
Sec. 405. Project grants for preventive health services regarding tuberculosis.
Sec. 406. CDC loan repayment program.
Sec. 407. Community programs on domestic violence.
Sec. 408. State loan repayment program.
Sec. 409. Authority of the director of NIH.
Sec. 410. Raise in maximum level of loan repayments.
Sec. 411. Construction of regional centers for research on primates.
Sec. 412. Peer review.
Sec. 413. Funding for trauma care.
Sec. 414. Health information and health promotion.
Sec. 415. Emergency medical services for children.
Sec. 416. Administration of certain requirements.
Sec. 417. Aids drug assistance program.
Sec. 418. National Foundation for Biomedical Research.

TITLE I—HEALTH PROFESSIONS EDUCATION AND FINANCIAL ASSISTANCE PROGRAMS

Subtitle A—Health Professions Education Programs

SEC. 101. UNDER-REPRESENTED MINORITY HEALTH PROFESSIONS GRANT PROGRAM.

(a) IN GENERAL.—Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended to read as follows:

"PART B—HEALTH PROFESSIONS TRAINING FOR DIVERSITY

"SEC. 736. CENTERS OF EXCELLENCE.

"(a) IN GENERAL.—The Secretary shall make grants to, and enter into contracts with, designated health professions schools described in subsection (c), and other public and nonprofit health or educational entities, for the purpose of assisting the schools in supporting programs of excellence in health professions education for under-represented minority individuals.

"(b) REQUIRED USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the designated health professions school involved agrees, subject to subsection (c)(1)(C), to expend the grant—

"(1) to develop a large competitive applicant pool through linkages with institutions of higher education, local school districts, and other community-based entities and establish an education pipeline for health professions careers;

"(2) to establish, strengthen, or expand programs to enhance the academic performance of under-represented minority students attending the school;

"(3) to improve the capacity of such school to train, recruit, and retain under-represented minority faculty including the payment of such stipends and fellowships as the Secretary may determine appropriate;

"(4) to carry out activities to improve the information resources, clinical education, curricula and cultural competence of the graduates of the school, as it relates to minority health issues;

"(5) to facilitate faculty and student research on health issues particularly affecting under-represented minority groups, including research on issues relating to the delivery of health care;

"(6) to carry out a program to train students of the school in providing health services to a significant number of under-represented minority individuals through training provided to such students at community-based health facilities that—

"(A) provide such health services; and

"(B) are located at a site remote from the main site of the teaching facilities of the school; and

"(7) to provide stipends as the Secretary determines appropriate, in amounts as the Secretary determines appropriate.

"(c) CENTERS OF EXCELLENCE.—

"(1) DESIGNATED SCHOOLS.—

"(A) IN GENERAL.—The designated health professions schools referred to in subsection (a) are such schools that meet each of the conditions specified in subparagraphs (B) and (C), and that—

"(i) meet each of the conditions specified in paragraph (2)(A);

"(ii) meet each of the conditions specified in paragraph (3);

"(iii) meet each of the conditions specified in paragraph (4); or

"(iv) meet each of the conditions specified in paragraph (5).

"(B) GENERAL CONDITIONS.—The conditions specified in this subparagraph are that a designated health professions school—

"(i) has a significant number of under-represented minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

"(ii) has been effective in assisting under-represented minority students of the school to complete the program of education and receive the degree involved;

"(iii) has been effective in recruiting under-represented minority individuals to enroll in and graduate from the school, including providing scholarships and other financial assistance to such individuals and encouraging under-represented minority students from all levels of the educational pipeline to pursue health professions careers; and

"(iv) has made significant recruitment efforts to increase the number of under-represented minority individuals serving in faculty or administrative positions at the school.

"(C) CONSORTIUM.—The condition specified in this subparagraph is that, in accordance with subsection (e)(1), the designated health profession school involved has with other health profession schools (designated or otherwise) formed a consortium to carry out the purposes described in subsection (b) at the schools of the consortium.

"(D) APPLICATION OF CRITERIA TO OTHER PROGRAMS.—In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.

"(2) CENTERS OF EXCELLENCE AT CERTAIN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—

"(A) CONDITIONS.—The conditions specified in this subparagraph are that a designated health professions school—

"(i) is a school described in section 799B(1); and

"(ii) received a contract under section 788B for fiscal year 1987, as such section was in effect for such fiscal year.

"(B) USE OF GRANT.—In addition to the purposes described in subsection (b), a grant under subsection (a) to a designated health professions school meeting the conditions described in subparagraph (A) may be expended—

"(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for under-represented minority individuals; and

"(ii) to provide improved access to the library and informational resources of the school.

"(C) EXCEPTION.—The requirements of paragraph (1)(C) shall not apply to a historically black college or university that receives funding under paragraphs (2) or (5).

"(3) HISPANIC CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that—

"(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) applies to the designated health professions school involved;

"(B) the school agrees, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Hispanic individuals; and

"(C) the school agrees, as a condition of receiving a grant under subsection (a), that—

"(i) the school will establish an arrangement with 1 or more public or nonprofit community based Hispanic serving organizations, or public or nonprofit private institutions of higher education, including schools of nursing, whose enrollment of students has traditionally included a significant number of Hispanic individuals, the purposes of which will be to carry out a program—

"(I) to identify Hispanic students who are interested in a career in the health profession involved; and

"(II) to facilitate the educational preparation of such students to enter the health professions school; and

"(ii) the school will make efforts to recruit Hispanic students, including students who have participated in the undergraduate or other matriculation program carried out under arrangements established by the school pursuant to clause (i)(II) and will assist Hispanic students regarding the completion of the educational requirements for a degree from the school.

"(4) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Subject to subsection (e), the conditions specified in this paragraph are that—

"(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) applies to the designated health professions school involved;

"(B) the school agrees, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Native Americans; and

"(C) the school agrees, as a condition of receiving a grant under subsection (a), that—

"(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education, including schools of nursing, whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

"(I) to identify Native American students, from the institutions of higher education referred to in clause (i), who are interested in health professions careers; and

"(II) to facilitate the educational preparation of such students to enter the designated health professions school; and

"(ii) the designated health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to clause (i) and will assist Native American students regarding the completion of the educational requirements for a degree from the designated health professions school.

"(5) OTHER CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are—

"(A) with respect to other centers of excellence, the conditions described in clauses (i) through (iv) of paragraph (1)(B); and

"(B) that the health professions school involved has an enrollment of under-represented minorities above the national average for such enrollments of health professions schools.

"(d) DESIGNATION AS CENTER OF EXCELLENCE.—

"(1) IN GENERAL.—Any designated health professions school receiving a grant under subsection (a) and meeting the conditions described in paragraph (2) or (5) of subsection (c) shall, for purposes of this section, be designated by the Secretary as a Center of Excellence in Under-Represented Minority Health Professions Education.

"(2) HISPANIC CENTERS OF EXCELLENCE.—Any designated health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(3) shall, for purposes of this section, be designated by the Secretary as a Hispanic Center of Excellence in Health Professions Education.

"(3) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Any designated health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(4) shall, for purposes of this section, be designated by the Secretary as a Native American Center of Excellence in Health Professions Education. Any consortium receiving such a grant pursuant to subsection (e) shall, for purposes of this section, be so designated.

"(e) AUTHORITY REGARDING NATIVE AMERICAN CENTERS OF EXCELLENCE.—With respect to meeting the conditions specified in subsection (c)(4), the Secretary may make a grant under subsection (a) to a designated health professions school that does not meet such conditions if—

"(1) the school has formed a consortium in accordance with subsection (d)(1); and

"(2) the schools of the consortium collectively meet such conditions, without regard to whether the schools individually meet such conditions.

"(f) DURATION OF GRANT.—The period during which payments are made under a grant under subsection (a) may not exceed 5 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

"(g) DEFINITIONS.—In this section:

"(1) DESIGNATED HEALTH PROFESSIONS SCHOOL.—

"(A) IN GENERAL.—The term 'health professions school' means, except as provided in subparagraph (B), a school of medicine, a school of osteopathic medicine, a school of dentistry, a school of pharmacy, or a graduate program in behavioral or mental health.

"(B) EXCEPTION.—The definition established in subparagraph (A) shall not apply to the use of the term 'designated health professions school' for purposes of subsection (c)(2).

"(2) PROGRAM OF EXCELLENCE.—The term 'program of excellence' means any program carried out by a designated health professions school with a grant made under subsection (a), if the program is for purposes for which the school involved is authorized in subsection (b) or (c) to expend the grant.

"(3) NATIVE AMERICANS.—The term 'Native Americans' means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there authorized to be appropriated $26,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

"(2) ALLOCATIONS.—Based on the amount appropriated under paragraph (1) for a fiscal year, one of the following subparagraphs shall apply:

"(A) IN GENERAL.—If the amounts appropriated under paragraph (1) for a fiscal year are $24,000,000 or less—

"(i) the Secretary shall make available $12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(2)(A); and

"(ii) and available after grants are made with funds under clause (i), the Secretary shall make available—

"(I) 60 percent of such amount for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (3) or (4) of subsection (c) (including meeting the conditions under subsection (e)); and

"(II) 40 percent of such amount for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5).

"(B) FUNDING IN EXCESS OF $24,000,000.—If amounts appropriated under paragraph (1) for a fiscal year exceed $24,000,000 but are less than $30,000,000—

"(i) 80 percent of such excess amounts shall be made available for grants under subsection (a) to health professions schools that meet the requirements described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e)); and

"(ii) 20 percent of such excess amount shall be made available for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5).

"(C) FUNDING IN EXCESS OF $30,000,000.—If amounts appropriated under paragraph (1) for a fiscal year are $30,000,000 or more, the Secretary shall make available—

"(i) not less than $12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(2)(A);

"(ii) not less than $12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e));

"(iii) not less than $6,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5); and

"(iv) after grants are made with funds under clauses (i) through (iii), any remaining funds for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (2)(A), (3), (4), or (5) of subsection (c).

"(3) NO LIMITATION.—Nothing in this subsection shall be construed as limiting the centers of excellence referred to in this section to the designated amount, or to preclude such entities from competing for other grants under this section.

"(4) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—With respect to activities for which a grant made under this part are authorized to be expended, the Secretary may not make such a grant to a center of excellence for any fiscal year unless the center agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the center for the fiscal year preceding the fiscal year for which the school receives such a grant.

"(B) USE OF FEDERAL FUNDS.—With respect to any Federal amounts received by a center of excellence and available for carrying out activities for which a grant under this part is authorized to be expended, the Secretary may not make such a grant to the center for any fiscal year unless the center agrees that the center will, before expending the grant, expend the Federal amounts obtained from sources other than the grant.

"SEC. 737. SCHOLARSHIPS FOR DISADVANTAGED STUDENTS.

"(a) IN GENERAL.—The Secretary may make a grant to an eligible entity (as defined in subsection (d)(1)) under this section for the awarding of scholarships by schools to any full-time student who is an eligible individual as defined in subsection (d). Such scholarships may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in the attendance of such school.

"(b) PREFERENCE IN PROVIDING SCHOLARSHIPS.—The Secretary may not make a grant to an entity under subsection (a) unless the health professions and nursing schools involved agree that, in providing scholarships pursuant to the grant, the schools will give preference to students for whom the costs of attending the schools would constitute a severe financial hardship and, notwithstanding other provisions of this section, to former recipients of scholarships under sections 736 and 740(d)(2)(B) (as such sections existed on the day before the date of enactment of this section).

"(c) AMOUNT OF AWARD.—In awarding grants to eligible entities that are health professions and nursing schools, the Secretary shall give priority to eligible entities based on the proportion of graduating students going into primary care, the proportion of underrepresented minority students, and the proportion of graduates working in medically underserved communities.

"(d) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITIES.—The term 'eligible entities' means an entity that—

"(A) is a school of medicine, osteopathic medicine, dentistry, nursing (as defined in section 801), pharmacy, podiatric medicine, optometry, veterinary medicine, public health, chiropractic, or allied health, a school offering a graduate program in behavioral and mental health practice, or an entity providing programs for the training of physician assistants; and

"(B) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups.

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who—

"(A) is from a disadvantaged background;

"(B) has a financial need for a scholarship; and

"(C) is enrolled (or accepted for enrollment) at an eligible health professions or nursing school as a full-time student in a program leading to a degree in a health profession or nursing.

"SEC. 738. LOAN REPAYMENTS AND FELLOWSHIPS REGARDING FACULTY POSITIONS.

"(a) LOAN REPAYMENTS.—

"(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of entering into contracts with individuals described in paragraph (2) under which the individuals agree to serve as members of the faculties of schools described in paragraph (3) in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals.

"(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals from disadvantaged backgrounds who—

"(A) have a degree in medicine, osteopathic medicine, dentistry, nursing, or another health profession;

"(B) are enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, nursing, or other health profession; or

"(C) are enrolled as full-time students—

"(i) in an accredited (as determined by the Secretary) school described in paragraph (3); and

"(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree from such a school.

"(3) ELIGIBLE HEALTH PROFESSIONS SCHOOLS.—The schools described in this paragraph are schools of medicine, nursing (as schools of nursing are defined in section 801), osteopathic medicine, dentistry, pharmacy, allied health, podiatric medicine, optometry, veterinary medicine, or public health, or schools offering graduate programs in behavioral and mental health.

"(4) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under paragraph (1) unless—

"(A) the individual involved has entered into a contract with a school described in paragraph (3) to serve as a member of the faculty of the school for not less than 2 years; and

"(B) the contract referred to in subparagraph (A) provides that—

"(i) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year;

"(ii) the payments made by the school pursuant to clause (i) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty; and

"(iii) the school, in making a determination of the amount of compensation to be provided by the school to the individual for serving as a member of the faculty, will make the determination without regard to the amount of payments made (or to be made) to the individual by the Federal Government under paragraph (1).

"(5) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338C, 338G, and 338I shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

"(6) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in paragraph (4)(B) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved.

"(b) FELLOWSHIPS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with eligible entities to assist such entities in increasing the number of underrepresented minority individuals who are members of the faculty of such schools.

"(2) APPLICATIONS.—To be eligible to receive a grant or contract under this subsection, an entity shall provide an assurance, in the application submitted by the entity, that—

"(A) amounts received under such a grant or contract will be used to award a fellowship to an individual only if the individual meets the requirements of paragraphs (3) and (4); and

"(B) each fellowship awarded pursuant to the grant or contract will include—

"(i) a stipend in an amount not exceeding 50 percent of the regular salary of a similar faculty member for not to exceed 3 years of training; and

"(ii) an allowance for other expenses, such as travel to professional meetings and costs related to specialized training.

"(3) ELIGIBILITY.—To be eligible to receive a grant or contract under paragraph (1), an applicant shall demonstrate to the Secretary that such applicant has or will have the ability to—

"(A) identify, recruit and select underrepresented minority individuals who have the potential for teaching, administration, or conducting research at a health professions institution;

"(B) provide such individuals with the skills necessary to enable them to secure a tenured faculty position at such institution, which may include training with respect to pedagogical skills, program administration, the design and conduct of research, grants writing, and the preparation of articles suitable for publication in peer reviewed journals;

"(C) provide services designed to assist such individuals in their preparation for an academic career, including the provision of counselors; and

"(D) provide health services to rural or medically underserved populations.

"(4) REQUIREMENTS.—To be eligible to receive a grant or contract under paragraph (1) an applicant shall—

"(A) provide an assurance that such applicant will make available (directly through cash donations) $1 for every $1 of Federal funds received under this section for the fellowship;

"(B) provide an assurance that institutional support will be provided for the individual for the second and third years at a level that is equal to the total amount of institutional funds provided in the year in which the grant or contract was awarded;

"(C) provide an assurance that the individual that will receive the fellowship will be a member of the faculty of the applicant school; and

"(D) provide an assurance that the individual that will receive the fellowship will have, at a minimum, appropriate advanced preparation (such as a master's or doctoral degree) and special skills necessary to enable such individual to teach and practice.

"(5) DEFINITION.—For purposes of this subsection, the term 'underrepresented minority individuals' means individuals who are members of racial or ethnic minority groups that are underrepresented in the health professions including nursing.

"SEC. 739. EDUCATIONAL ASSISTANCE IN THE HEALTH PROFESSIONS REGARDING INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, and podiatric medicine, public and nonprofit private schools that offer graduate programs in behavioral and mental health, programs for the training of physician assistants, and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) AUTHORIZED EXPENDITURES.—A grant or contract under paragraph (1) may be used by the entity to meet the cost of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession;

"(B) facilitating the entry of such individuals into such a school;

"(C) providing counseling, mentoring, or other services designed to assist such individuals to complete successfully their education at such a school;

"(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education and health research training designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education;

"(E) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program;

"(F) paying such scholarships as the Secretary may determine for such individuals for any period of health professions education at a health professions school;

"(G) paying such stipends as the Secretary may approve for such individuals for any period of education in student-enhancement programs (other than regular courses), except that such a stipend may not be provided to an individual for more than 12 months, and such a stipend shall be in an amount determined appropriate by the Secretary (notwithstanding any other provision of law regarding the amount of stipends);

"(H) carrying out programs under which such individuals gain experience regarding a career in a field of primary health care through working at facilities of public or private nonprofit community-based providers of primary health services; and

"(I) conducting activities to develop a larger and more competitive applicant pool through partnerships with institutions of higher education, school districts, and other community-based entities.

"(3) DEFINITION.—In this section, the term 'regular course of education of such a school' as used in subparagraph (D) includes a graduate program in behavioral or mental health.

"(b) REQUIREMENTS FOR AWARDS.—In making awards to eligible entities under subsection (a)(1), the Secretary shall give preference to approved applications for programs that involve a comprehensive approach by several public or nonprofit private health or educational entities to establish, enhance and expand educational programs that will result in the development of a competitive applicant pool of individuals from disadvantaged backgrounds who desire to pursue health professions careers. In considering awards for such a comprehensive partnership approach, the following shall apply with respect to the entity involved:

"(1) The entity shall have a demonstrated commitment to such approach through formal agreements that have common objectives with institutions of higher education, school districts, and other community-based entities.

"(2) Such formal agreements shall reflect the coordination of educational activities and support services, increased linkages, and the consolidation of resources within a specific geographic area.

"(3) The design of the educational activities involved shall provide for the establishment of a competitive health professions applicant pool of individuals from disadvantaged backgrounds by enhancing the total preparation (academic and social) of such individuals to pursue a health professions career.

"(4) The programs or activities under the award shall focus on developing a culturally competent health care workforce that will serve the unserved and underserved populations within the geographic area.

"(c) EQUITABLE ALLOCATION OF FINANCIAL ASSISTANCE.—The Secretary, to the extent practicable, shall ensure that services and activities under subsection (a) are adequately allocated among the various racial and ethnic populations who are from disadvantaged backgrounds.

"(d) MATCHING REQUIREMENTS.—The Secretary may require that an entity that applies for a grant or contract under subsection (a), provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant or contract. As determined by the Secretary, such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"SEC. 740. AUTHORIZATION OF APPROPRIATION.

"(a) SCHOLARSHIPS.—There are authorized to be appropriated to carry out section 737, $37,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002. Of the amount appropriated in any fiscal year, the Secretary shall ensure that not less than 16 percent shall be distributed to schools of nursing.

"(b) LOAN REPAYMENTS AND FELLOWSHIPS.—For the purpose of carrying out section 738, there is authorized to be appropriated $1,100,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

"(c) EDUCATIONAL ASSISTANCE IN HEALTH PROFESSIONS REGARDING INDIVIDUALS FOR DISADVANTAGED BACKGROUNDS.—For the purpose of grants and contracts under section 739(a)(1), there is authorized to be appropriated $29,400,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002. The Secretary may use not to exceed 20 percent of the amount appropriated for a fiscal year under this subsection to provide scholarships under section 739(a)(2)(F).

"(d) REPORT.—Not later than 6 months after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the efforts of the Secretary to address the need for a representative mix of individuals from historically minority health professions schools, or from institutions or other entities that historically or by geographic location have a demonstrated record of training or educating underrepresented minorities, within various health professions disciplines, on peer review councils.".

(b) REPEAL.—

(1) IN GENERAL.—Section 795 of the Public Health Service Act (42 U.S.C. 295n) is repealed.

(2) NONTERMINATION OF AUTHORITY.—The amendments made by this section shall not be construed to terminate agreements that, on the day before the date of enactment of this Act, are in effect pursuant to section 795 of the Public Health Service Act (42 U.S.C. 795) as such section existed on such date. Such agreements shall continue in effect in accordance with the terms of the agreements. With respect to compliance with such agreements, any period of practice as a provider of primary health services shall be counted towards the satisfaction of the requirement of practice pursuant to such section 795.

(c) CONFORMING AMENDMENTS.—Section 481A(c)(3)(D)(i) of the Public Health Service Act (42 U.S.C. 287a–2(c)(3)(D)(i)) is amended by striking "section 739" and inserting "part B of title VII".

SEC. 102. TRAINING IN PRIMARY CARE MEDICINE AND DENTISTRY.

Part C of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended—

(1) in the part heading by striking "**PRIMARY HEALTH CARE**" and inserting "**FAMILY MEDICINE, GENERAL INTERNAL MEDICINE, GENERAL PEDIATRICS, PHYSICIAN ASSISTANTS, GENERAL DENTISTRY, AND PEDIATRIC DENTISTRY**";

(2) by repealing section 746 (42 U.S.C. 293j);

(3) in section 747 (42 U.S.C. 293k)—

(A) by striking the section heading and inserting the following:

"SEC. 747. FAMILY MEDICINE, GENERAL INTERNAL MEDICINE, GENERAL PEDIATRICS, GENERAL DENTISTRY, PEDIATRIC DENTISTRY, AND PHYSICIAN ASSISTANTS.";

(B) in subsection (a)—

(i) in paragraph (1)—

(I) by inserting ", internal medicine, or pediatrics" after "family medicine"; and

(II) by inserting before the semicolon the following: "that emphasizes training for the practice of family medicine, general internal medicine, or general pediatrics (as defined by the Secretary)";

(ii) in paragraph (2), by inserting ", general internal medicine, or general pediatrics" before the semicolon;

(iii) in paragraphs (3) and (4), by inserting "(including geriatrics), general internal medicine or general pediatrics" after "family medicine";

(iv) in paragraph (3), by striking "and" at the end thereof;

(v) in paragraph (4), by striking the period and inserting a semicolon; and

(vii) by adding at the end thereof the following new paragraphs:

"(5) to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 799B), and for the training of individuals who will teach in programs to provide such training; and

"(6) to meet the costs of planning, developing, or operating programs, and to provide financial assistance to residents in such programs, of general dentistry or pediatric dentistry.

For purposes of paragraph (6), entities eligible for such grants or contracts shall include entities that have programs in dental schools, approved residency programs in the general or pediatric practice of dentistry, approved advanced education programs in the general or pediatric practice of dentistry, or approved residency programs in pediatric dentistry.";

(C) in subsection (b)—

(i) in paragraphs (1) and (2)(A), by inserting ", general internal medicine, or general pediatrics" after "family medicine";

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "or" at the end; and

(II) in subparagraph (B), by striking the period and inserting "; or"; and

(iii) by adding at the end the following:

"(3) PRIORITY IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give priority to any qualified applicant for such an award that proposes a collaborative project between departments of primary care.";

(D) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(E) by inserting after subsection (b), the following new subsection:

"(c) PRIORITY.—

"(1) IN GENERAL.—With respect to programs for the training of interns or residents, the Secretary shall give priority in awarding grants under this section to qualified applicants that have a record of training the greatest percentage of providers, or that have demonstrated significant improvements in the percentage of providers, which enter and remain in primary care practice or general or pediatric dentistry.

"(2) DISADVANTAGED INDIVIDUALS.—With respect to programs for the training of interns, residents, or physician assistants, the Secretary

shall give priority in awarding grants under this section to qualified applicants that have a record of training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among primary care practice or general or pediatric dentistry).

"(3) SPECIAL CONSIDERATION.—In awarding grants under this section the Secretary shall give special consideration to projects which prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, homeless, and victims of domestic violence."; and

(F) in subsection (e) (as so redesignated by subparagraph (D))—

(i) in paragraph (1), by striking "$54,000,000" and all that follows and inserting "$78,300,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002."; and

(ii) by striking paragraph (2) and inserting the following:

"(2) ALLOCATION.—

"(A) IN GENERAL.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available—

"(i) not less than $49,300,000 for awards of grants and contracts under subsection (a) to programs of family medicine, of which not less than $8,600,000 shall be made available for awards of grants and contracts under subsection (b) for family medicine academic administrative units;

"(ii) not less than $17,700,000 for awards of grants and contracts under subsection (a) to programs of general internal medicine and general pediatrics;

"(iii) not less than $6,800,000 for awards of grants and contracts under subsection (a) to programs relating to physician assistants; and

"(iv) not less than $4,500,000 for awards of grants and contracts under subsection (a) to programs of general or pediatric dentistry.

"(B) RATABLE REDUCTION.—If amounts appropriated under paragraph (1) for any fiscal year are less than the amount required to comply with subparagraph (A), the Secretary shall ratably reduce the amount to be made available under each of clauses (i) through (iv) of such subparagraph accordingly."; and

(4) by repealing sections 748 through 752 (42 U.S.C. 293l through 293p) and inserting the following:

"SEC. 748. ADVISORY COMMITTEE ON TRAINING IN PRIMARY CARE MEDICINE AND DENTISTRY.

"(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Training in Primary Care Medicine and Dentistry (in this section referred to as the 'Advisory Committee').

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Secretary shall determine the appropriate number of individuals to serve on the Advisory Committee. Such individuals shall not be officers or employees of the Federal Government.

"(2) APPOINTMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall appoint the members of the Advisory Committee from among individuals who are health professionals. In making such appointments, the Secretary shall ensure a fair balance between the health professions, that at least 75 percent of the members of the Advisory Committee are health professionals, a broad geographic representation of members and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved.

"(3) MINORITY REPRESENTATION.—In appointing the members of the Advisory Committee under paragraph (2), the Secretary shall ensure the adequate representation of women and minorities.

"(c) TERMS.—

"(1) IN GENERAL.—A member of the Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed—

"(A) ⅓ of such members shall serve for a term of 1 year;

"(B) ⅓ of such members shall serve for a term of 2 years; and

"(C) ⅓ of such members shall serve for a term of 3 years.

"(2) VACANCIES.—

"(A) IN GENERAL.—A vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

"(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) DUTIES.—The Advisory Committee shall—

"(1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning the activities under section 747; and

"(2) not later than 3 years after the date of enactment of this section, and annually thereafter, prepare and submit to the Secretary, and the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under section 747.

"(e) MEETINGS AND DOCUMENTS.—

"(1) MEETINGS.—The Advisory Committee shall meet not less than 2 times each year. Such meetings shall be held jointly with other related entities established under this title where appropriate.

"(2) DOCUMENTS.—Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Committee shall prepare and make available an agenda of the matters to be considered by the Advisory Committee at such meeting. At any such meeting, the Advisory Council shall distribute materials with respect to the issues to be addressed at the meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Committee shall prepare and make available a summary of the meeting and any actions taken by the Committee based upon the meeting.

"(f) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—Each member of the Advisory Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

"(2) EXPENSES.—The members of the Advisory Committee 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 Committee.

"(g) FACA.—The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section."

SEC. 103. INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended to read as follows:

"PART D—INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES

"SEC. 750. GENERAL PROVISIONS.

"(a) COLLABORATION.—To be eligible to receive assistance under this part, an academic institution shall use such assistance in collaboration with 2 or more disciplines.

"(b) ACTIVITIES.—An entity shall use assistance under this part to carry out innovative demonstration projects for strategic workforce supplementation activities as needed to meet national goals for interdisciplinary, community-based linkages. Such assistance may be used consistent with this part—

"(1) to develop and support training programs;

"(2) for faculty development;

"(3) for model demonstration programs;

"(4) for the provision of stipends for fellowship trainees;

"(5) to provide technical assistance; and

"(6) for other activities that will produce outcomes consistent with the purposes of this part.

"SEC. 751. AREA HEALTH EDUCATION CENTERS.

"(a) AUTHORITY FOR PROVISION OF FINANCIAL ASSISTANCE.—

"(1) ASSISTANCE FOR PLANNING, DEVELOPMENT, AND OPERATION OF PROGRAMS.—

"(A) IN GENERAL.—The Secretary shall award grants to and enter into contracts with schools of medicine and osteopathic medicine, and incorporated consortia made up of such schools, or the parent institutions of such schools, for projects for the planning, development and operation of area health education center programs that—

"(i) improve the recruitment, distribution, supply, quality and efficiency of personnel providing health services in underserved rural and urban areas and personnel providing health services to populations having demonstrated serious unmet health care needs;

"(ii) increase the number of primary care physicians and other primary care providers who provide services in underserved areas through the offering of an educational continuum of health career recruitment through clinical education concerning underserved areas in a comprehensive health workforce strategy;

"(iii) carry out recruitment and health career awareness programs to recruit individuals from underserved areas and under-represented populations, including minority and other elementary or secondary students, into the health professions;

"(iv) prepare individuals to more effectively provide health services to underserved areas or underserved populations through field placements, preceptorships, the conduct of or support of community-based primary care residency programs, and agreements with community-based organizations such as community health centers, migrant health centers, Indian health centers, public health departments and others;

"(v) conduct health professions education and training activities for students of health professions schools and medical residents;

"(vi) conduct at least 10 percent of medical student required clinical education at sites remote to the primary teaching facility of the contracting institution; and

"(vii) provide information dissemination and educational support to reduce professional isolation, increase retention, enhance the practice environment, and improve health care through the timely dissemination of research findings using relevant resources.

"(B) OTHER ELIGIBLE ENTITIES.—With respect to a State in which no area health education center program is in operation, the Secretary may award a grant or contract under subparagraph (A) to a school of nursing.

"(C) PROJECT TERMS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the period during which payments

may be made under an award under subparagraph (A) may not exceed—

"(I) in the case of a project, 12 years or

"(II) in the case of a center within a project, 6 years.

"(ii) EXCEPTION.—The periods described in clause (i) shall not apply to projects that have completed the initial period of Federal funding under this section and that desire to compete for model awards under paragraph (2)(A).

"(2) ASSISTANCE FOR OPERATION OF MODEL PROGRAMS.—

"(A) IN GENERAL.—In the case of any entity described in paragraph (1)(A) that—

"(i) has previously received funds under this section;

"(ii) is operating an area health education center program; and

"(iii) is no longer receiving financial assistance under paragraph (1);

the Secretary may provide financial assistance to such entity to pay the costs of operating and carrying out the requirements of the program as described in paragraph (1).

"(B) MATCHING REQUIREMENT.—With respect to the costs of operating a model program under subparagraph (A), an entity, to be eligible for financial assistance under subparagraph (A), shall make available (directly or through contributions from State, county or municipal governments, or the private sector) recurring non-Federal contributions in cash toward such costs in an amount that is equal to not less than 50 percent of such costs.

"(C) LIMITATION.—The aggregate amount of awards provided under subparagraph (A) to entities in a State for a fiscal year may not exceed the lesser of—

"(i) $2,000,000; or

"(ii) an amount equal to the product of $250,000 and the aggregate number of area health education centers operated in the State by such entities.

"(b) REQUIREMENTS FOR CENTERS.—

"(1) GENERAL REQUIREMENT.—Each area health education center that receives funds under this section shall encourage the regionalization of health professions schools through the establishment of partnerships with community-based organizations.

"(2) SERVICE AREA.—Each area health education center that receives funds under this section shall specifically designate a geographic area or medically underserved population to be served by the center. Such area or population shall be in a location removed from the main location of the teaching facilities of the schools participating in the program with such center.

"(3) OTHER REQUIREMENTS.—Each area health education center that receives funds under this section shall—

"(A) assess the health personnel needs of the area to be served by the center and assist in the planning and development of training programs to meet such needs;

"(B) arrange and support rotations for students and residents in family medicine, general internal medicine or general pediatrics, with at least one center in each program being affiliated with or conducting a rotating osteopathic internship or medical residency training program in family medicine (including geriatrics), general internal medicine (including geriatrics), or general pediatrics in which no fewer than 4 individuals are enrolled in first-year positions;

"(C) conduct and participate in interdisciplinary training that involves physicians and other health personnel including, where practicable, public health professionals, physician assistants, nurse practitioners, nurse midwives, and behavioral and mental health providers; and

"(D) have an advisory board, at least 75 percent of the members of which shall be individuals, including both health service providers and consumers, from the area served by the center.

"(c) CERTAIN PROVISIONS REGARDING FUNDING.—

"(1) ALLOCATION TO CENTER.—Not less than 75 percent of the total amount of Federal funds provided to an entity under this section shall be allocated by an area health education center program to the area health education center. Such entity shall enter into an agreement with each center for purposes of specifying the allocation of such 75 percent of funds.

"(2) OPERATING COSTS.—With respect to the operating costs of the area health education center program of an entity receiving funds under this section, the entity shall make available (directly or through contributions from State, county or municipal governments, or the private sector) non-Federal contributions in cash toward such costs in an amount that is equal to not less than 50 percent of such costs, except that the Secretary may grant a waiver for up to 75 percent of the amount of the required non-Federal match in the first 3 years in which an entity receives funds under this section.

"SEC. 752. HEALTH EDUCATION AND TRAINING CENTERS.

"(a) IN GENERAL.—To be eligible for funds under this section, a health education training center shall be an entity otherwise eligible for funds under section 751 that—

"(1) addresses the persistent and severe unmet health care needs in States along the border between the United States and Mexico and in the State of Florida, and in other urban and rural areas with populations with serious unmet health care needs;

"(2) establishes an advisory board comprised of health service providers, educators and consumers from the service area;

"(3) conducts training and education programs for health professions students in these areas;

"(4) conducts training in health education services, including training to prepare community health workers; and

"(5) supports health professionals (including nursing) practicing in the area through educational and other services.

"(b) ALLOCATION OF FUNDS.—The Secretary shall make available 50 percent of the amounts appropriated for each fiscal year under section 752 for the establishment or operation of health education training centers through projects in States along the border between the United States and Mexico and in the State of Florida.

"SEC. 753. EDUCATION AND TRAINING RELATING TO GERIATRICS.

"(a) GERIATRIC EDUCATION CENTERS.—

"(1) IN GENERAL.—The Secretary shall award grants or contracts under this section to entities described in paragraphs (1), (3), or (4) of section 799B, and section 853(2), for the establishment or operation of geriatric education centers.

"(2) REQUIREMENTS.—A geriatric education center is a program that—

"(A) improves the training of health professionals in geriatrics, including geriatric residencies, traineeships, or fellowships;

"(B) develops and disseminates curricula relating to the treatment of the health problems of elderly individuals;

"(C) supports the training and retraining of faculty to provide instruction in geriatrics;

"(D) supports continuing education of health professionals who provide geriatric care; and

"(E) provides students with clinical training in geriatrics in nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers.

"(b) GERIATRIC TRAINING REGARDING PHYSICIANS AND DENTISTS.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathic medicine, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including residencies, traineeships, and fellowships) for geriatric training projects to train physicians, dentists and behavioral and mental health professionals who plan to teach geriatric medicine, geriatric behavioral or mental health, or geriatric dentistry.

"(2) REQUIREMENTS.—Each project for which a grant or contract is made under this subsection shall—

"(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine or geriatric behavioral or mental health;

"(B) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

"(C) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching behavioral mental health professionals who have experience or training in geriatric behavioral or mental health;

"(D) be based in a graduate medical education program in internal medicine or family medicine or in a department of geriatrics or behavioral or mental health;

"(E) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric behavioral or mental health units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

"(F) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

"(3) TRAINING OPTIONS.—The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

"(A) A 1-year retraining program in geriatrics for—

"(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and behavioral or mental health at schools of medicine and osteopathic medicine;

"(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry; and

"(iii) behavioral or mental health professionals who are faculty members in departments of behavioral or mental health; and

"(B) A 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

"(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, behavioral or mental health, neurology, gynecology, or rehabilitation medicine;

"(ii) dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience; and

"(iii) behavioral or mental health professionals who have completed graduate medical education programs in behavioral or mental health.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'graduate medical education program' means a program sponsored by a

school of medicine, a school of osteopathic medicine, a hospital, or a public or private institution that—

"(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

"(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

"(B) The term 'post-doctoral dental education program' means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

"(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

"(ii) has been accredited by the Commission on Dental Accreditation.

"(c) GERIATRIC FACULTY FELLOWSHIPS.—

"(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide Geriatric Academic Career Awards to eligible individuals to promote the career development of such individuals as academic geriatricians.

"(2) ELIGIBLE INDIVIDUALS.—To be eligible to receive an Award under paragraph (1), an individual shall—

"(A) be board certified or board eligible in internal medicine, family practice, or psychiatry;

"(B) have completed an approved fellowship program in geriatrics; and

"(C) have a junior faculty appointment at an accredited (as determined by the Secretary) school of medicine or osteopathic medicine.

"(3) LIMITATIONS.—No Award under paragraph (1) may be made to an eligible individual unless the individual—

"(A) has submitted to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, and the Secretary has approved such application; and

"(B) provides, in such form and manner as the Secretary may require, assurances that the individual will meet the service requirement described in subsection (e).

"(4) AMOUNT AND TERM.—

"(A) AMOUNT.—The amount of an Award under this section shall equal $50,000 for fiscal year 1998, adjusted for subsequent fiscal years to reflect the increase in the Consumer Price Index.

"(B) TERM.—The term of any Award made under this subsection shall not exceed 5 years.

"(5) SERVICE REQUIREMENT.—An individual who receives an Award under this subsection shall provide training in clinical geriatrics, including the training of interdisciplinary teams of health care professionals. The provision of such training shall constitute at least 75 percent of the obligations of such individual under the Award.

"SEC. 754. RURAL INTERDISCIPLINARY TRAINING GRANTS.

"(a) GRANTS.—The Secretary may make grants or contracts under this section to help entities fund authorized activities under an application approved under subsection (c).

"(b) USE OF AMOUNTS.—

"(1) IN GENERAL.—Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary training projects designed to—

"(A) use new and innovative methods to train health care practitioners to provide services in rural areas;

"(B) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

"(C) deliver health care services to individuals residing in rural areas;

"(D) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

"(E) increase the recruitment and retention of health care practitioners from rural areas and make rural practice a more attractive career choice for health care practitioners.

"(2) METHODS.—A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—

"(A) the distribution of stipends to students of eligible applicants;

"(B) the establishment of a post-doctoral fellowship program;

"(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

"(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.

"(B) TRAINING.—Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.

"(C) LIMITATION.—An institution that receives a grant under this section shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (b)(1) in the fiscal year preceding the year for which the grant is received.

"(c) APPLICATIONS.—Applications submitted for assistance under this section shall—

"(1) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas; and

"(2) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community behavioral and mental health centers, long-term care facilities, Native Hawaiian health centers, or facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act.

"(d) DEFINITIONS.—For the purposes of this section, the term 'rural' means geographic areas that are located outside of standard metropolitan statistical areas.

"SEC. 755. ALLIED HEALTH AND OTHER DISCIPLINES.

"(a) IN GENERAL.—The Secretary may make grants or contracts under this section to help entities fund activities of the type described in subsection (b).

"(b) ACTIVITIES.—Activities of the type described in this subsection include the following:

"(1) Assisting entities in meeting the costs associated with expanding or establishing programs that will increase the number of individuals trained in allied health professions. Programs and activities funded under this paragraph may include—

"(A) those that expand enrollments in allied health professions with the greatest shortages or whose services are most needed by the elderly;

"(B) those that provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

"(C) those that establish community-based allied health training programs that link academic centers to rural clinical settings;

"(D) those that provide career advancement training for practicing allied health professionals;

"(E) those that expand or establish clinical training sites for allied health professionals in medically underserved or rural communities in order to increase the number of individuals trained;

"(F) those that develop curriculum that will emphasize knowledge and practice in the areas of prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

"(G) those that expand or establish interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

"(H) those that expand or establish demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research;

"(I) those that provide financial assistance (in the form of traineeships) to students who are participants in any such program; and

"(i) who plan to pursue a career in an allied health field that has a demonstrated personnel shortage; and

"(ii) who agree upon completion of the training program to practice in a medically underserved community;

that shall be utilized to assist in the payment of all or part of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary; and

"(J) those to meet the costs of projects to plan, develop, and operate or maintain graduate programs in behavioral and mental health practice.

"(2) Planning and implementing projects in preventive and primary care training for podiatric physicians in approved or provisionally approved residency programs that shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

"(3) Carrying out demonstration projects in which chiropractors and physicians collaborate to identify and provide effective treatment for spinal and lower-back conditions.

"SEC. 756. ADVISORY COMMITTEE ON INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES.

"(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Interdisciplinary, Community-Based Linkages (in this section referred to as the 'Advisory Committee').

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Secretary shall determine the appropriate number of individuals to serve on the Advisory Committee. Such individuals shall not be officers or employees of the Federal Government.

"(2) APPOINTMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall appoint the members of the Advisory Committee from among individuals who are health professionals from schools of the types described in sections 751(a)(1)(A), 751(a)(1)(B), 753(b), 754(3)(A), and 755(b). In making such appointments, the Secretary shall ensure a fair balance between the health professions, that at least 75 percent of the members of the Advisory Committee are health professionals, a broad geographic representation of members and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved.

"(3) MINORITY REPRESENTATION.—In appointing the members of the Advisory Committee

under paragraph (2), the Secretary shall ensure the adequate representation of women and minorities.

"(c) TERMS.—

"(1) IN GENERAL.—A member of the Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed—

"(A) ⅓ of the members shall serve for a term of 1 year;

"(B) ⅓ of the members shall serve for a term of 2 years; and

"(C) ⅓ of the members shall serve for a term of 3 years.

"(2) VACANCIES.—

"(A) IN GENERAL.—A vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

"(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) DUTIES.—The Advisory Committee shall—

"(1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning the activities under this part; and

"(2) not later than 3 years after the date of enactment of this section, and annually thereafter, prepare and submit to the Secretary, and the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under this part.

"(e) MEETINGS AND DOCUMENTS.—

"(1) MEETINGS.—The Advisory Committee shall meet not less than 3 times each year. Such meetings shall be held jointly with other related entities established under this title where appropriate.

"(2) DOCUMENTS.—Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Committee shall prepare and make available an agenda of the matters to be considered by the Advisory Committee at such meeting. At any such meeting, the Advisory Council shall distribute materials with respect to the issues to be addressed at the meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Committee shall prepare and make available a summary of the meeting and any actions taken by the Committee based upon the meeting.

"(f) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—Each member of the Advisory Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

"(2) EXPENSES.—The members of the Advisory Committee 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 Committee.

"(g) FACA.—The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.

"SEC. 757. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $55,600,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

"(b) ALLOCATION.—

"(1) IN GENERAL.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall make available—

"(A) not less than $28,587,000 for awards of grants and contracts under section 751;

"(B) not less than $3,765,000 for awards of grants and contracts under section 752, of which not less than 50 percent of such amount shall be made available for centers described in subsection (a)(1) of such section; and

"(C) not less than $22,631,000 for awards of grants and contracts under sections 753, 754, and 755.

"(2) RATABLE REDUCTION.—If amounts appropriated under subsection (a) for any fiscal year are less than the amount required to comply with paragraph (1), the Secretary shall ratably reduce the amount to be made available under each of subparagraphs (A) through (C) of such paragraph accordingly.

"(3) INCREASE IN AMOUNTS.—If amounts appropriated for a fiscal year under subsection (a) exceed the amount authorized under such subsection for such fiscal year, the Secretary may increase the amount to be made available for programs and activities under this part without regard to the amounts specified in each of subparagraphs (A) through (C) of paragraph (2).

"(c) OBLIGATION OF CERTAIN AMOUNTS.—

"(1) AREA HEALTH EDUCATION CENTER PROGRAMS.—Of the amounts made available under subsection (b)(1)(A) for each fiscal year, the Secretary may obligate for awards under section 751(a)(2)—

"(A) not less than 23 percent of such amounts in fiscal year 1998;

"(B) not less than 30 percent of such amounts in fiscal year 1999;

"(C) not less than 35 percent of such amounts in fiscal year 2000;

"(D) not less than 40 percent of such amounts in fiscal year 2001; and

"(E) not less than 45 percent of such amounts in fiscal year 2002.

"(2) SENSE OF CONGRESS.—It is the sense of the Congress that—

"(A) every State have an area health education center program in effect under this section; and

"(B) the ratio of Federal funding for the model program under section 751(a)(2) should increase over time and that Federal funding for other awards under this section shall decrease so that the national program will become entirely comprised of programs that are funded at least 50 percent by State and local partners.".

SEC. 104. HEALTH PROFESSIONS WORKFORCE INFORMATION AND ANALYSIS.

(a) IN GENERAL.—Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended to read as follows:

"PART E—HEALTH PROFESSIONS AND PUBLIC HEALTH WORKFORCE

"Subpart 1—Health Professions Workforce Information and Analysis

"SEC. 761. HEALTH PROFESSIONS WORKFORCE INFORMATION AND ANALYSIS.

"(a) PURPOSE.—It is the purpose of this section to—

"(1) provide for the development of information describing the health professions workforce and the analysis of workforce related issues; and

"(2) provide necessary information for decision-making regarding future directions in health professions and nursing programs in response to societal and professional needs.

"(b) GRANTS OR CONTRACTS.—The Secretary may award grants or contracts to State or local governments, health professions schools, schools of nursing, academic health centers, community-based health facilities, and other appropriate public or private nonprofit entities to provide for—

"(1) targeted information collection and analysis activities related to the purposes described in subsection (a);

"(2) research on high priority workforce questions;

"(3) the development of a non-Federal analytic and research infrastructure related to the purposes described in subsection (a); and

"(4) the conduct of program evaluation and assessment.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $750,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

"(2) RESERVATION.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve not less than $600,000 for conducting health professions research and for carrying out data collection and analysis in accordance with section 792.

"(3) AVAILABILITY OF ADDITIONAL FUNDS.—Amounts otherwise appropriated for programs or activities under this title may be used for activities under subsection (b) with respect to the programs or activities from which such amounts were made available.".

(b) COUNCIL ON GRADUATE MEDICAL EDUCATION.—Section 301 of the Health Professions Education Extension Amendments of 1992 (Public Law 102–408) is amended—

(1) in subsection (j), by striking "1995" and inserting "2002";

(2) in subsection (k), by striking "1995" and inserting "2002";

(3) by adding at the end thereof the following new subsection:

"(l) FUNDING.—Amounts otherwise appropriated under this title may be utilized by the Secretary to support the activities of the Council.";

(4) by transferring such section to part E of title VII of the Public Health Service Act (as amended by subsection (a));

(5) by redesignating such section as section 762; and

(6) by inserting such section after section 761.

SEC. 105. PUBLIC HEALTH WORKFORCE DEVELOPMENT.

Part E of title VII of the Public Health Service Act (as amended by section 104) is further amended by adding at the end the following:

"Subpart 2—Public Health Workforce

"SEC. 765. GENERAL PROVISIONS.

"(a) IN GENERAL.—The Secretary may award grants or contracts to eligible entities to increase the number of individuals in the public health workforce, to enhance the quality of such workforce, and to enhance the ability of the workforce to meet national, State, and local health care needs.

"(b) ELIGIBILITY.—To be eligible to receive a grant or contract under subsection (a) an entity shall—

"(1) be—

"(A) a health professions school, including an accredited school or program of public health, health administration, preventive medicine, or dental public health or a school providing health management programs;

"(B) an academic health center;

"(C) a State or local government; or

"(D) any other appropriate public or private nonprofit entity; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) PREFERENCE.—In awarding grants or contracts under this section the Secretary may grant a preference to entities—

"(1) serving individuals who are from disadvantaged backgrounds (including underrepresented racial and ethnic minorities); and

"(2) graduating large proportions of individuals who serve in underserved communities.

"(d) ACTIVITIES.—Amounts provided under a grant or contract awarded under this section may be used for—

"(1) the costs of planning, developing, or operating demonstration training programs;

"(2) faculty development;

"(3) trainee support;

"(4) technical assistance;

"(5) to meet the costs of projects—

"(A) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health, that have available full-time faculty members with training and experience in the fields of preventive medicine and dental public health; and

"(B) to provide financial assistance to residency trainees enrolled in such programs;

"(6) the retraining of existing public health workers as well as for increasing the supply of new practitioners to address priority public health, preventive medicine, public health dentistry, and health administration needs;

"(7) preparing public health professionals for employment at the State and community levels; or

"(8) other activities that may produce outcomes that are consistent with the purposes of this section

"(e) TRAINEESHIPS.—

"(1) IN GENERAL.—With respect to amounts used under this section for the training of health professionals, such training programs shall be designed to—

"(A) make public health education more accessible to the public and private health workforce;

"(B) increase the relevance of public health academic preparation to public health practice in the future;

"(C) provide education or training for students from traditional on-campus programs in practice-based sites; or

"(D) develop educational methods and distance-based approaches or technology that address adult learning requirements and increase knowledge and skills related to community-based cultural diversity in public health education.

"(2) SEVERE SHORTAGE DISCIPLINES.—Amounts provided under grants or contracts under this section may be used for the operation of programs designed to award traineeships to students in accredited schools of public health who enter educational programs in fields where there is a severe shortage of public health professionals, including epidemiology, biostatistics, environmental health, toxicology, public health nursing, nutrition, preventive medicine, maternal and child health, and behavioral and mental health professions.

"SEC. 766. PUBLIC HEALTH TRAINING CENTERS.

"(a) IN GENERAL.—The Secretary may make grants or contracts for the operation of public health training centers.

"(b) ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—A public health training center shall be an accredited school of public health, or another public or nonprofit private institution accredited for the provision of graduate or specialized training in public health, that plans, develops, operates, and evaluates projects that are in furtherance of the goals established by the Secretary for the year 2000 in the areas of preventive medicine, health promotion and disease prevention, or improving access to and quality of health services in medically underserved communities.

"(2) PREFERENCE.—In awarding grants or contracts under this section the Secretary shall give preference to accredited schools of public health.

"(c) CERTAIN REQUIREMENTS.—With respect to a public health training center, an award may not be made under subsection (a) unless the program agrees that it—

"(1) will establish or strengthen field placements for students in public or nonprofit private health agencies or organizations;

"(2) will involve faculty members and students in collaborative projects to enhance public health services to medically underserved communities;

"(3) will specifically designate a geographic area or medically underserved population to be served by the center that shall be in a location removed from the main location of the teaching facility of the school that is participating in the program with such center; and

"(4) will assess the health personnel needs of the area to be served by the center and assist in the planning and development of training programs to meet such needs.

"SEC. 767. PUBLIC HEALTH TRAINEESHIPS.

"(a) IN GENERAL.—The Secretary may make grants to accredited schools of public health, and to other public or nonprofit private institutions accredited for the provision of graduate or specialized training in public health, for the purpose of assisting such schools and institutions in providing traineeships to individuals described in subsection (b)(3).

"(b) CERTAIN REQUIREMENTS.—

"(1) AMOUNT.—The amount of any grant under this section shall be determined by the Secretary.

"(2) USE OF GRANT.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals who are pursuing a course of study in a health professions field in which there is a severe shortage of health professionals (which fields include the fields of epidemiology, environmental health, biostatistics, toxicology, nutrition, and maternal and child health).

"SEC. 768. PREVENTIVE MEDICINE; DENTAL PUBLIC HEALTH.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, and dentistry to meet the costs of projects—

"(1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health; and

"(2) to provide financial assistance to residency trainees enrolled in such programs.

"(b) ADMINISTRATION.—

"(1) AMOUNT.—The amount of any grant under subsection (a) shall be determined by the Secretary.

"(2) ELIGIBILITY.—To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine or dental public health and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(3) OTHER FUNDS.—Schools of medicine, osteopathic medicine, dentistry, and public health may use funds committed by State, local, or county public health officers as matching amounts for Federal grant funds for residency training programs in preventive medicine.

"SEC. 769. HEALTH ADMINISTRATION TRAINEESHIPS AND SPECIAL PROJECTS.

"(a) IN GENERAL.—The Secretary may make grants to State or local governments (that have in effect preventive medical and dental public health residency programs) or public or nonprofit private educational entities (including graduate schools of social work and business schools that have health management programs) that offer a program described in subsection (b)—

"(1) to provide traineeships for students enrolled in such a program; and

"(2) to assist accredited programs health administration in the development or improvement of programs to prepare students for employment with public or nonprofit private entities.

"(b) RELEVANT PROGRAMS.—The program referred to in subsection (a) is an accredited program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Secretary of Education and which meets such other quality standards as the Secretary of Health and Human Services by regulation may prescribe.

"(c) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that meet the following conditions:

"(1) Not less than 25 percent of the graduates of the applicant are engaged in full-time practice settings in medically underserved communities.

"(2) The applicant recruits and admits students from medically underserved communities.

"(3) For the purpose of training students, the applicant has established relationships with public and nonprofit providers of health care in the community involved.

"(4) In training students, the applicant emphasizes employment with public or nonprofit private entities.

"(d) CERTAIN PROVISIONS REGARDING TRAINEESHIPS.—

"(1) USE OF GRANT.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(2) PREFERENCE FOR CERTAIN STUDENTS.—Each entity applying for a grant under subsection (a) for traineeships shall assure to the satisfaction of the Secretary that the entity will give priority to awarding the traineeships to students who demonstrate a commitment to employment with public or nonprofit private entities in the fields with respect to which the traineeships are awarded.

"SEC. 770. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this subpart, there is authorized to be appropriated $9,100,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

"(b) LIMITATION REGARDING CERTAIN PROGRAM.—In obligating amounts appropriated under subsection (a), the Secretary may not obligate more than 30 percent for carrying out section 767.".

SEC. 106. GENERAL PROVISIONS.

(a) IN GENERAL.—

(1) Part F of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is repealed.

(2) Part G of title VII of the Public Health Service Act (42 U.S.C. 295j et seq.) is amended—

(A) by redesignating such part as part F;

(B) in section 791 (42 U.S.C. 295j)—

(i) by striking subsection (b); and

(ii) redesignating subsection (c) as subsection (b);

(C) by repealing section 793 (42 U.S.C. 295l);

(D) by repealing section 798;

(E) by redesignating section 799 as section 799B; and

(F) by inserting after section 794, the following new sections:

"SEC. 796. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant or contract under this title, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

"(b) PLAN.—An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this title. Such plan shall be consistent with relevant Federal, State, or regional health professions program plans.

"(c) PERFORMANCE OUTCOME STANDARDS.—An application submitted under this section shall contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant health workforce needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

"(d) LINKAGES.—An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish. To the extent practicable, grantees under this section shall establish linkages with health care providers who provide care for underserved communities and populations.

"SEC. 797. USE OF FUNDS.

"(a) IN GENERAL.—Amounts provided under a grant or contract awarded under this title may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, dissemination of information, and exploring new policy directions, as appropriate to meet recognized health workforce objectives, in accordance with this title.

"(b) MAINTENANCE OF EFFORT.—With respect to activities for which a grant awarded under this title is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

"SEC. 798. MATCHING REQUIREMENT.

"The Secretary may require that an entity that applies for a grant or contract under this title provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. As determined by the Secretary, such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"SEC. 799. GENERALLY APPLICABLE PROVISIONS.

"(a) AWARDING OF GRANTS AND CONTRACTS.—The Secretary shall ensure that grants and contracts under this title are awarded on a competitive basis, as appropriate, to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet health workforce goals and in accordance with this title. Contracts may be entered into under this title with public or private entities as may be necessary.

"(b) ELIGIBLE ENTITIES.—Unless specifically required otherwise in this title, the Secretary shall accept applications for grants or contracts under this title from health professions schools, academic health centers, State or local governments, or other appropriate public or private nonprofit entities for funding and participation in health professions and nursing training activities. The Secretary may accept applications from for-profit private entities if determined appropriate by the Secretary.

"(c) INFORMATION REQUIREMENTS.—

"(1) IN GENERAL.—Recipients of grants and contracts under this title shall meet information requirements as specified by the Secretary.

"(2) DATA COLLECTION.—The Secretary shall establish procedures to ensure that, with respect to any data collection required under this title, such data is collected in a manner that takes into account age, sex, race, and ethnicity.

"(3) USE OF FUNDS.—The Secretary shall establish procedures to permit the use of amounts appropriated under this title to be used for data collection purposes.

"(4) EVALUATIONS.—The Secretary shall establish procedures to ensure the annual evaluation of programs and projects operated by recipients of grants or contracts under this title. Such procedures shall ensure that continued funding for such programs and projects will be conditioned upon a demonstration that satisfactory progress has been made by the program or project in meeting the objectives of the program or project.

"(d) TRAINING PROGRAMS.—Training programs conducted with amounts received under this title shall meet applicable accreditation and quality standards.

"(e) DURATION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

"(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

"(f) PEER REVIEW REGARDING CERTAIN PROGRAMS.—

"(1) IN GENERAL.—Each application for a grant under this title, except any scholarship or loan program, including those under sections 701, 721, or 723, shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(2) COMPOSITION.—Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. In providing for the establishment of peer review groups and procedures, the Secretary shall ensure sex, racial, ethnic, and geographic balance among the membership of such groups.

"(3) ADMINISTRATION.—This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"(g) PREFERENCE OR PRIORITY CONSIDERATIONS.—In considering a preference or priority for funding which is based on outcome measures for an eligible entity under this title, the Secretary may also consider the future ability of the eligible entity to meet the outcome preference or priority through improvements in the eligible entity's program design.

"(h) ANALYTIC ACTIVITIES.—The Secretary shall ensure that—

"(1) cross-cutting workforce analytical activities are carried out as part of the workforce information and analysis activities under section 761; and

"(2) discipline-specific workforce information and analytical activities are carried out as part of—

"(A) the community-based linkage program under part D; and

"(B) the health workforce development program under subpart 2 of part E.

"(i) OSTEOPATHIC SCHOOLS.—For purposes of this title, any reference to—

"(1) medical schools shall include osteopathic medical schools; and

"(2) medical students shall include osteopathic medical students.

"SEC. 799A. TECHNICAL ASSISTANCE.

"Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.".

(b) PROFESSIONAL COUNSELORS AS MENTAL HEALTH PROFESSIONALS.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by inserting "professional counselors," after "clinical psychologists,".

SEC. 107. PREFERENCE IN CERTAIN PROGRAMS.

(a) IN GENERAL.—Section 791 of the Public Health Service Act (42 U.S.C. 295j), as amended by section 105(a)(2)(B), is further amended by adding at the end thereof the following subsection:

"(c) EXCEPTIONS FOR NEW PROGRAMS.—

"(1) IN GENERAL.—To permit new programs to compete equitably for funding under this section, those new programs that meet at least 4 of the criteria described in paragraph (3) shall qualify for a funding preference under this section.

"(2) DEFINITION.—As used in this subsection, the term 'new program' means any program that has graduated less than three classes. Upon graduating at least three classes, a program shall have the capability to provide the information necessary to qualify the program for the general funding preferences described in subsection (a).

"(3) CRITERIA.—The criteria referred to in paragraph (1) are the following:

"(A) The mission statement of the program identifies a specific purpose of the program as being the preparation of health professionals to serve underserved populations.

"(B) The curriculum of the program includes content which will help to prepare practitioners to serve underserved populations.

"(C) Substantial clinical training experience is required under the program in medically underserved communities.

"(D) A minimum of 20 percent of the clinical faculty of the program spend at least 50 percent of their time providing or supervising care in medically underserved communities.

"(E) The entire program or a substantial portion of the program is physically located in a medically underserved community.

"(F) Student assistance, which is linked to service in medically underserved communities following graduation, is available to the students in the program.

"(G) The program provides a placement mechanism for deploying graduates to medically underserved communities.".

(b) CONFORMING AMENDMENTS.—Section 791(a) of the Public Health Service Act (42 U.S.C. 295j(a)) is amended—

(1) in paragraph (1), by striking "sections 747" and all that follows through "767" and inserting "sections 747 and 750"; and

(2) in paragraph (2), by striking "under section 798(a)".

SEC. 108. DEFINITIONS.

(a) GRADUATE PROGRAM IN BEHAVIORAL AND MENTAL HEALTH PRACTICE.—Section 799B(1)(D) of the Public Health Service Act (42 U.S.C. 295p(1)(D)) (as so redesignated by section 106(a)(2)(E)) is amended—

(1) by inserting "behavioral health and" before "mental"; and

(2) by inserting "behavioral health and mental health practice," before "clinical".

(b) PROFESSIONAL COUNSELING AS A BEHAVIORAL AND MENTAL HEALTH PRACTICE.—Section 799B of the Public Health Service Act (42 U.S.C. 295p) (as so redesignated by section 106(a)(2)(E)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C)—

(i) by inserting "and 'graduate program in professional counseling'" after "graduate program in marriage and family therapy'"; and

(ii) by inserting before the period the following: "and a concentration leading to a graduate degree in counseling";

(B) in subparagraph (D), by inserting "professional counseling," after "social work,"; and

(C) in subparagraph (E), by inserting "professional counseling," after "social work,"; and

(2) in paragraph (5)(C), by inserting before the period the following: "or a degree in counseling or an equivalent degree".

(c) MEDICALLY UNDERSERVED COMMUNITY.—Section 799B(6) of the Public Health Service Act (42 U.S.C. 295p(6)) (as so redesignated by section 105(a)(2)(E)) is amended—

(1) in subparagraph (B), by striking "or" at the end thereof;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(D) is designated by a State Governor (in consultation with the medical community) as a shortage area or medically underserved community.".

(d) PROGRAMS FOR THE TRAINING OF PHYSICIAN ASSISTANTS.—Paragraph (3) of section 799B of the Public Health Service Act (42 U.S.C. 295p) (as so redesignated by section 105(a)(2)(E)) is amended to read as follows:

"(3) The term 'program for the training of physician assistants' means an educational program that—

"(A) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to provide primary care under the supervision of a physician;

"(B) extends for at least one academic year and consists of—

"(i) supervised clinical practice; and

"(ii) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care;

"(C) has an enrollment of not less than eight students; and

"(D) trains students in primary care, disease prevention, health promotion, geriatric medicine, and home health care.".

(e) PSYCHOLOGIST.—Section 799B of the Public Health Service Act (42 U.S.C. 295p) (as so redesignated by section 105(a)(2)(E)) is amended by adding at the end the following:

"(11) The term 'psychologist' means an individual who—

"(A) holds a doctoral degree in psychology; and

"(B) is licensed or certified on the basis of the doctoral degree in psychology, by the State in which the individual practices, at the independent practice level of psychology to furnish diagnostic, assessment, preventive, and therapeutic services directly to individuals.".

SEC. 109. TECHNICAL AMENDMENT ON NATIONAL HEALTH SERVICE CORPS.

Section 338B(b)(1)(B) of the Public Health Service Act (42 U.S.C. 254l–1(b)(1)(B)) is amended by striking "or other health profession" and inserting "behavioral and mental health, or other health profession".

SEC. 110. SAVINGS PROVISION.

In the case of any authority for making awards of grants or contracts that is terminated by the amendments made by this subtitle, the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

Subtitle B—Nursing Workforce Development

SEC. 121. SHORT TITLE.

This title may be cited as the "Nursing Education and Practice Improvement Act of 1998".

SEC. 122. PURPOSE.

It is the purpose of this title to restructure the nurse education authorities of title VIII of the Public Health Service Act to permit a comprehensive, flexible, and effective approach to Federal support for nursing workforce development.

SEC. 123. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title VIII of the Public Health Service Act (42 U.S.C. 296k et seq.) is amended—

(1) by striking the title heading and all that follows except for subpart II of part B and sections 846 and 855; and inserting the following:

"TITLE VIII—NURSING WORKFORCE DEVELOPMENT";

(2) in subpart II of part B, by striking the subpart heading and inserting the following:

"PART E—STUDENT LOANS";

(3) by striking section 837;

(4) by inserting after the title heading the following new parts:

"PART A—GENERAL PROVISIONS

"SEC. 801. DEFINITIONS.

"As used in this title:

"(1) ELIGIBLE ENTITIES.—The term 'eligible entities' means schools of nursing, nursing centers, academic health centers, State or local governments, and other public or private nonprofit entities determined appropriate by the Secretary that submit to the Secretary an application in accordance with section 802.

"(2) SCHOOL OF NURSING.—The term 'school of nursing' means a collegiate, associate degree, or diploma school of nursing in a State.

"(3) COLLEGIATE SCHOOL OF NURSING.—The term 'collegiate school of nursing' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and related subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, or to an equivalent degree, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

"(4) ASSOCIATE DEGREE SCHOOL OF NURSING.—The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

"(5) DIPLOMA SCHOOL OF NURSING.—The term 'diploma school of nursing' means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

"(6) ACCREDITED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education. For the purpose of this paragraph, the Secretary of Education shall publish a list of recognized accrediting bodies, and of State agencies, which the Secretary of Education determines to be reliable authority as to the quality of education offered.

"(B) NEW PROGRAMS.—A new program of nursing that, by reason of an insufficient period of operation, is not, at the time of the submission of an application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this title if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students of the first entering class in such a program.

"(7) NONPROFIT.—The term 'nonprofit' as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(8) STATE.—The term 'State' means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

"SEC. 802. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant or contract under this title, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

"(b) PLAN.—An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this title. Such plan shall be consistent with relevant Federal, State, or regional program plans.

"(c) PERFORMANCE OUTCOME STANDARDS.—An application submitted under this section shall

contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant national nursing needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

"(d) LINKAGES.—An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish.

"SEC. 803. USE OF FUNDS.

"(a) IN GENERAL.—Amounts provided under a grant or contract awarded under this title may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, and dissemination of information, as appropriate to meet recognized nursing objectives, in accordance with this title.

"(b) MAINTENANCE OF EFFORT.—With respect to activities for which a grant awarded under this title is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

"SEC. 804. MATCHING REQUIREMENT.

"The Secretary may require that an entity that applies for a grant or contract under this title provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"SEC. 805. PREFERENCE.

"In awarding grants or contracts under this title, the Secretary shall give preference to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in State or local health departments.

"SEC. 806. GENERALLY APPLICABLE PROVISIONS.

"(a) AWARDING OF GRANTS AND CONTRACTS.—The Secretary shall ensure that grants and contracts under this title are awarded on a competitive basis, as appropriate, to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet national nursing service goals and in accordance with this title. Contracts may be entered into under this title with public or private entities as determined necessary by the Secretary.

"(b) INFORMATION REQUIREMENTS.—

"(1) IN GENERAL.—Recipients of grants and contracts under this title shall meet information requirements as specified by the Secretary.

"(2) EVALUATIONS.—The Secretary shall establish procedures to ensure the annual evaluation of programs and projects operated by recipients of grants under this title. Such procedures shall ensure that continued funding for such programs and projects will be conditioned upon a demonstration that satisfactory progress has been made by the program or project in meeting the objectives of the program or project.

"(c) TRAINING PROGRAMS.—Training programs conducted with amounts received under this title shall meet applicable accreditation and quality standards.

"(d) DURATION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

"(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

"(e) PEER REVIEW REGARDING CERTAIN PROGRAMS.—

"(1) IN GENERAL.—Each application for a grant under this title, except advanced nurse traineeship grants under section 811(a)(2), shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(2) COMPOSITION.—Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. In providing for the establishment of peer review groups and procedures, the Secretary shall, except as otherwise provided, ensure sex, racial, ethnic, and geographic representation among the membership of such groups.

"(3) ADMINISTRATION.—This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"(f) ANALYTIC ACTIVITIES.—The Secretary shall ensure that—

"(1) cross-cutting workforce analytical activities are carried out as part of the workforce information and analysis activities under this title; and

"(2) discipline-specific workforce information is developed and analytical activities are carried out as part of—

"(A) the advanced practice nursing activities under part B;

"(B) the workforce diversity activities under part C; and

"(C) basic nursing education and practice activities under part D.

"(g) STATE AND REGIONAL PRIORITIES.—Activities under grants or contracts under this title shall, to the extent practicable, be consistent with related Federal, State, or regional nursing professions program plans and priorities.

"(h) FILING OF APPLICATIONS.—

"(1) IN GENERAL.—Applications for grants or contracts under this title may be submitted by health professions schools, schools of nursing, academic health centers, State or local governments, or other appropriate public or private nonprofit entities as determined appropriate by the Secretary in accordance with this title.

"(2) FOR PROFIT ENTITIES.—Notwithstanding paragraph (1), a for-profit entity may be eligible for a grant or contract under this title as determined appropriated by the Secretary.

"SEC. 807. TECHNICAL ASSISTANCE.

"Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.

"PART B—NURSE PRACTITIONERS, NURSE MIDWIVES, NURSE ANESTHETISTS, AND OTHER ADVANCED PRACTICE NURSES

"SEC. 811. ADVANCED PRACTICE NURSING GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of—

"(1) projects that support the enhancement of advanced practice nursing education and practice; and

"(2) traineeships for individuals in advanced practice nursing programs.

"(b) DEFINITION OF ADVANCED PRACTICE NURSES.—For purposes of this section, the term 'advanced practice nurses' means individuals trained in advanced degree programs including individuals in combined R.N./Master's degree programs, post-nursing master's certificate programs, or, in the case of nurse midwives, in certificate programs in existence on the date that is one day prior to the date of enactment of this section, to serve as nurse practitioners, clinical nurse specialists, nurse midwives, nurse anesthetists, nurse educators, nurse administrators, or public health nurses, or in other nurse specialties determined by the Secretary to require advanced education.

"(c) AUTHORIZED NURSE PRACTITIONER AND NURSE-MIDWIFERY PROGRAMS.—Nurse practitioner and nurse midwifery programs eligible for support under this section are educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) that—

"(1) meet guidelines prescribed by the Secretary; and

"(2) have as their objective the education of nurses who will upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, acute care, and other health care settings.

"(d) AUTHORIZED NURSE ANESTHESIA PROGRAMS.—Nurse anesthesia programs eligible for support under this section are education programs that—

"(1) provide registered nurses with full-time anesthetist education; and

"(2) are accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs.

"(e) OTHER AUTHORIZED EDUCATIONAL PROGRAMS.—The Secretary shall prescribe guidelines as appropriate for other advanced practice nurse education programs eligible for support under this section.

"(f) TRAINEESHIPS.—

"(1) IN GENERAL.—The Secretary may not award a grant to an applicant under subsection (a) unless the applicant involved agrees that traineeships provided with the grant will only pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of advanced nursing practice with respect to which the traineeship is provided; and

"(B) the reasonable living expenses of the individual during the period for which the traineeship is provided.

"(2) DOCTORAL PROGRAMS.—The Secretary may not obligate more than 10 percent of the traineeships under subsection (a) for individuals in doctorate degree programs.

"(3) SPECIAL CONSIDERATION.—In making awards of grants and contracts under subsection (a)(2), the Secretary shall give special consideration to an eligible entity that agrees to expend the award to train advanced practice nurses who will practice in health professional shortage areas designated under section 332.

"PART C—INCREASING NURSING WORKFORCE DIVERSITY

"SEC. 821. WORKFORCE DIVERSITY GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible

entities to meet the costs of special projects to increase nursing education opportunities for individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among registered nurses) by providing student scholarships or stipends, pre-entry preparation, and retention activities.

"(b) GUIDANCE.—In carrying out subsection (a), the Secretary shall take into consideration the recommendations of the First, Second and Third Invitational Congresses for Minority Nurse Leaders on 'Caring for the Emerging Majority,' in 1992, 1993 and 1997, and consult with nursing associations including the American Nurses Association, the National League for Nursing, the American Association of Colleges of Nursing, the National Black Nurses Association, the National Association of Hispanic Nurses, the Association of Asian American and Pacific Islander Nurses, the Native American Indian and Alaskan Nurses Association, and the National Council of State Boards of Nursing.

"(c) REQUIRED INFORMATION AND CONDITIONS FOR AWARD RECIPIENTS.—

"(1) IN GENERAL.—Recipients of awards under this section may be required, where requested, to report to the Secretary concerning the annual admission, retention, and graduation rates for individuals from disadvantaged backgrounds and ethnic and racial minorities in the school or schools involved in the projects.

"(2) FALLING RATES.—If any of the rates reported under paragraph (1) fall below the average of the two previous years, the grant or contract recipient shall provide the Secretary with plans for immediately improving such rates.

"(3) INELIGIBILITY.—A recipient described in paragraph (2) shall be ineligible for continued funding under this section if the plan of the recipient fails to improve the rates within the 1-year period beginning on the date such plan is implemented.

"PART D—STRENGTHENING CAPACITY FOR BASIC NURSE EDUCATION AND PRACTICE

"SEC. 831. BASIC NURSE EDUCATION AND PRACTICE GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities for projects to strengthen capacity for basic nurse education and practice.

"(b) PRIORITY AREAS.—In awarding grants or contracts under this section the Secretary shall give priority to entities that will use amounts provided under such a grant or contract to enhance the educational mix and utilization of the basic nursing workforce by strengthening programs that provide basic nurse education, such as through—

"(1) establishing or expanding nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities;

"(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, the homeless, and victims of domestic violence;

"(3) providing managed care, quality improvement, and other skills needed to practice in existing and emerging organized health care systems;

"(4) developing cultural competencies among nurses;

"(5) expanding the enrollment in baccalaureate nursing programs;

"(6) promoting career mobility for nursing personnel in a variety of training settings and cross training or specialty training among diverse population groups;

"(7) providing education in informatics, including distance learning methodologies; or

"(8) other priority areas as determined by the Secretary.";

(5) by adding at the end the following:

"PART F—AUTHORIZATION OF APPROPRIATIONS

"SEC. 841. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out sections 811, 821, and 831, $65,000,000 for fiscal year 1998, and such sums as may be necessary in each of the fiscal years 1999 through 2002.

"PART G—NATIONAL ADVISORY COUNCIL ON NURSE EDUCATION AND PRACTICE

"SEC. 845. NATIONAL ADVISORY COUNCIL ON NURSE EDUCATION AND PRACTICE.

"(a) ESTABLISHMENT.—The Secretary shall establish an advisory council to be known as the National Advisory Council on Nurse Education and Practice (in this section referred to as the 'Advisory Council').

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Advisory Council shall be composed of

"(A) not less than 21, nor more than 23 individuals, who are not officers or employees of the Federal Government, appointed by the Secretary without regard to the Federal civil service laws, of which—

"(i) 2 shall be selected from full-time students enrolled in schools of nursing;

"(ii) 2 shall be selected from the general public;

"(iii) 2 shall be selected from practicing professional nurses; and

"(iv) 9 shall be selected from among the leading authorities in the various fields of nursing, higher, secondary education, and associate degree schools of nursing, and from representatives of advanced practice nursing groups (such as nurse practitioners, nurse midwives, and nurse anesthetists), hospitals, and other institutions and organizations which provide nursing services; and

"(B) the Secretary (or the delegate of the Secretary (who shall be an ex officio member and shall serve as the Chairperson)).

"(2) APPOINTMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall appoint the members of the Advisory Council and each such member shall serve a 4 year term. In making such appointments, the Secretary shall ensure a fair balance between the nursing professions, a broad geographic representation of members and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved. A majority of the members shall be nurses.

"(3) MINORITY REPRESENTATION.—In appointing the members of the Advisory Council under paragraph (1), the Secretary shall ensure the adequate representation of minorities.

"(c) VACANCIES.—

"(1) IN GENERAL.—A vacancy on the Advisory Council shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

"(2) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) DUTIES.—The Advisory Council shall—

"(1) provide advice and recommendations to the Secretary and Congress concerning policy matters arising in the administration of this title, including the range of issues relating to the nurse workforce, education, and practice improvement;

"(2) provide advice to the Secretary and Congress in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the range of issues relating to nurse supply, education and practice improvement; and

"(3) not later than 3 years after the date of enactment of this section, and annually thereafter, prepare and submit to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Council, including findings and recommendations made by the Council concerning the activities under this title.

"(e) MEETINGS AND DOCUMENTS.—

"(1) MEETINGS.—The Advisory Council shall meet not less than 2 times each year. Such meetings shall be held jointly with other related entities established under this title where appropriate.

"(2) DOCUMENTS.—Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Council shall prepare and make available an agenda of the matters to be considered by the Advisory Council at such meeting. At any such meeting, the Advisory Council shall distribute materials with respect to the issues to be addressed at the meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Council shall prepare and make available a summary of the meeting and any actions taken by the Council based upon the meeting.

"(f) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—Each member of the Advisory Council shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Council. All members of the Council who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(2) EXPENSES.—The members of the Advisory Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

"(g) FUNDING.—Amounts appropriated under this title may be utilized by the Secretary to support the nurse education and practice activities of the Council.

"(h) FACA.—The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section."; and

(6) by redesignating section 855 as section 810, and transferring such section so as to appear after section 809 (as added by the amendment made by paragraph (5)).

SEC. 124. SAVINGS PROVISION.

In the case of any authority for making awards of grants or contracts that is terminated by the amendment made by section 123, the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

Subtitle C—Financial Assistance

CHAPTER 1—SCHOOL-BASED REVOLVING LOAN FUNDS

SEC. 131. PRIMARY CARE LOAN PROGRAM.

(a) REQUIREMENT FOR SCHOOLS.—Section 723(b)(1) of the Public Health Service Act (42

U.S.C. 292s(b)(1)), as amended by section 2014(c)(2)(A)(ii) of Public Law 103–43 (107 Stat. 216), is amended by striking "3 years before" and inserting "4 years before".

(b) NONCOMPLIANCE.—Section 723(a)(3) of the Public Health Service Act (42 U.S.C. 292s(a)(3)) is amended to read as follows:

"(3) NONCOMPLIANCE BY STUDENT.—Each agreement entered into with a student pursuant to paragraph (1) shall provide that, if the student fails to comply with such agreement, the loan involved will begin to accrue interest at a rate of 18 percent per year beginning on the date of such noncompliance.".

(c) REPORT REQUIREMENT.—Section 723 of the Public Health Service Act (42 U.S.C. 292s) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 132. LOANS FOR DISADVANTAGED STUDENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 724(f)(1) of the Public Health Service Act (42 U.S.C. 292t(f)(1)) is amended by striking "$15,000,000 for fiscal year 1993" and inserting "$8,000,000 for each of the fiscal years 1998 through 2002".

(b) REPEAL.—Effective October 1, 2002, paragraph (1) of section 724(f) of the Public Health Service Act (42 U.S.C. 292t(f)(1)) is repealed.

SEC. 133. STUDENT LOANS REGARDING SCHOOLS OF NURSING.

(a) IN GENERAL.—Section 836(b) of the Public Health Service Act (42 U.S.C. 297b(b)) is amended—

(1) in paragraph (1), by striking the period at the end and inserting a semicolon;

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "and" at the end; and

(B) by inserting before the semicolon at the end the following: ", and (C) such additional periods under the terms of paragraph (8) of this subsection";

(3) in paragraph (7), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following paragraph:

"(8) pursuant to uniform criteria established by the Secretary, the repayment period established under paragraph (2) for any student borrower who during the repayment period failed to make consecutive payments and who, during the last 12 months of the repayment period, has made at least 12 consecutive payments may be extended for a period not to exceed 10 years.".

(b) MINIMUM MONTHLY PAYMENTS.—Section 836(g) of the Public Health Service Act (42 U.S.C. 297b(g)) is amended by striking "$15" and inserting "$40".

(c) ELIMINATION OF STATUTE OF LIMITATION FOR LOAN COLLECTIONS.—

(1) IN GENERAL.—Section 836 of the Public Health Service Act (42 U.S.C. 297b) is amended by adding at the end the following new subsection:

"(l) ELIMINATION OF STATUTE OF LIMITATION FOR LOAN COLLECTIONS.—

"(1) PURPOSE.—It is the purpose of this subsection to ensure that obligations to repay loans under this section are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

"(2) PROHIBITION.—Notwithstanding any other provision of Federal or State law, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by a school of nursing that has an agreement with the Secretary pursuant to section 835 that is seeking the repayment of the amount due from a borrower on a loan made under this subpart after the default of the borrower on such loan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to actions pending on or after the date of enactment of this Act.

(d) BREACH OF AGREEMENTS.—Section 846 of the Public Health Service Act (42 U.S.C. 297n) is amended by adding at the end thereof the following new subsection:

"(h) BREACH OF AGREEMENT.—

"(1) IN GENERAL.—In the case of any program under this section under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

"(A) In the case of a program under this section that makes an award of Federal funds for attending an accredited program of nursing (in this section referred to as a 'nursing program'), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

"(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

"(ii) is dismissed from the nursing program for disciplinary reasons; or

"(iii) voluntarily terminates the nursing program.

"(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such subsection if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

"(4) AVAILABILITY.—Amounts recovered under paragraph (1) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.".

(e) TECHNICAL AMENDMENTS.—Section 839 of the Public Health Service Act (42 U.S.C. 297e) is amended—

(1) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(a) If a school terminates a loan fund established under an agreement pursuant to section 835(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:"; and

(B) in paragraph (1), by striking "at the close of September 30, 1999," and inserting "on the date of termination of the fund"; and

(2) in subsection (b), to read as follows:

"(b) If a capital distribution is made under subsection (a), the school involved shall, after such capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established under section 835(b) as determined by the Secretary under subsection (a).".

SEC. 134. GENERAL PROVISIONS.

(a) MAXIMUM STUDENT LOAN PROVISIONS AND MINIMUM PAYMENTS.—

(1) IN GENERAL.—Section 722(a)(1) of the Public Health Service Act (42 U.S.C. 292r(a)(1)), as amended by section 2014(b)(1) of Public Law 103–43, is amended by striking "the sum of" and all that follows through the end thereof and inserting "the cost of attendance (including tuition, other reasonable educational expenses, and reasonable living costs) for that year at the educational institution attended by the student (as determined by such educational institution).".

(2) THIRD AND FOURTH YEARS.—Section 722(a)(2) of the Public Health Service Act (42 U.S.C. 292r(a)(2)), as amended by section 2014(b)(1) of Public Law 103–43, is amended by striking "the amount $2,500" and all that follows through "including such $2,500)" and inserting "the amount of the loan may, in the case of the third or fourth year of a student at a school of medicine or osteopathic medicine, be increased to the extent necessary".

(3) REPAYMENT PERIOD.—Section 722(c) of the Public Health Service Act (42 U.S.C. 292r(c)), as amended by section 2014(b)(1) of Public Law 103–43, is amended—

(A) in the subsection heading by striking "TEN-YEAR" and inserting "REPAYMENT";

(B) by striking "ten-year period which begins" and inserting "period of not less than 10 years nor more than 25 years, at the discretion of the institution, which begins"; and

(C) by striking "such ten-year period" and inserting "such period".

(4) MINIMUM PAYMENTS.—Section 722(j) of the Public Health Service Act (42 U.S.C. 292r(j)), as amended by section 2014(b)(1) of Public Law 103–43, is amended by striking "$15" and inserting $40".

(b) ELIMINATION OF STATUTE OF LIMITATION FOR LOAN COLLECTIONS.—

(1) IN GENERAL.—Section 722 of the Public Health Service Act (42 U.S.C. 292r), as amended by section 2014(b)(1) of Public Law 103–43, is amended by adding at the end the following new subsection:

"(m) ELIMINATION OF STATUTE OF LIMITATION FOR LOAN COLLECTIONS.—

"(1) PURPOSE.—It is the purpose of this subsection to ensure that obligations to repay loans under this section are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

"(2) PROHIBITION.—Notwithstanding any other provision of Federal or State law, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by a school that has an agreement with the Secretary pursuant to section 721 that is seeking the repayment of the amount due from a borrower on a loan made under this subpart after the default of the borrower on such loan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to actions pending on or after the date of enactment of this Act.

(c) DATE CERTAIN FOR CONTRIBUTIONS.—Paragraph (2) of section 735(e) of the Public Health Service Act (42 U.S.C. 292y(e)(2)) is amended to read as follows:

"(2) DATE CERTAIN FOR CONTRIBUTIONS.—Amounts described in paragraph (1) that are returned to the Secretary shall be obligated before the end of the succeeding fiscal year.".

CHAPTER 2—INSURED HEALTH EDUCATION ASSISTANCE LOANS TO GRADUATE STUDENTS

SEC. 141. HEALTH EDUCATION ASSISTANCE LOAN PROGRAM.

(a) HEALTH EDUCATION ASSISTANCE LOAN DEFERMENT FOR BORROWERS PROVIDING HEALTH SERVICES TO INDIANS.—

(1) IN GENERAL.—Section 705(a)(2)(C) of the Public Health Service Act (42 U.S.C. 292d(a)(2)(C)) is amended by striking "and (x)" and inserting "(x) not in excess of three years, during which the borrower is providing health care services to Indians through an Indian health program (as defined in section 108(a)(2)(A) of the Indian Health Care Improvement Act (25 U.S.C. 1616a(a)(2)(A)); and (xi)".

(2) CONFORMING AMENDMENTS.—Section 705(a)(2)(C) of the Public Health Service Act (42 U.S.C. 292d(a)(2)(C)) is further amended—

(A) in clause (xi) (as so redesignated) by striking "(ix)" and inserting "(x)"; and

(B) in the matter following such clause (xi), by striking "(x)" and inserting "(xi)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services provided on or after the first day of the third month that begins after the date of the enactment of this Act.

(b) REPORT REQUIREMENT.—Section 709(b) of the Public Health Service Act (42 U.S.C. 292h(b)) is amended—

(1) in paragraph (4)(B), by adding "and" after the semicolon;

(2) in paragraph (5), by striking "; and" and inserting a period; and

(3) by striking paragraph (6).

(c) COLLECTION FROM ESTATES.—Section 714 of the Public Health Service Act (42 U.S.C. 292m) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, the Secretary may, in the case of a borrower who dies, collect any remaining unpaid balance owed to the lender, the holder of the loan, or the Federal Government from the borrower's estate.".

(d) PROGRAM ELIGIBILITY.—

(1) LIMITATIONS ON LOANS.—Section 703(a) of the Public Health Service Act (42 U.S.C. 292b(a)) is amended by striking "or clinical psychology" and inserting "or behavioral and mental health practice, including clinical psychology".

(2) DEFINITION OF ELIGIBLE INSTITUTION.—Section 719(1) of the Public Health Service Act (42 U.S.C. 292o(1)) is amended by striking "or clinical psychology" and inserting "or behavioral and mental health practice, including clinical psychology".

SEC. 142. HEAL LENDER AND HOLDER PERFORMANCE STANDARDS.

(a) GENERAL AMENDMENTS.—Section 707(a) of the Public Health Service Act (42 U.S.C. 292f) is amended—

(1) by striking the last sentence;

(2) by striking "determined." and inserting "determined, except that, if the insurance beneficiary including any servicer of the loan is not designated for 'exceptional performance', as set forth in paragraph (2), the Secretary shall pay to the beneficiary a sum equal to 98 percent of the amount of the loss sustained by the insured upon that loan.";

(3) by striking "Upon" and inserting:

"(1) IN GENERAL.—Upon"; and

(4) by adding at the end the following new paragraph:

"(2) EXCEPTIONAL PERFORMANCE.—

"(A) AUTHORITY.—Where the Secretary determines that an eligible lender, holder, or servicer has a compliance performance rating that equals or exceeds 97 percent, the Secretary shall designate that eligible lender, holder, or servicer, as the case may be, for exceptional performance.

"(B) COMPLIANCE PERFORMANCE RATING.—For purposes of subparagraph (A), a compliance performance rating is determined with respect to compliance with due diligence in the disbursement, servicing, and collection of loans under this subpart for each year for which the determination is made. Such rating shall be equal to the percentage of all due diligence requirements applicable to each loan, on average, as established by the Secretary, with respect to loans serviced during the period by the eligible lender, holder, or servicer.

"(C) ANNUAL AUDITS FOR LENDERS, HOLDERS, AND SERVICERS.—Each eligible lender, holder, or servicer desiring a designation under subparagraph (A) shall have an annual financial and compliance audit conducted with respect to the loan portfolio of such eligible lender, holder, or servicer, by a qualified independent organization from a list of qualified organizations identified by the Secretary and in accordance with standards established by the Secretary. The standards shall measure the lender's, holder's, or servicer's compliance with due diligence standards and shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender, holder, or servicer for the purpose of this section. Each eligible lender, holder, or servicer shall submit the audit required by this section to the Secretary.

"(D) SECRETARY'S DETERMINATIONS.—The Secretary shall make the determination under subparagraph (A) based upon the audits submitted under this paragraph and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government.

"(E) QUARTERLY COMPLIANCE AUDIT.—To maintain its status as an exceptional performer, the lender, holder, or servicer shall undergo a quarterly compliance audit at the end of each quarter (other than the quarter in which status as an exceptional performer is established through a financial and compliance audit, as described in subparagraph (C)), and submit the results of such audit to the Secretary. The compliance audit shall review compliance with due diligence requirements for the period beginning on the day after the ending date of the previous audit, in accordance with standards determined by the Secretary.

"(F) REVOCATION AUTHORITY.—The Secretary shall revoke the designation of a lender, holder, or servicer under subparagraph (A) if any quarterly audit required under subparagraph (E) is not received by the Secretary by the date established by the Secretary or if the audit indicates the lender, holder, or servicer has failed to meet the standards for designation as an exceptional performer under subparagraph (A). A lender, holder, or servicer receiving a compliance audit not meeting the standard for designation as an exceptional performer may reapply for designation under subparagraph (A) at any time.

"(G) DOCUMENTATION.—Nothing in this section shall restrict or limit the authority of the Secretary to require the submission of claims documentation evidencing servicing performed on loans, except that the Secretary may not require exceptional performers to submit greater documentation than that required for lenders, holders, and servicers not designated under subparagraph (A).

"(H) COST OF AUDITS.—Each eligible lender, holder, or servicer shall pay for all the costs associated with the audits required under this section.

"(I) ADDITIONAL REVOCATION AUTHORITY.—Notwithstanding any other provision of this section, a designation under subparagraph (A) may be revoked at any time by the Secretary if the Secretary determines that the eligible lender, holder, or servicer has failed to maintain an overall level of compliance consistent with the audit submitted by the eligible lender, holder, or servicer under this paragraph or if the Secretary asserts that the lender, holder, or servicer may have engaged in fraud in securing designation under subparagraph (A) or is failing to service loans in accordance with program requirements.

"(J) NONCOMPLIANCE.—A lender, holder, or servicer designated under subparagraph (A) that fails to service loans or otherwise comply with applicable program regulations shall be considered in violation of the Federal False Claims Act.".

(b) DEFINITION.—Section 707(e) of the Public Health Service Act (42 U.S.C. 292f(e)) is amended by adding at the end the following new paragraph:

"(4) The term 'servicer' means any agency acting on behalf of the insurance beneficiary.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to loans submitted to the Secretary for payment on or after the first day of the sixth month that begins after the date of enactment of this Act.

SEC. 143. REAUTHORIZATION.

(a) LOAN PROGRAM.—Section 702(a) of the Public Health Service Act (42 U.S.C. 292a(a)) is amended—

(1) by striking "$350,000,000" and all that follows through "1995" and inserting "$350,000,000 for fiscal year 1998, $375,000,000 for fiscal year 1999, and $425,000,000 for each of the fiscal years 2000 through 2002";

(2) by striking "obtained prior loans insured under this subpart" and inserting "obtained loans insured under this subpart in fiscal year 2002 or in prior fiscal years";

(3) by adding at the end thereof the following new sentence: "The Secretary may establish guidelines and procedures that lenders must follow in distributing funds under this subpart."; and

(4) by striking "September 30, 1998" and inserting "September 30, 2005".

(b) INSURANCE PROGRAM.—Section 710(a)(2)(B) of the Public Health Service Act (42 U.S.C. 292i(a)(2)(B)) is amended by striking "any of the fiscal years 1993 through 1996" and inserting "fiscal year 1993 and subsequent fiscal years".

SEC. 144. HEAL BANKRUPTCY.

(a) IN GENERAL.—Section 707(g) of the Public Health Service Act (42 U.S.C. 292f(g)) is amended in the first sentence by striking "A debt which is a loan insured" and inserting "Notwithstanding any other provision of Federal or State law, a debt that is a loan insured".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to any loan insured under the authority of subpart I of part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) that is listed or scheduled by the debtor in a case under title XI, United States Code, filed—

(1) on or after the date of enactment of this Act; or

(2) prior to such date of enactment in which a discharge has not been granted.

SEC. 145. HEAL REFINANCING.

Section 706 of the Public Health Service Act (42 U.S.C. 292e) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by striking "CONSOLIDATION" and inserting "REFINANCING OR CONSOLIDATION"; and

(B) in the first sentence, by striking "indebtedness" and inserting "indebtedness or the refinancing of a single loan"; and

(2) in subsection (e)—

(A) in the subsection heading, by striking "DEBTS" and inserting "DEBTS AND REFINANCING";

(B) in the first sentence, by striking "all of the borrower's debts into a single instrument" and inserting "all of the borrower's loans insured under this subpart into a single instrument (or, if the borrower obtained only 1 loan insured under this subpart, refinancing the loan 1 time)"; and

(C) in the second sentence, by striking "consolidation" and inserting "consolidation or refinancing".

TITLE II—OFFICE OF MINORITY HEALTH

SEC. 201. REVISION AND EXTENSION OF PROGRAMS OF OFFICE OF MINORITY HEALTH.

(a) DUTIES AND REQUIREMENTS.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u–6) is amended by striking subsection (b) and all that follows and inserting the following:

"(b) DUTIES.—With respect to improving the health of racial and ethnic minority groups, the Secretary, acting through the Deputy Assistant Secretary for Minority Health (in this section referred to as the 'Deputy Assistant Secretary'), shall carry out the following:

"(1) Establish short-range and long-range goals and objectives and coordinate all other activities within the Public Health Service that relate to disease prevention, health promotion, service delivery, and research concerning such individuals. The heads of each of the agencies of the Service shall consult with the Deputy Assistant Secretary to ensure the coordination of such activities.

"(2) Enter into interagency agreements with other agencies of the Public Health Service.

"(3) Support research, demonstrations and evaluations to test new and innovative models.

"(4) Increase knowledge and understanding of health risk factors.

"(5) Develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including individuals who are members of racial or ethnic minority groups.

"(6) Ensure that the National Center for Health Statistics collects data on the health status of each minority group.

"(7) With respect to individuals who lack proficiency in speaking the English language, enter into contracts with public and nonprofit private providers of primary health services for the purpose of increasing the access of the individuals to such services by developing and carrying out programs to provide bilingual or interpretive services.

"(8) Support a national minority health resource center to carry out the following:

"(A) Facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care.

"(B) Facilitate access to such information.

"(C) Assist in the analysis of issues and problems relating to such matters.

"(D) Provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance).

"(9) Carry out programs to improve access to health care services for individuals with limited proficiency in speaking the English language. Activities under the preceding sentence shall include developing and evaluating model projects.

"(c) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Health (in this subsection referred to as the 'Committee').

"(2) DUTIES.—The Committee shall provide advice to the Deputy Assistant Secretary carrying out this section, including advice on the development of goals and specific program activities under paragraphs (1) through (9) of subsection (b) for each racial and ethnic minority group.

"(3) CHAIR.—The chairperson of the Committee shall be selected by the Secretary from among the members of the voting members of the Committee. The term of office of the chairperson shall be 2 years.

"(4) COMPOSITION.—

"(A) The Committee shall be composed of 12 voting members appointed in accordance with subparagraph (B), and nonvoting, ex officio members designated in subparagraph (C).

"(B) The voting members of the Committee shall be appointed by the Secretary from among individuals who are not officers or employees of the Federal Government and who have expertise regarding issues of minority health. The racial and ethnic minority groups shall be equally represented among such members.

"(C) The nonvoting, ex officio members of the Committee shall be such officials of the Department of Health and Human Services as the Secretary determines to be appropriate.

"(5) TERMS.—Each member of the Committee shall serve for a term of 4 years, except that the Secretary shall initially appoint a portion of the members to terms of 1 year, 2 years, and 3 years.

"(6) VACANCIES.—If a vacancy occurs on the Committee, a new member shall be appointed by the Secretary within 90 days from the date that the vacancy occurs, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Committee.

"(7) COMPENSATION.—Members of the Committee who are officers or employees of the United States shall serve without compensation. Members of the Committee who are not officers or employees of the United States shall receive compensation, for each day (including travel time) they are engaged in the performance of the functions of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule (under title 5, United States Code) for positions above GS–15.

"(d) CERTAIN REQUIREMENTS REGARDING DUTIES.—

"(1) RECOMMENDATIONS REGARDING LANGUAGE AS IMPEDIMENT TO HEALTH CARE.—The Deputy Assistant Secretary for Minority Health shall consult with the Director of the Office of International and Refugee Health, the Director of the Office of Civil Rights, and the Directors of other appropriate Departmental entities regarding recommendations for carrying out activities under subsection (b)(9).

"(2) EQUITABLE ALLOCATION REGARDING ACTIVITIES.—In carrying out subsection (b), the Secretary shall ensure that services provided under such subsection are equitably allocated among all groups served under this section by the Secretary.

"(3) CULTURAL COMPETENCY OF SERVICES.—The Secretary shall ensure that information and services provided pursuant to subsection (b) are provided in the language, educational, and cultural context that is most appropriate for the individuals for whom the information and services are intended.

"(e) GRANTS AND CONTRACTS REGARDING DUTIES.—

"(1) IN GENERAL.—In carrying out subsection (b), the Secretary acting through the Deputy Assistant Secretary may make awards of grants, cooperative agreements, and contracts to public and nonprofit private entities.

"(2) PROCESS FOR MAKING AWARDS.—The Deputy Assistant Secretary shall ensure that awards under paragraph (1) are made, to the extent practical, only on a competitive basis, and that a grant is awarded for a proposal only if the proposal has been recommended for such an award through a process of peer review.

"(3) EVALUATION AND DISSEMINATION.—The Deputy Assistant Secretary, directly or through contracts with public and private entities, shall provide for evaluations of projects carried out with awards made under paragraph (1) during the preceding 2 fiscal years. The report shall be included in the report required under subsection (f) for the fiscal year involved.

"(f) REPORTS.—

"(1) IN GENERAL.—Not later than February 1 of fiscal year 1999 and of each second year thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this section during the preceding 2 fiscal years and evaluating the extent to which such activities have been effective in improving the health of racial and ethnic minority groups. Each such report shall include the biennial reports submitted under sections 201(e)(3) and 201(f)(2) for such years by the heads of the Public Health Service agencies.

"(2) AGENCY REPORTS.—Not later than February 1, 1999, and biennially thereafter, the heads of the Public Health Service agencies shall submit to the Deputy Assistant Secretary a report summarizing the minority health activities of each of the respective agencies.

"(g) DEFINITION.—For purposes of this section:

"(1) The term 'racial and ethnic minority group' means American Indians (including Alaska Natives, Eskimos, and Aleuts); Asian Americans and Pacific Islanders; Blacks; and Hispanics.

"(2) The term 'Hispanic' means individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country.

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1998, such sums as may be necessary for each of the fiscal years 1999 through 2002.".

(b) AUTHORIZATION FOR NATIONAL CENTER FOR HEALTH STATISTICS.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (m), by adding at the end the following:

"(4)(A) Subject to subparagraph (B), the Secretary, acting through the Center, shall collect data on Hispanics and major Hispanic subpopulation groups and American Indians, and for developing special area population studies on major Asian American and Pacific Islander populations.

"(B) The provisions of subparagraph (A) shall be effective with respect to a fiscal year only to the extent that funds are appropriated pursuant to paragraph (3) of subsection (n), and only if the amounts appropriated for such fiscal year pursuant to each of paragraphs (1) and (2) of subsection (n) equal or exceed the amounts so appropriated for fiscal year 1997.";

(2) in subsection (n)(1), by striking "through 1998" and inserting "through 2003"; and

(3) in subsection (n)

(A) in the first sentence of paragraph (2)—

(i) by striking "authorized in subsection (m)" and inserting "authorized in paragraphs (1) through (3) of subsection (m)"; and

(ii) by striking "$5,000,000" and all that follows through the period and inserting "such sums as may be necessary for each of the fiscal years 1999 through 2003."; and

(B) by adding at the end the following:

"(3) For activities authorized in subsection (m)(4), there are authorized to be appropriated $1,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.".

(c) MISCELLANEOUS AMENDMENTS.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u–6) is amended—

(1) in the heading for the section by striking "ESTABLISHMENT OF"; and

(2) in subsection (a), by striking "Office of the Assistant Secretary for Health" and inserting "Office of Public Health and Science".

TITLE III—SELECTED INITIATIVES

SEC. 301. STATE OFFICES OF RURAL HEALTH.

Section 338J of the Public Health Service Act (42 U.S.C. 254r) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A), by striking "in cash"; and

(2) in subsection (j)(1)—

(A) by striking "and" after "1992,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1998 through 2002"; and

(3) in subsection (k), by striking "$10,000,000" and inserting "$36,000,000".

SEC. 302. DEMONSTRATION PROJECTS REGARDING ALZHEIMER'S DISEASE.

(a) IN GENERAL.—Section 398(a) of the Public Health Service Act (42 U.S.C. 280c–3(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "not less than 5, and not more than 15,";

(2) in paragraph (2)—

(A) by inserting after "disorders" the following: "who are living in single family homes or in congregate settings"; and

(B) by striking "and" at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

"(3) to improve the access of such individuals to home-based or community-based long-term care services (subject to the services being provided by entities that were providing such services in the State involved as of October 1, 1995), particularly such individuals who are members of racial or ethnic minority groups, who have limited proficiency in speaking the English language, or who live in rural areas; and".

(b) DURATION.—Section 398A of the Public Health Service Act (42 U.S.C. 280c–4) is amended—

(1) in the heading for the section, by striking "**LIMITATION**" and all that follows and inserting "**REQUIREMENT OF MATCHING FUNDS**";

(2) by striking subsection (a);

(3) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(4) in subsection (a) (as so redesignated), in each of paragraphs (1)(C) and (2)(C), by striking "third year" and inserting "third or subsequent year".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 398B(e) of the Public Health Service Act (42 U.S.C. 280c–5(e)) is amended—

(1) by striking "and such sums" and inserting "such sums"; and

(2) by inserting before the period the following: ", $8,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002".

SEC. 303. PROJECT GRANTS FOR IMMUNIZATION SERVICES.

Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)) is amended—

(1) in paragraph (1), by striking "individuals against vaccine-preventable diseases" and all that follows through the first period and inserting the following: "children, adolescents, and adults against vaccine-preventable diseases, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2002."; and

(2) in paragraph (2), by striking "1990" and inserting "1997".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. TECHNICAL CORRECTIONS REGARDING PUBLIC LAW 103–183.

(a) AMENDATORY INSTRUCTIONS.—Public Law 103–183 is amended—

(1) in section 601—

(A) in subsection (b), in the matter preceding paragraph (1), by striking "Section 1201 of the Public Health Service Act (42 U.S.C. 300d)" and inserting "Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.)"; and

(B) in subsection (f)(1), by striking "in section 1204(c)" and inserting "in section 1203(c) (as redesignated by subsection (b)(2) of this section)";

(2) in section 602, by striking "for the purpose" and inserting "For the purpose"; and

(3) in section 705(b), by striking "317D((l)(1)" and inserting "317D(l)(1)".

(b) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act, as amended by Public Law 103–183 and by subsection (a) of this section, is amended—

(1) in section 317E(g)(2), by striking "making grants under subsection (b)" and inserting "carrying out subsection (b)";

(2) in section 318, in subsection (e) as in effect on the day before the date of the enactment of Public Law 103–183, by redesignating the subsection as subsection (f);

(3) in subpart 6 of part C of title IV—

(A) by transferring the first section 447 (added by section 302 of Public Law 103–183) from the current placement of the section;

(B) by redesignating the section as section 447A; and

(C) by inserting the section after section 447;

(4) in section 1213(a)(8), by striking "provides for" and inserting "provides for";

(5) in section 1501, by redesignating the second subsection (c) (added by section 101(f) of Public Law 103–183) as subsection (d); and

(6) in section 1505(3), by striking "nonprofit".

(c) MISCELLANEOUS CORRECTION.—Section 401(c)(3) of Public Law 103–183 is amended in the matter preceding subparagraph (A) by striking "(d)(5)" and inserting "(e)(5)".

(d) CONFORMING AMENDMENT.—Section 308(b) of the Public Health Service Act (42 U.S.C. 242m(b)) is amended—

(1) in paragraph (2)(A), by striking "306(n)" and inserting "306(m)"; and

(2) in paragraph (2)(C), by striking "306(n)" and inserting "306(m)".

(e) EFFECTIVE DATE.—This section is deemed to have taken effect immediately after the enactment of Public Law 103–183.

SEC. 402. MISCELLANEOUS AMENDMENTS REGARDING PHS COMMISSIONED OFFICERS.

(a) ANTI-DISCRIMINATION LAWS.—Amend section 212 of the Public Health Service Act (42 U.S.C. 213) by adding the following new subsection at the end thereof:

"(f) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for purposes of all laws related to discrimination on the basis of race, color, sex, ethnicity, age, religion, and disability."

(b) TRAINING IN LEAVE WITHOUT PAY STATUS.—Section 218 of the Public Health Service Act (42 U.S.C. 218a) is amended by adding at the end the following:

"(c) A commissioned officer may be placed in leave without pay status while attending an educational institution or training program whenever the Secretary determines that such status is in the best interest of the Service. For purposes of computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by sections 212 and 224, an officer in such status pursuant to the preceding sentence shall be considered as performing service in the Service and shall have an active service obligation as set forth in subsection (b) of this section.".

(c) UTILIZATION OF ALCOHOL AND DRUG ABUSE RECORDS THAT APPLY TO THE ARMED FORCES.—Section 543(e) of the Public Health Service Act (42 U.S.C. 290dd–2(e)) is amended by striking "Armed Forces" each place that such term appears and inserting "Uniformed Services".

SEC. 403. CLINICAL TRAINEESHIPS.

Section 303(d)(1) of the Public Health Service Act (42 U.S.C. 242a(d)(1)) is amended by inserting "counseling," after "family therapy,".

SEC. 404. PROJECT GRANTS FOR SCREENINGS, REFERRALS, AND EDUCATION REGARDING LEAD POISONING.

Section 317A(l)(1) of the Public Health Service Act (42 U.S.C. 247b–1(l)(1)) is amended by striking "1998" and inserting "2002".

SEC. 405. PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES REGARDING TUBERCULOSIS.

Section 317E(g) of the Public Health Service Act (42 U.S.C. 247b–6(g)(1)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "1998" and inserting "2002"; and

(B) in subparagraph (B), by striking "$50,000,000" and inserting "25 percent"; and

(2) in paragraph (2), by striking "1998" and inserting "2002".

SEC. 406. CDC LOAN REPAYMENT PROGRAM.

Section 317F of the Public Health Service Act (42 U.S.C. 247b-7) is amended—

(1) in subsection (a)(1), by striking "$20,000" and inserting "$35,000";

(2) in subsection (c), by striking "1998" and inserting "2002"; and

(3) by adding at the end the following:

"(d) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated for a fiscal year for contracts under subsection (a) shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

SEC. 407. COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 318(h)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(h)(2)) is amended by striking "fiscal year 1997" and inserting "for each of the fiscal years 1997 through 2002".

(b) STUDY.—The Secretary of Health and Human Services shall request that the Institute of Medicine conduct a study concerning the training needs of health professionals with respect to the detection and referral of victims of family or acquaintance violence. Not later than 2 years after the date of enactment of this Act, the Institute of Medicine shall prepare and submit to Congress a report concerning the study conducted under this subsection.

SEC. 408. STATE LOAN REPAYMENT PROGRAM.

Section 338I(i)(1) of the Public Health Service Act (42 U.S.C. 254q–1(i)(1)) is amended by inserting before the period ", and such sums as may be necessary for each of the fiscal years 1998 through 2002".

SEC. 409. AUTHORITY OF THE DIRECTOR OF NIH.

Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (11), by striking "and" at the end thereof;

(2) in paragraph (12), by striking the period and inserting a semicolon; and

(3) by adding after paragraph (12), the following new paragraphs:

"(13) may conduct and support research training—

"(A) for which fellowship support is not provided under section 487; and

"(B) which does not consist of residency training of physicians or other health professionals; and

"(14) may appoint physicians, dentists, and other health care professionals, subject to the provisions of title 5, United States Code, relating to appointments and classifications in the competitive service, and may compensate such professionals subject to the provisions of chapter 74 of title 38, United States Code.".

SEC. 410. RAISE IN MAXIMUM LEVEL OF LOAN REPAYMENTS.

(a) REPAYMENT PROGRAMS WITH RESPECT TO AIDS.—Section 487A of the Public Health Service Act (42 U.S.C. 288–1) is amended—

(1) in subsection (a), by striking "$20,000" and inserting "$35,000"; and

(2) in subsection (c), by striking "1996" and inserting "2001".

(b) REPAYMENT PROGRAMS WITH RESPECT TO CONTRACEPTION AND INFERTILITY.—Section 487B(a) of the Public Health Service Act (42 U.S.C. 288–2(a)) is amended by striking "$20,000" and inserting "$35,000".

(c) REPAYMENT PROGRAMS WITH RESPECT TO RESEARCH GENERALLY.—Section 487C(a)(1) of the Public Health Service Act (42 U.S.C. 288–3(a)(1)) is amended by striking "$20,000" and inserting "$35,000".

(d) REPAYMENT PROGRAMS WITH RESPECT TO CLINICAL RESEARCHERS FROM DISADVANTAGED BACKGROUNDS.—Section 487E(a) of the Public Health Service Act (42 U.S.C. 288–5(a)) is amended—

(1) in paragraph (1), by striking "$20,000" and inserting "$35,000"; and

(2) in paragraph (3), by striking "338C" and inserting "338B, 338C".

SEC. 411. CONSTRUCTION OF REGIONAL CENTERS FOR RESEARCH ON PRIMATES.

Section 481B(a) of the Public Health Service Act (42 U.S.C. 287a–3(a)) is amended—

(1) by striking "shall" and inserting "may"; and

(2) by striking "$5,000,000" and inserting "up to $2,500,000".

SEC. 412. PEER REVIEW.

Section 504(d)(2) of the Public Health Service Act (42 U.S.C. 290aa–3(d)(2)) is amended by striking "cooperative agreement, or contract" each place that such appears and inserting "or cooperative agreement".

SEC. 413. FUNDING FOR TRAUMA CARE.

Section 1232(a) of the Public Health Service Act (42 U.S.C. 300d–32) is amended by striking "and 1996" and inserting "through 2002".

SEC. 414. HEALTH INFORMATION AND HEALTH PROMOTION.

Section 1701(b) of the Public Health Service Act (42 U.S.C. 300u(b)) is amended by striking "through 1996" and inserting "through 2002".

SEC. 415. EMERGENCY MEDICAL SERVICES FOR CHILDREN.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w–9) is amended—

(1) in subsection (a)—

(A) by striking "two-year period" and inserting "3-year period (with an optional 4th year based on performance)"; and

(B) by striking "one grant" and inserting "3 grants"; and

(2) in subsection (d), by striking "1997" and inserting "2005".

SEC. 416. ADMINISTRATION OF CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Section 2004 of Public Law 103–43 (107 Stat. 209) is amended by striking subsection (a).

(b) CONFORMING AMENDMENTS.—Section 2004 of Public Law 103–43, as amended by subsection (a) of this section, is amended—

(1) by striking "(b) SENSE" and all that follows through "In the case" and inserting the following:

"(a) SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case";

(2) by striking "(2) NOTICE TO RECIPIENTS OF ASSISTANCE" and inserting the following:

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE"; and

(3) in subsection (b), as redesignated by paragraph (2) of this subsection, by striking "paragraph (1)" and inserting "subsection (a)".

(c) EFFECTIVE DATE.—This section is deemed to have taken effect immediately after the enactment of Public Law 103–43.

SEC. 417. AIDS DRUG ASSISTANCE PROGRAM.

Section 2618(b)(3) of the Public Health Service Act (42 U.S.C. 300ff–28(b)(3)) is amended—

(1) in subparagraph (A), by striking "and the Commonwealth of Puerto Rico" and inserting ", the Commonwealth of Puerto Rico, the Virgin Islands, and Guam"; and

(2) in subparagraph (B), by striking "the Virgin Islands, Guam".

SEC. 418. NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

Part I of title IV of the Public Health Service Act (42 U.S.C. 290b et seq.) is amended—

(1) by striking the part heading and inserting the following:

"PART I—FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH";

and

(2) in section 499—

(A) in subsection (a), by striking "National Foundation for Biomedical Research" and inserting "Foundation for the National Institutes of Health";

(B) in subsection (k)(10)—

(i) by striking "not"; and

(ii) by adding at the end the following: "Any funds transferred under this paragraph shall be subject to all Federal limitations relating to Federally-funded research."; and

(C) in subsection (m)(1), by striking "$200,000" and all that follows through "1995" and inserting "$500,000 for each fiscal year".

AMENDMENT NO. 3484

(Purpose: To strike the reauthorization of the HEAL program)

Mr. GORTON. Mr. President, Senator FRIST has an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington, [Mr. GORTON], for Mr. FRIST, proposes an amendment numbered 3484.

Mr. GORTON. 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:

Beginning on page 299, strike line 20 and all that follows through line 2 on page 300.

On page 300, line 3, strike "(d)" and insert "(c)".

Beginning on page 305, strike line 21 and all that follows through line 14 on page 306, and insert the following:

"SEC. 143. INSURANCE PROGRAM.

"Section 710(a)(2)(B) of".

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to.

The amendment (No. 3484) was agreed to.

AMENDMENT NO. 3485

(Purpose: To initiate a coordinated national effort to prevent, detect, and educate the public concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect and to identify effective interventions for children, adolescents, and adults with Fetal alcohol syndrome and Fetal Alcohol Effect)

Mr. GORTON. Mr. President, I ask for the immediate consideration of Senator DASCHLE's amendment, which is also at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. DASCHLE, proposes an amendment numbered 3485.

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

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 3485) was agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent that the committee amendment, as amended, be agreed to.

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

The committee amendment, as amended, was agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 1754), as amended, was considered read the third time and passed.

INTERNATIONAL ANTI-BRIBERY ACT OF 1998

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 510, S. 2375.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2375) to amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes.

The Senate proceeded to consider the bill.

Mr. GORTON. Mr. President, I ask unanimous consent that the bill be considered read a third time and

passed; that the motion to reconsider be laid upon the table; and that any statement relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 2375) was considered read the third time and passed, as follows:

S. 2375

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 "International Anti-Bribery Act of 1998".

SEC. 2. AMENDMENTS RELATING TO ISSUERS OF SECURITIES.

(a) PROHIBITED CONDUCT.—Section 30A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official in his official capacity;

"(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official;

"(C) securing any improper advantage; or";

(2) in paragraph (2)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity;

"(B) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate;

"(C) securing any improper advantage; or"; and

(3) in paragraph (3)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity;

"(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate;

"(C) securing any improper advantage; or".

(b) OFFICIALS OF INTERNATIONAL ORGANIZATIONS.—Section 30A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1(f)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) The term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government, department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been so designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288).'"; and

(2) in paragraph (3)(A)(v), by inserting before the period "to those referred to in clauses (i) through (iv)".

(c) ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE OF THE UNITED STATES.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended—

(1) by redesignating subsection (f) as subsection (g);

(2) by inserting after subsection (e) the following:

"(f) ALTERNATIVE JURISDICTION.—

"(1) IN GENERAL.—It shall be unlawful for an issuer, or for any United States person that is an officer, director, employee, or agent of such issuer or any stockholder thereof, acting on behalf of that issuer, to corruptly do any act outside of the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of any thing of value to any of the persons or entities referred to in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, whether or not that issuer (or that officer, director, employee, agent, or stockholder) makes use of the mails or any means or instrumentality of interstate commerce in furtherance of the offer, gift, payment, promise, or authorization.

"(2) APPLICABILITY.—This subsection applies only to an issuer that—

"(A) is organized under the laws of the United States, or a State, territory, possession, or commonwealth of the United States or a political subdivision thereof; and

"(B) has a class of securities registered pursuant to section 12 or that is required to file reports under section 15(d).

"(3) UNITED STATES PERSON.—In this subsection, the term 'United States person' means—

"(A) a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.";

(3) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (f)"; and

(4) in subsection (c), by striking "subsection (a)" and inserting "subsections (a) and (f)".

(d) PENALTIES.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(c)) is amended—

(1) by striking "section 30A(a) of this title" each place that term appears and inserting "subsection (a) or (f) of section 30A"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or director" and inserting ", director, employee, or agent";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

SEC. 3. AMENDMENTS RELATING TO DOMESTIC CONCERNS.

(a) PROHIBITED CONDUCT.—Section 104(a) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official in his official capacity;

"(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official;

"(C) securing any improper advantage; or";

(2) in paragraph (2)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity;

"(B) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate;

"(C) securing any improper advantage; or"; and

(3) in paragraph (3)—

(A) by striking "(B)" and inserting "(D)"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity;

"(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate;

"(C) securing any improper advantage; or".

(b) OFFICIALS OF INTERNATIONAL ORGANIZATIONS.—Section 104(h) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) The term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government, department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been so designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288).'"; and

(2) in paragraph (4)(A)(v), by inserting before the period "to those referred to in clauses (i) through (iv)".

(c) ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE OF THE UNITED STATES.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended—

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following:

"(h) ALTERNATIVE JURISDICTION.—

"(1) IN GENERAL.—It shall be unlawful for a United States person to corruptly do any act outside of the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of any thing of value to any of the persons or entities referred to in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, whether or not that United States person makes use of the mails or any means or instrumentality of interstate commerce in furtherance of the offer, gift, payment, promise, or authorization.

"(2) DEFINITION.—In this subsection, the term 'United States person' means—

"(A) a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); and

"(B) any corporation, partnership, association, joint-stock company, business trust,

unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.";

(3) in subsection (b), by striking "Subsection (a)" and inserting "Subsections (a) and (h)";

(4) in subsection (c), by striking "subsection (a)" and inserting "subsections (a) and (h)"; and

(5) in subsection (d), by striking "subsection (a) of this section" and inserting "subsection (a) or (h)".

(d) PENALTIES.—Section 104(g) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(g)) is amended—

(1) by striking "subsection (a)" each place that term appears and inserting "subsection (a) or (h)";

(2) in paragraph (1), by inserting "that is not a natural person" after "domestic concern" each place that term appears; and

(3) in paragraph (2)—

(A) by striking "Any officer" each place that term appears and inserting "Any natural person that is an officer";

(B) in subparagraph (A), by striking "or director" and inserting ", director, employee, or agent";

(C) by striking subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B).

(e) TECHNICAL AMENDMENT.—Section 104(i)(4)(A) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)(4)(A)), as redesignated by subsection (c) of this section, is amended by striking "For purposes of paragraph (1), the" and inserting "The".

SEC. 4. AMENDMENT RELATING TO OTHER PERSONS.

The Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd et seq.) is amended by inserting after section 104 the following new section:

"SEC. 104A. PROHIBITED FOREIGN TRADE PRACTICES BY PERSONS OTHER THAN ISSUERS OR DOMESTIC CONCERNS.

"(a) PROHIBITED CONDUCT.—It shall be unlawful for any covered person, or for any officer, director, employee, or agent of such covered person or any stockholder thereof, acting on behalf of such covered person, while in the territory of the United States, corruptly to make use of the mails or any means or instrumentality of interstate commerce or to do any other act in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A) influencing any act or decision of such foreign official in the official capacity of the foreign official;

"(B) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official;

"(C) securing any improper advantage; or

"(D) inducing such foreign official to use the influence of that official with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity;

"(B) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate;

"(C) securing any improper advantage; or

"(D) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity;

"(B) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate;

"(C) securing any improper advantage; or

"(D) inducing such foreign official, political party, party official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such covered person in obtaining or retaining business for or with, or directing business to, any person.

"(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official, the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the country of the foreign official, political party, party official, or candidate; or

"(2) the payment, gift, offer, or promise of anything of value that was made was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate, and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) INJUNCTIVE RELIEF.—

"(1) IN GENERAL.—When it appears to the Attorney General that any covered person, or officer, director, employee, agent, or stockholder of a covered person, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a), the Attorney General may, in the discretion of the Attorney General, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond.

"(2) CIVIL INVESTIGATIONS.—For the purpose of any civil investigation that, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General, or a designee thereof, may administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents that the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) SUBPOENAS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or in which such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General, or a designee thereof, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(4) PROCESS.—All process in any action referred to in this subsection may be served in the judicial district in which such person resides or may be found.

"(5) RULES.—The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement this subsection.

"(e) PENALTIES.—

"(1) JURIDICAL PERSONS.—Any covered person that is a juridical person that violates subsection (a)—

"(A) shall be fined not more than $2,000,000; and

"(B) shall be subject to a civil penalty of not more than $10,000, imposed in an action brought by the Attorney General.

"(2) NATURAL PERSON.—Any covered person who is a natural person and who—

"(A) willfully violates subsection (a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both;

"(B) violates subsection (a) shall be subject to a civil penalty of not more than $10,000, imposed in an action brought by the Attorney General.

"(3) PAYMENT OF FINES.—Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a covered person, such fine may not be paid, directly or indirectly, by that covered person.

"(f) APPLICABILITY; OTHER LAWS.—This section does not apply—

"(1) to any issuer of securities to which section 30A of the Securities Exchange Act of 1934 applies; or

"(2) to any domestic concern to which section 104 of this Act applies.

"(g) DEFINITIONS.—For purposes of this section—

"(1) the term—

"(A) 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization; and

"(B) 'public international organization' means an organization that has been designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288);

"(2) the state of mind of a covered person is 'knowing' with respect to conduct, a circumstance, or a result if—

"(A) such covered person is aware that such covered person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(B) such covered person has a firm belief that such circumstance exists or that such result is substantially certain to occur;

"(3) if knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a covered person is aware of a high probability of the existence of such circumstance, unless the covered person actually believes that such circumstance does not exist;

"(4) the term 'covered person' means—

"(A) any natural person, other than a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act); and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship that is organized under the law of a foreign nation or a political subdivision thereof; and

"(5) the term 'routine governmental action'—

"(A) means only an action that is ordinarily and commonly performed by a foreign official—

"(i) in obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) in processing governmental papers, such as visas and work orders;

"(iii) in providing police protection, mail pickup and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) in providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) in actions of a similar nature to those referred to in clauses (i) through (iv); and

"(B) does not include any decision by a foreign official regarding whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decisionmaking process to encourage a decision to award new business to or continue business with a particular party.".

TECHNOLOGY ADMINISTRATION AUTHORIZATION ACT FOR FISCAL YEARS 1998, 1999 AND 2000

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 388, S. 1325.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1325) to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1988 and 1999, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1325

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

SECTION 1. SHORT TITLE.

[This title may be cited as the "Technology Administration Authorization Act for Fiscal Years 1998 and 1999".**]**

This Act may be cited as the Technology Administration Authorization Act for Fiscal Years 1998, 1999, and 2000.

SEC. 2. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term "Director" means the Director of the National Institute of Standards and Technology.

(2) MAJOR REORGANIZATION.—With respect to the National Institute of Standards and Technology, the term "major reorganization" means any reorganization of the Institute that involves the reassignment of more than 25 percent of the employees of the National Institute of Standards and Technology.

(3) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.

(a) LABORATORY ACTIVITIES.—There are authorized to be appropriated to the Department of Commerce for use by the Secretary of Commerce for the Scientific and Technical Research and Services laboratory activities of the National Institute of Standards and Technology—

(1) **[**$278,352,000 for fiscal year 1998; and**]** *$271,900,000 for fiscal year 1998;*

(2) $287,658,000 for fiscal year **[**1999.**]** *1999; and*

(3) $296,287,000 for fiscal year 2000.

(b) CONSTRUCTION AND MAINTENANCE.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce for use by the Secretary of Commerce for construction and maintenance of facilities of the National Institute of Standards and Technology—

(A) **[**$16,692,000 for fiscal year 1998; and**]** *$95,000,000 for fiscal year 1998;*

(B) $67,000,000 for fiscal year **[**1999.**]** *1999; and*

(C) $56,700,000 for fiscal year 2000.

(2) PROHIBITION.—None of the funds authorized by paragraph (1)(B) for construction of facilities may be obligated unless the Secretary of Commerce has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives that the obligation of funds is consistent with a plan for meeting the needs of the facilities of the National Institute of Standards and Technology that the Secretary has transmitted to those committees.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE UNDER SECRETARY FOR TECHNOLOGY.

There are authorized to be appropriated to the Department of Commerce for use by the Secretary of Commerce for the activities of the Under Secretary for Technology, the Office of Technology Policy, and the Office of Air and Space Commercialization (as established under section 415 of this title)—

(1) **[**$9,230,000 for fiscal year 1998; and**]** *$8,500,000 for fiscal year 1998;*

(2) $10,807,400 for fiscal year **[**1999.**]** *1999; and*

(3) $11,132,000 for fiscal year 2000.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR INDUSTRIAL TECHNOLOGY SERVICES.

There are authorized to be appropriated to the Department of Commerce for use by the Secretary of Commerce for the industrial technology services activities of the National Institute of Standards and Technology—

(1) **[**$309,040,000**]** *$306,000,000* for fiscal year 1998, of which—

(A) **[**$198,000,000**]** *$192,500,000* shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) **[**$111,040,000**]** *$113,500,000* shall be for the manufacturing extension partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l); **[**and**]**

(2) $318,371,000 for fiscal year 1999, of which—

(A) $204,000,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) $114,371,000 shall be for the manufacturing extension partnerships program under sections **[**5**]** *25* and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and **[**278l).**]** *278l); and*

(3) $324,491,000 for fiscal year 2000, of which—

(A) $210,120,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) $114,371,000 shall be for the manufacturing extension partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l).

SEC. 6. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS.

(a) AMENDMENTS.—Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(1)";

(ii) by inserting "and be of a nature and scope that would not be pursued in a timely manner without Federal assistance" after "technical merit"; and

(iii) by adding at the end the following:

"(B) Each applicant for a contract or award under the Program shall certify that the applicant has made an effort to secure private market funding for the research project involved. That certification shall include a written narrative description of the efforts made by the applicant to secure that funding."; and

(B) by adding at the end the following:

"(12) A large business may participate in a research project that is the subject of a contract or award under paragraph (3) only as a member of a joint venture that includes 1 or more small businesses as members.";

(2) in subsection (j)—

(A) by striking "and" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (5); and

(C) by inserting after paragraph (1) the following:

"(2) the term 'large business' means a business that—

"(A) is not a small business; and

"(B) has gross annual revenues in an amount greater than $2,500,000,000;

"(3) the term 'medium business' means a business that—

"(A) is not a small business; and

"(B) has gross annual revenues in an amount less than or equal to $2,500,000,000;

"(4) the term 'small business' means a small business concern, as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1)); and";

(3) by redesignating subsection (j) as subsection (m); and

(4) by inserting after subsection (i) the following:

"(j) Notwithstanding subsection (b)(1)(B) and subsection (d)(3), the Director may grant an extension beyond the applicable deadline specified in subsection (b)(1)(B) or (d)(3) for a joint venture or single applicant recipient of assistance to expend Federal funds to complete the project assisted with that assistance, if that extension—

"(1) is granted with no additional cost to the Federal Government; and

"(2) is in the interest of the Federal Government.

"(k)(1) The Secretary, acting through the Director, may vest title to tangible personal property in any recipient of financial assistance under this section if—

"(A) the property is purchased with funds provided under this section; and

"(B) the Secretary, acting through the Director, determines that the vesting of such property furthers the objectives of the Institute.

"(2) Vesting under this subsection shall—

"(A) be subject to such limitations as are prescribed by the Secretary, acting through the Director; and

"(B) be made without further obligation to the United States Government.

In carrying out this section, the Secretary, acting through the Director, shall ensure that the requirements of Circular No. A-110 issued by the Office of Management and Budget are met with respect to the valuation of cost-share items used by participants in the [Program.".] *Program.*

"(l) AWARDS BASED ON COMPETITION.—All amounts appropriated for grants under subsection (b) for fiscal years beginning after the date of enactment of the Technology Administration Authorization Act for Fiscal Years 1998, 1999, and 2000 shall be used for grants awarded on the basis of general open competition.".

(b) ADDITIONAL AMENDMENT.—

(1) IN GENERAL.—Section 28(d)(11)(A) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(11)(A)) is amended by striking the period at the end of the first sentence and inserting the following: "or any other university or nonprofit awardee or subawardee (as those terms are defined by the Secretary) receiving financial assistance under this section, as agreed by the parties, notwithstanding the requirements of chapter 18 of title 35, United States Code.".

(2) APPLICABILITY.—The amendment made by this subsection shall apply only with respect to assistance for which solicitations for proposals are made after the date of enactment of this title.

SEC. 7. MANUFACTURING EXTENSION PARTNERSHIP PROGRAM CENTER EXTENSION.

Section 25(c)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by striking ", which are designed" and all that follows through "operation of a Center." and inserting ". After the sixth year, a Center may receive additional financial support under this section if that Center has received a positive evaluation through a review, under procedures and criteria established by the Institute. The review referred to in the preceding sentence shall be required not later than 2 years after the sixth year, and not less frequently than every 2 years thereafter. The funding received by a Center for a fiscal year under this section after the sixth year of operation shall be for capital and annual operating expenses and maintenance costs. The proportion of funding that the Center receives after the sixth year of operation from funds made available to carry out this section for the costs referred to in the preceding sentence shall not exceed the proportion of that funding received by the Center for each of those costs during the sixth year of operation of the Center.".

SEC. 8. MALCOLM BALDRIGE NATIONAL QUALITY AWARD.

Section 17(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following:

"(D) Health care providers.

"(E) Education providers.".

SEC. 9. NEXT GENERATION INTERNET.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds authorized by this title, or any other Act enacted before the date of enactment of this Act, may be used for the programs and activities for the Internet project known as the "Next Generation Internet".

(b) EXCEPTION.—Notwithstanding subsection (a), funds described in that subsection may be used for the continuation of programs and activities related to Next Generation Internet that were funded and carried out during fiscal year 1997.

SEC. 10. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds appropriated pursuant to the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(b) NOTICE OF REORGANIZATION.—Not later than 15 days before any major reorganization of any program, project, or activity of the National Institute of Standards and Technology, the Director shall provide notice to the Committees on Commerce, Science, and Transportation and Appropriations of the Senate and the Committees on Science and Appropriations of the House of Representatives.

SEC. 11. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 rapidly approaching, it is the sense of Congress that the Director should—

(1) give high priority to correcting all 2-digit date-related problems in the computer systems of the National Institute of Standards and Technology to ensure that those systems continue to operate effectively in the year 2000 and in subsequent years;

(2) as soon as practicable after the date of enactment of this title, assess the extent of the risk to the operations of the National Institute of Standards and Technology posed by the problems referred to in paragraph (1), and plan and budget for achieving compliance for all of the mission-critical systems of the system by the year 2000; and

(3) develop contingency plans for those systems that the National Institute of Standards and Technology is unable to correct by the year 2000.

SEC. 12. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

(a) DEFINITIONS.—In this section—

(1) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term "educationally useful Federal equipment" means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) SCHOOL.—The term "school" means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) SENSE OF CONGRESS—

(1) IN GENERAL.—It is the sense of Congress that the Director should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) REPORTS—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Director shall prepare and submit to the President a report. The President shall submit the report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) CONTENTS OF REPORT.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

SEC. 13. TEACHER SCIENCE AND TECHNOLOGY ENHANCEMENT INSTITUTE PROGRAM.

(a) IN GENERAL.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 19 the following:

"SEC. 19A. (a) The Director shall establish within the Institute a teacher science and technology enhancement program.

"(b) The purpose of the program under this section shall be to provide for professional development of mathematics and science teachers of elementary, middle, and secondary schools (as those terms are defined by the Director), including providing for the improvement of those teachers with respect to the teaching of science—

"(1) teaching strategies;

"(2) self-confidence; and

"(3) the understanding of science and the impacts of science on commerce.

"(c) In carrying out the program under this section, the Director shall focus on the areas of—

"(1) scientific measurements;

"(2) tests and standards development;

"(3) industrial competitiveness and quality;

"(4) manufacturing;

"(5) technology transfer; and

"(6) any other area of expertise of the Institute that the Director determines to be appropriate.

"(d) The Director shall develop and issue procedures and selection criteria for participants in the program. Each such participant shall be a teacher described in subsection (b).

"(e) The Director shall issue awards under the program to participants. In issuing the awards, the Director shall ensure that the maximum number of participants practicable participate in the program. In order to ensure a maximum level of participation

of participants, the program under this section shall be conducted on an annual basis during the summer months, during the period of time when a majority of elementary, middle, and secondary schools have not commenced a school year.

"(f) The program shall provide for teachers participation in activities at the Institute laboratory facilities of the Institute.".

(b) AVAILABILITY OF FUNDS.—The following amounts of the funds made available by appropriations pursuant to section 3(a) shall be used to carry out the teacher science and technology enhancement program under section 19A of the National Institute of Standards and Technology, as added by subsection (a) of this section:

(1) $1,500,000 for fiscal year 1998.

(2) $2,500,000 for fiscal year 1999.

SEC. 14. JOINT STUDY BY THE NATIONAL ACADEMY OF SCIENCE AND THE NATIONAL ACADEMY OF ENGINEERING.

(a) IN GENERAL.—

(1) CONTRACT.—Not later than 90 days after the date of enactment of this title, the Secretary of Commerce shall enter into a contract with the National Academy of Science and the National Academy of Engineering to provide for a joint study to be conducted by those academies under this section.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to apply the Federal Advisory Committee Act (5 U.S.C. App.) to the National Academy of Science or the National Academy of Engineering.

(b) STUDY PANEL.—In carrying out the study under this section, the appropriate officials of the National Academy of Science and the National Academy of Engineering shall establish a study panel. The members appointed to the study panel shall include—

(1) industry and labor leaders;

(2) entrepreneurs;

(3) individuals who—

(A) have previously served as government officials; and

(B) have recognized expertise and experience with respect to civilian research and technology; and

(4) individuals with recognized expertise and experience with respect to science and technology, including individuals who have had experience working with or for a Federal laboratory.

(c) CONTENTS OF STUDY.—The study conducted under this section shall—

(1) provide for a thorough review of the effectiveness of the Advanced Technology Program (referred to in this section as the "Program") under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(2) carry out a root cause analysis to determine—

(A) which aspects of the Program have been effective in stimulating the development of technology; and

(B) strategies used to conduct the Program that have failed; and

(3) examine alternative approaches to accomplish the purposes of the Program.

(d) REPORT.—Not later than 1 year after the Secretary of Commerce enters into contracts under subsection (a) for the conduct of the joint study under this section, the study panel established under subsection (b) shall prepare, and submit to the Secretary of Commerce, for transmittal to the President and Congress, a study that includes the findings of the panel with respect to the results of the study.

SEC. 15. OFFICE OF AIR AND SPACE COMMERCIALIZATION.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an Office of Air and Space Commercialization (referred to in this section as the "Office").

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be a senior executive and shall be compensated at a level in the Senior Executive Service under section 5382 of title 5, United States Code, as determined by the Secretary of Commerce.

(c) FUNCTIONS OF THE OFFICE; DUTIES OF THE DIRECTOR.—The Office shall be the principal unit for the coordination of space-related issues, programs, and initiatives within the Department of Commerce. The primary responsibilities of the Director, in carrying out the functions of the Office, shall include—

(1) promoting commercial provider investment in space activities by collecting, analyzing, and disseminating information on space markets, and conducting workshops and seminars to increase awareness of commercial space opportunities;

(2) assisting United States commercial providers in the efforts of those providers to conduct business with the United States Government;

(3) acting as an industry advocate within the executive branch of the Federal Government to ensure that the Federal Government meets the space-related requirements of the Federal Government, to the fullest extent feasible, with respect to commercially available space goods and services;

(4) ensuring that the United States Government does not compete with United States commercial providers in the provision of space hardware and services otherwise available from United States commercial providers;

(5) promoting the export of space-related goods and services;

(6) representing the Department of Commerce in the development of United States policies and in negotiations with foreign countries to ensure free and fair trade internationally in the area of space commerce; and

(7) seeking the removal of legal, policy, and institutional impediments to space commerce.

SEC. 16. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.

(a) IN GENERAL.—Section 5 of the Stevenson Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by adding at the end the following:

"(f) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.—

"(1) IN GENERAL.—The Secretary, acting through the Under Secretary, shall establish a program to be known as the Experimental Program to Stimulate Competitive Technology (referred to in this subsection as the 'program'). The purpose of the program shall be to strengthen the technological competitiveness of those States that have historically received less Federal research and development funds than those received by a majority of the States.

"(2) ARRANGEMENTS.—In carrying out the program, the Secretary, acting through the Under Secretary, shall—

"(A) enter into such arrangements as may be necessary to provide for the coordination of the program through the State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation; and

"(B) cooperate with—

"(i) any State science and technology council established under the program under subparagraph (A); and

"(ii) representatives of small business firms and other appropriate technology-based businesses.

"(3) GRANTS.—In carrying out the program, the Secretary, acting through the Under Secretary, may make grants or enter into cooperative agreements to provide, for—

"(A) technology research and development;

"(B) technology transfer from university research;

"(C) technology deployment and diffusion; and

"(D) the strengthening of technological capabilities through consortia comprised of—

"(i) technology-based small business firms;

"(ii) industries and emerging companies;

"(iii) universities; and

"(iv) State and local development agencies and entities.

"(4) REQUIREMENTS FOR MAKING AWARDS.—

"(A) IN GENERAL.—In making grant awards under this subsection, the Secretary, acting through the Under Secretary, shall ensure that the awards are awarded on a competitive basis that includes a review of the merits of the activities that are the subject of the award.

"(B) MATCHING REQUIREMENT.—The non-Federal share of the activities (other than planning activities) carried out under a grant under this subsection shall be not less than 25 percent of the cost of those activities.

"(5) CRITERIA FOR STATES.—With respect to States that participate in the program, the Secretary, acting through the Under Secretary, shall establish criteria for achievement by each State that participates in the program. Upon the achievement of all such criteria, a State shall cease to be eligible to participate in the program.

"(6) COORDINATION.—To the extent practicable, in carrying out this section, the Secretary, acting through the Under Secretary, shall coordinate the program with other programs of the Department of Commence.

"(7) REPORT.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of the Technology Administration Authorization Act for Fiscal Years 1998 and 1999, the Under Secretary shall prepare and submit a report that meets the requirements of this paragraph to the Secretary. Upon receipt of the report, the Secretary shall transmit a copy of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

"(B) REQUIREMENTS FOR REPORT.—The report prepared under this paragraph shall contain with respect to the program—

"(i) a description of the structure and procedures of the program;

"(ii) a management plan for the program;

"(iii) a description of the merit-based review process to be used in the program;

"(iv) milestones for the evaluation of activities to be assisted under the program in each of fiscal years 1998 and 1999;

"(v) an assessment of the eligibility of each State that participates in the Experimental Program to Stimulate Competitive Research of the National Science Foundation to participate in the program under this subsection; and

"(vi) the evaluation criteria with respect to which the overall management and effectiveness of the program will be evaluated pursuant to paragraph (8).

"(8) EVALUATION.—Not earlier than the date that is 4 years after the date on which the program is established, the Secretary, acting through the Under Secretary, shall carry out an evaluation of the program. In carrying out the evaluation the Secretary, acting through the Under Secretary, shall

apply the criteria described in paragraph (7)(B)(vi).".

(b) FUNDING.—Of the amounts made available by appropriations pursuant to section 4—

(1) for fiscal year 1998, $1,650,000 shall be used to carry out the Experimental Program to Stimulate Competitive Technology established under section 5(f) of the Stevenson Wydler Technology Innovation Act of 1980, as added by subsection (a) of this section; and

(2) for fiscal year 1999, $3,000,000 shall be used to carry out the program referred to in paragraph (1).

SEC. 17. FEDERAL AVIATION ADMINISTRATION AS ALTERNATIVE QUALITY AUTHORITY.

Any fastener used on an aircraft or component, system, subassembly, or part of an aircraft that has been manufactured or altered by, or under the direction and control of, the holder of a Type Certificate, Production Certificate, Parts Manufacturer Approval, or Technical Standard Order Authorization issued by the Federal Aviation Administration, or manufactured or altered subject to a quality assurance program approved by the Federal Aviation Administration, is deemed to comply with the provisions of the Fastener Quality Act (15 U.S.C. 1501 et seq.) and any regulation issued thereunder.

SEC. 18. INTERNATIONAL ARCTIC RESEARCH CENTER.

There are authorized to be appropriated $5,000,000 for each of fiscal years 1999 and 2000 for the Federal share of the administrative costs of the International Arctic Research Center.

Mr. GORTON. Mr. President, I ask unanimous consent that the committee amendments be agreed to.

The committee amendments were agreed to.

AMENDMENTS NOS. 3486 AND 3487, EN BLOC

Mr. GORTON. Mr. President, I understand Senator FRIST has two amendments at the desk, and I ask for their consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. FRIST, proposes amendments numbered 3486 and 3487, en bloc.

Mr. GORTON. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 3486

(Purpose: To make minor and technical corrections in the bill as reported, and for other purposes)

On page 11, line 2, after "receives" insert "from the government".

On page 11 strike lines 5 through 7 and insert the following: "shall not exceed one-third of the total costs of operation of a center under the program.".

On page 26 strike lines 6 through 18 and insert the following:

SEC. 17. FASTENER QUALITY ACT STANDARDS.

(a) AMENDMENT.—Section 15 of the Fastener Quality Act (15 U.S.C. 5414) is amended—

(1) by inserting "(a) TRANSITIONAL RULE.—" before "The requirements of this Act"; and

(2) by adding at the end the following new subsection:

"(b) AIRCRAFT EXEMPTION.—

"(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

"(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.".

(b) DELAYED IMPLEMENTATION OF REGULATIONS.—The regulations issued under the Fastener Quality Act by the National Institute of Standards and Technology on April 14, 1998, and any other regulations issued by the National Institute of Standards and Technology pursuant to the Fastener Quality Act, shall not take effect until after the later of June 1, 1999, or the expiration of 120 days after the Secretary of Commerce transmits to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a report on—

(1) changes in fastener manufacturing processes that have occurred since the enactment of the Fastener Quality Act;

(2) a comparison of the Fastener Quality Act to other regulatory programs that regulate the various categories of fasteners, and an analysis of any duplication that exists among programs; and

(3) any changes in that Act that may be warranted because of the changes reported under paragraphs (1) and (2).

The report required by this section shall be transmitted to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, by February 1, 1999.

AMENDMENT NO. 3487

On page 17, strike lines 11 through 15.

Mr. GORTON. Mr. President, I ask unanimous consent that the amendments be agreed to.

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

The amendments (Nos. 3486 and 3487) were agreed to.

AMENDMENT NO. 3488

Mr. GORTON. Mr. President, I ask for the immediate consideration of Senator MCCAIN's amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. MCCAIN, proposes an amendment numbered 3488.

Mr. GORTON. 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:

On page 11, after line 13, insert the following:

"(F) Environmental technology providers.".

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 3488) was agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended; that the motion to reconsider be laid upon the table; that the title amendment be agreed to; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 1325), as amended, was considered read the third time and passed, as follows:

S. 1325

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 "Technology Administration Authorization Act for Fiscal Years 1998, 1999, and 2000".

SEC. 2. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term "Director" means the Director of the National Institute of Standards and Technology.

(2) MAJOR REORGANIZATION.—With respect to the National Institute of Standards and Technology, the term "major reorganization" means any reorganization of the Institute that involves the reassignment of more than 25 percent of the employees of the National Institute of Standards and Technology.

(3) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.

(a) LABORATORY ACTIVITIES.—There are authorized to be appropriated to the Department of Commerce for use by the Secretary of Commerce for the Scientific and Technical Research and Services laboratory activities of the National Institute of Standards and Technology—

(1) $271,900,000 for fiscal year 1998;

(2) $287,658,000 for fiscal year 1999; and

(3) $296,287,000 for fiscal year 2000.

(b) CONSTRUCTION AND MAINTENANCE.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce for use by the Secretary of Commerce for construction and maintenance of facilities of the National Institute of Standards and Technology—

(A) $95,000,000 for fiscal year 1998;

(B) $67,000,000 for fiscal year 1999; and

(C) $56,700,000 for fiscal year 2000.

(2) PROHIBITION.—None of the funds authorized by paragraph (1)(B) for construction of facilities may be obligated unless the Secretary of Commerce has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives that the obligation of funds is consistent with a plan for meeting the needs of the facilities of the National Institute of Standards and Technology that the Secretary has transmitted to those committees.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE UNDER SECRETARY FOR TECHNOLOGY.

There are authorized to be appropriated to the Department of Commerce for use by the

Secretary of Commerce for the activities of the Under Secretary for Technology, the Office of Technology Policy, and the Office of Air and Space Commercialization (as established under section 415 of this title)—

(1) $8,500,000 for fiscal year 1998;

(2) $10,807,400 for fiscal year 1999; and

(3) $11,132,000 for fiscal year 2000.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR INDUSTRIAL TECHNOLOGY SERVICES.

There are authorized to be appropriated to the Department of Commerce for use by the Secretary of Commerce for the industrial technology services activities of the National Institute of Standards and Technology—

(1) $306,000,000 for fiscal year 1998, of which—

(A) $192,500,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) $113,500,000 shall be for the manufacturing extension partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l);

(2) $318,371,000 for fiscal year 1999, of which—

(A) $204,000,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) $114,371,000 shall be for the manufacturing extension partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l); and

(3) $324,491,000 for fiscal year 2000, of which—

(A) $210,120,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) $114,371,000 shall be for the manufacturing extension partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l).

SEC. 6. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS.

(a) AMENDMENTS.—Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(1)";

(ii) by inserting "and be of a nature and scope that would not be pursued in a timely manner without Federal assistance" after "technical merit"; and

(iii) by adding at the end the following:

"(B) Each applicant for a contract or award under the Program shall certify that the applicant has made an effort to secure private market funding for the research project involved. That certification shall include a written narrative description of the efforts made by the applicant to secure that funding."; and

(B) by adding at the end the following:

"(12) A large business may participate in a research project that is the subject of a contract or award under paragraph (3) only as a member of a joint venture that includes 1 or more small businesses as members.";

(2) in subsection (j)—

(A) by striking "and" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (5); and

(C) by inserting after paragraph (1) the following:

"(2) the term 'large business' means a business that—

"(A) is not a small business; and

"(B) has gross annual revenues in an amount greater than $2,500,000,000;

"(3) the term 'medium business' means a business that—

"(A) is not a small business; and

"(B) has gross annual revenues in an amount less than or equal to $2,500,000,000;

"(4) the term 'small business' means a small business concern, as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1)); and";

(3) by redesignating subsection (j) as subsection (m); and

(4) by inserting after subsection (i) the following:

"(j) Notwithstanding subsection (b)(1)(B) and subsection (d)(3), the Director may grant an extension beyond the applicable deadline specified in subsection (b)(1)(B) or (d)(3) for a joint venture or single applicant recipient of assistance to expend Federal funds to complete the project assisted with that assistance, if that extension—

"(1) is granted with no additional cost to the Federal Government; and

"(2) is in the interest of the Federal Government.

"(k)(1) The Secretary, acting through the Director, may vest title to tangible personal property in any recipient of financial assistance under this section if—

"(A) the property is purchased with funds provided under this section; and

"(B) the Secretary, acting through the Director, determines that the vesting of such property furthers the objectives of the Institute.

"(2) Vesting under this subsection shall—

"(A) be subject to such limitations as are prescribed by the Secretary, acting through the Director; and

"(B) be made without further obligation to the United States Government.

In carrying out this section, the Secretary, acting through the Director, shall ensure that the requirements of Circular No. A–110 issued by the Office of Management and Budget are met with respect to the valuation of cost-share items used by participants in the Program.

"(l) AWARDS BASED ON COMPETITION.—All amounts appropriated for grants under subsection (b) for fiscal years beginning after the date of enactment of the Technology Administration Authorization Act for Fiscal Years 1998, 1999, and 2000 shall be used for grants awarded on the basis of general open competition.".

(b) ADDITIONAL AMENDMENT.—

(1) IN GENERAL.—Section 28(d)(11)(A) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(11)(A)) is amended by striking the period at the end of the first sentence and inserting the following: "or any other university or nonprofit awardee or subawardee (as those terms are defined by the Secretary) receiving financial assistance under this section, as agreed by the parties, notwithstanding the requirements of chapter 18 of title 35, United States Code.".

(2) APPLICABILITY.—The amendment made by this subsection shall apply only with respect to assistance for which solicitations for proposals are made after the date of enactment of this title.

SEC. 7. MANUFACTURING EXTENSION PARTNERSHIP PROGRAM CENTER EXTENSION.

Section 25(c)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by striking ", which are designed" and all that follows through "operation of a Center." and inserting ". After the sixth year, a Center may receive additional financial support under this section if that Center has received a positive evaluation through a review, under procedures and criteria established by the Institute. The review referred to in the preceding sentence shall be required not later than 2 years after the sixth year, and not less frequently than every 2 years thereafter. The funding received by a Center for a fiscal year under this section after the sixth year of operation shall be for capital and annual operating expenses and maintenance costs. The proportion of funding that the Center receives from the Government after the sixth year of operation from funds made available to carry out this section for the costs referred to in the preceding sentence shall not exceed one-third of the total costs of operation of a center under the program.".

SEC. 8. MALCOLM BALDRIGE NATIONAL QUALITY AWARD.

Section 17(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following:

"(D) Health care providers.

"(E) Education providers.

"(F) Environmental technology providers.".

SEC. 9. NEXT GENERATION INTERNET.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds authorized by this title, or any other Act enacted before the date of enactment of this Act, may be used for the programs and activities for the Internet project known as the "Next Generation Internet".

(b) EXCEPTION.—Notwithstanding subsection (a), funds described in that subsection may be used for the continuation of programs and activities related to Next Generation Internet that were funded and carried out during fiscal year 1997.

SEC. 10. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds appropriated pursuant to the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(b) NOTICE OF REORGANIZATION.—Not later than 15 days before any major reorganization of any program, project, or activity of the National Institute of Standards and Technology, the Director shall provide notice to the Committees on Commerce, Science, and Transportation and Appropriations of the Senate and the Committees on Science and Appropriations of the House of Representatives.

SEC. 11. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 rapidly approaching, it is the sense of Congress that the Director should—

(1) give high priority to correcting all 2-digit date-related problems in the computer systems of the National Institute of Standards and Technology to ensure that those systems continue to operate effectively in the year 2000 and in subsequent years;

(2) as soon as practicable after the date of enactment of this title, assess the extent of the risk to the operations of the National Institute of Standards and Technology posed

by the problems referred to in paragraph (1), and plan and budget for achieving compliance for all of the mission-critical systems of the system by the year 2000; and

(3) develop contingency plans for those systems that the National Institute of Standards and Technology is unable to correct by the year 2000.

SEC. 12. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

(a) DEFINITIONS.—In this section—

(1) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term "educationally useful Federal equipment" means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) SCHOOL.—The term "school" means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) SENSE OF CONGRESS—

(1) IN GENERAL.—It is the sense of Congress that the Director should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) REPORTS—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Director shall prepare and submit to the President a report. The President shall submit the report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) CONTENTS OF REPORT.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

SEC. 13. TEACHER SCIENCE AND TECHNOLOGY ENHANCEMENT INSTITUTE PROGRAM.

(a) IN GENERAL.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 19 the following:

"SEC. 19A. (a) The Director shall establish within the Institute a teacher science and technology enhancement program.

"(b) The purpose of the program under this section shall be to provide for professional development of mathematics and science teachers of elementary, middle, and secondary schools (as those terms are defined by the Director), including providing for the improvement of those teachers with respect to the teaching of science—

"(1) teaching strategies;

"(2) self-confidence; and

"(3) the understanding of science and the impacts of science on commerce.

"(c) In carrying out the program under this section, the Director shall focus on the areas of—

"(1) scientific measurements;

"(2) tests and standards development;

"(3) industrial competitiveness and quality;

"(4) manufacturing;

"(5) technology transfer; and

"(6) any other area of expertise of the Institute that the Director determines to be appropriate.

"(d) The Director shall develop and issue procedures and selection criteria for participants in the program. Each such participant shall be a teacher described in subsection (b).

"(e) The Director shall issue awards under the program to participants. In issuing the awards, the Director shall ensure that the maximum number of participants practicable participate in the program. In order to ensure a maximum level of participation of participants, the program under this section shall be conducted on an annual basis during the summer months, during the period of time when a majority of elementary, middle, and secondary schools have not commenced a school year.

"(f) The program shall provide for teachers participation in activities at the Institute laboratory facilities of the Institute.".

(b) AVAILABILITY OF FUNDS.—The following amounts of the funds made available by appropriations pursuant to section 3(a) shall be used to carry out the teacher science and technology enhancement program under section 19A of the National Institute of Standards and Technology, as added by subsection (a) of this section:

(1) $1,500,000 for fiscal year 1998.

(2) $2,500,000 for fiscal year 1999.

SEC. 14. JOINT STUDY BY THE NATIONAL ACADEMY OF SCIENCE AND THE NATIONAL ACADEMY OF ENGINEERING.

(a) CONTRACT.—Not later than 90 days after the date of enactment of this title, the Secretary of Commerce shall enter into a contract with the National Academy of Science and the National Academy of Engineering to provide for a joint study to be conducted by those academies under this section.

(b) STUDY PANEL.—In carrying out the study under this section, the appropriate officials of the National Academy of Science and the National Academy of Engineering shall establish a study panel. The members appointed to the study panel shall include—

(1) industry and labor leaders;

(2) entrepreneurs;

(3) individuals who—

(A) have previously served as government officials; and

(B) have recognized expertise and experience with respect to civilian research and technology; and

(4) individuals with recognized expertise and experience with respect to science and technology, including individuals who have had experience working with or for a Federal laboratory.

(c) CONTENTS OF STUDY.—The study conducted under this section shall—

(1) provide for a thorough review of the effectiveness of the Advanced Technology Program (referred to in this section as the "Program") under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(2) carry out a root cause analysis to determine—

(A) which aspects of the Program have been effective in stimulating the development of technology; and

(B) strategies used to conduct the Program that have failed; and

(3) examine alternative approaches to accomplish the purposes of the Program.

(d) REPORT.—Not later than 1 year after the Secretary of Commerce enters into contracts under subsection (a) for the conduct of the joint study under this section, the study panel established under subsection (b) shall prepare, and submit to the Secretary of Commerce, for transmittal to the President and Congress, a study that includes the findings of the panel with respect to the results of the study.

SEC. 15. OFFICE OF AIR AND SPACE COMMERCIALIZATION.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an Office of Air and Space Commercialization (referred to in this section as the "Office").

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be a senior executive and shall be compensated at a level in the Senior Executive Service under section 5382 of title 5, United States Code, as determined by the Secretary of Commerce.

(c) FUNCTIONS OF THE OFFICE; DUTIES OF THE DIRECTOR.—The Office shall be the principal unit for the coordination of space-related issues, programs, and initiatives within the Department of Commerce. The primary responsibilities of the Director, in carrying out the functions of the Office, shall include—

(1) promoting commercial provider investment in space activities by collecting, analyzing, and disseminating information on space markets, and conducting workshops and seminars to increase awareness of commercial space opportunities;

(2) assisting United States commercial providers in the efforts of those providers to conduct business with the United States Government;

(3) acting as an industry advocate within the executive branch of the Federal Government to ensure that the Federal Government meets the space-related requirements of the Federal Government, to the fullest extent feasible, with respect to commercially available space goods and services;

(4) ensuring that the United States Government does not compete with United States commercial providers in the provision of space hardware and services otherwise available from United States commercial providers;

(5) promoting the export of space-related goods and services;

(6) representing the Department of Commerce in the development of United States policies and in negotiations with foreign countries to ensure free and fair trade internationally in the area of space commerce; and

(7) seeking the removal of legal, policy, and institutional impediments to space commerce.

SEC. 16. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.

(a) IN GENERAL.—Section 5 of the Stevenson Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by adding at the end the following:

"(f) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.—

"(1) IN GENERAL.—The Secretary, acting through the Under Secretary, shall establish a program to be known as the Experimental Program to Stimulate Competitive Technology (referred to in this subsection as the 'program'). The purpose of the program shall be to strengthen the technological competitiveness of those States that have historically received less Federal research and development funds than those received by a majority of the States.

"(2) ARRANGEMENTS.—In carrying out the program, the Secretary, acting through the Under Secretary, shall—

"(A) enter into such arrangements as may be necessary to provide for the coordination of the program through the State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation; and

"(B) cooperate with—

"(i) any State science and technology council established under the program under subparagraph (A); and

"(ii) representatives of small business firms and other appropriate technology-based businesses.

"(3) GRANTS.—In carrying out the program, the Secretary, acting through the Under Secretary, may make grants or enter into cooperative agreements to provide, for—

"(A) technology research and development;

"(B) technology transfer from university research;

"(C) technology deployment and diffusion; and

"(D) the strengthening of technological capabilities through consortia comprised of—

"(i) technology-based small business firms;

"(ii) industries and emerging companies;

"(iii) universities; and

"(iv) State and local development agencies and entities.

"(4) REQUIREMENTS FOR MAKING AWARDS.—

"(A) IN GENERAL.—In making grant awards under this subsection, the Secretary, acting through the Under Secretary, shall ensure that the awards are awarded on a competitive basis that includes a review of the merits of the activities that are the subject of the award.

"(B) MATCHING REQUIREMENT.—The non-Federal share of the activities (other than planning activities) carried out under a grant under this subsection shall be not less than 25 percent of the cost of those activities.

"(5) CRITERIA FOR STATES.—With respect to States that participate in the program, the Secretary, acting through the Under Secretary, shall establish criteria for achievement by each State that participates in the program. Upon the achievement of all such criteria, a State shall cease to be eligible to participate in the program.

"(6) COORDINATION.—To the extent practicable, in carrying out this section, the Secretary, acting through the Under Secretary, shall coordinate the program with other programs of the Department of Commence.

"(7) REPORT.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of the Technology Administration Authorization Act for Fiscal Years 1998 and 1999, the Under Secretary shall prepare and submit a report that meets the requirements of this paragraph to the Secretary. Upon receipt of the report, the Secretary shall transmit a copy of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

"(B) REQUIREMENTS FOR REPORT.—The report prepared under this paragraph shall contain with respect to the program—

"(i) a description of the structure and procedures of the program;

"(ii) a management plan for the program;

"(iii) a description of the merit-based review process to be used in the program;

"(iv) milestones for the evaluation of activities to be assisted under the program in each of fiscal years 1998 and 1999;

"(v) an assessment of the eligibility of each State that participates in the Experimental Program to Stimulate Competitive Research of the National Science Foundation to participate in the program under this subsection; and

"(vi) the evaluation criteria with respect to which the overall management and effectiveness of the program will be evaluated pursuant to paragraph (8).

"(8) EVALUATION.—Not earlier than the date that is 4 years after the date on which the program is established, the Secretary, acting through the Under Secretary, shall carry out an evaluation of the program. In carrying out the evaluation the Secretary, acting through the Under Secretary, shall apply the criteria described in paragraph (7)(B)(vi).".

(b) FUNDING.—Of the amounts made available by appropriations pursuant to section 4—

(1) for fiscal year 1998, $1,650,000 shall be used to carry out the Experimental Program to Stimulate Competitive Technology established under section 5(f) of the Stevenson Wydler Technology Innovation Act of 1980, as added by subsection (a) of this section; and

(2) for fiscal year 1999, $3,000,000 shall be used to carry out the program referred to in paragraph (1).

SEC. 17. FASTENER QUALITY ACT STANDARDS.

(a) AMENDMENT.—Section 15 of the Fastener Quality Act (15 U.S.C. 5414) is amended—

(1) by inserting "(a) TRANSITIONAL RULE.—" before "The requirements of this Act"; and

(2) by adding at the end the following new subsection:

"(b) AIRCRAFT EXEMPTION.—

"(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

"(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.".

(b) DELAYED IMPLEMENTATION OF REGULATIONS.—The regulations issued under the Fastener Quality Act by the National Institute of Standards and Technology on April 14, 1998, and any other regulations issued by the National Institute of Standards and Technology pursuant to the Fastener Quality Act, shall not take effect until after the later of June 1, 1999, or the expiration of 120 days after the Secretary of Commerce transmits to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a report on—

(1) changes in fastener manufacturing processes that have occurred since the enactment of the Fastener Quality Act;

(2) a comparison of the Fastener Quality Act to other regulatory programs that regulate the various categories of fasteners, and an analysis of any duplication that exists among programs; and

(3) any changes in that Act that may be warranted because of the changes reported under paragraphs (1) and (2).

The report required by this section shall be transmitted to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, by February 1, 1999.

SEC. 18. INTERNATIONAL ARCTIC RESEARCH CENTER.

There are authorized to be appropriated $5,000,000 for each of fiscal years 1999 and 2000 for the Federal share of the administrative costs of the International Arctic Research Center.

The title was amended so as to read:

A Bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998, 1999, and 2000, and for other purposes.

FASTENER QUALITY ACT AMENDMENTS

Mr. GORTON. I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 498, H.R. 3824.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3824) amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 3824

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

SECTION 1. AMENDMENT.

Section 15 of the Fastener Quality Act (15 U.S.C. 5414) is amended—

(1) by inserting "(a) TRANSITIONAL RULE.—" before "The requirements of this Act"; and

(2) by adding at the end the following new subsection:

"(b) AIRCRAFT EXEMPTION.—

"(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

"(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.".

SEC. 2. DELAYED IMPLEMENTATION OF REGULATIONS.

The regulations issued under the Fastener Quality Act by the National Institute of Standards and Technology on April 14, 1998, and any other regulations issued by the National Institute of Standards and Technology pursuant to the Fastener Quality Act, shall not take effect until after the later of June 1, 1999, or the expiration of 120 days after the Secretary of Commerce transmits to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a report on—

(1) changes in fastener manufacturing processes that have occurred since the enactment of the Fastener Quality Act; **[**and**]**

(2) a comparison of the Fastener Quality Act to other regulatory programs that regulate the various categories of fasteners, and an analysis of any duplication that exists among programs; and

[(2)**]** *(3)* any changes in that Act that may be warranted because of the changes reported under **[**paragraph (1).**]** *paragraphs (1) and (2).*

The report required by this section shall be transmitted to the Committee on Science

and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, by February 1, 1999.

Mr. GORTON. I ask unanimous consent that the committee amendments be agreed to, 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 the appropriate place in the RECORD.

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

The committee amendments were agreed to.

The bill (H.R. 3824), as amended, was considered read the third time and passed.

FINDING THE GOVERNMENT OF IRAQ IN UNACCEPTABLE AND MATERIAL BREACH OF ITS INTERNATIONAL OBLIGATIONS

Mr. GORTON. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 499, S.J. Res. 54.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 54) finding the Government of Iraq in unacceptable and material breach of its international obligations.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Foreign Relations, with amendments to the preamble; as follows:

(The parts of the preamble intended to be stricken are shown in boldface brackets and the parts of the preamble intended to be inserted are shown in italic.)

S.J. RES. 54

Whereas hostilities in Operation Desert Storm ended on February 28, 1991, and the conditions governing the cease-fire were specified in United Nations Security Council Resolutions 686 (March 2, 1991) and 687 (April 3, 1991);

Whereas United Nations Security Council Resolution 687 requires that international economic sanctions remain in place until Iraq discloses and destroys its weapons of mass destruction programs and capabilities and undertakes unconditionally never to resume such activities;

Whereas Resolution 687 established the United Nations Special Commission on Iraq (UNSCOM) to uncover all aspects of Iraq's weapons of mass destruction programs and tasked the Director-General of the International Atomic Energy Agency to locate and remove or destroy all nuclear weapons systems, subsystems or material from Iraq;

Whereas United Nations Security Council Resolution 715, adopted on October 11, 1991, empowered UNSCOM to maintain a long-term monitoring program to ensure Iraq's weapons of mass destruction programs are dismantled and not restarted;

Whereas Iraq has consistently fought to hide the full extent of its weapons programs, and has systematically made false declarations to the Security Council and to UNSCOM regarding those programs, and has systematically obstructed weapons inspections for seven years;

Whereas in June 1991, Iraqi forces fired on International Atomic Energy Agency inspectors and otherwise obstructed and misled UNSCOM inspectors, resulting in UN Security Council Resolution 707 which found Iraq to be in "material breach" of its obligations under United Nations Security Council Resolution 687 for failing to allow UNSCOM inspectors access to a site storing nuclear equipment;

Whereas in January and February of 1992, Iraq rejected plans to install long-term monitoring equipment and cameras called for in UN resolutions, resulting in a Security Council Presidential Statement of February 19, 1992 which declared that Iraq was in "continuing material breach" of its obligations;

Whereas in February of 1992, Iraq continued to obstruct the installation of monitoring equipment, and failed to comply with UNSCOM orders to allow destruction of missiles and other proscribed weapons, resulting the Security Council Presidential Statement of February 28, 1992, which reiterated that Iraq was in "continuing material breach" and noted a "further material breach" on account of Iraq's failure to allow destruction of ballistic missile equipment;

Whereas on July 5, 1992, Iraq denied UNSCOM inspectors access to the Iraqi Ministry of Agriculture, resulting in a Security Council Presidential Statement of July 6, 1992, which declared that Iraq was in "material and unacceptable breach" of its obligations under UN resolutions;

Whereas in December of 1992 and January of 1993, Iraq violated the southern no-fly zone, moved surface to air missiles into the no-fly zone, raided a weapons depot in internationally recognized Kuwaiti territory and denied landing rights to a plane carrying UN weapons inspectors, resulting in a Security Council Presidential Statement of January 8, 1993, which declared that Iraq was in an "unacceptable and material breach" of its obligations under UN resolutions;

Whereas in response to continued Iraqi defiance, a Security Council Presidential Statement of January 11, 1993, reaffirmed the previous finding of material breach, followed on January 13 and 18 by allied air raids, and on January 17 with an allied missile attack on Iraqi targets;

Whereas on June 10, 1993, Iraq prevented UNSCOM's installation of cameras and monitoring equipment, resulting in a Security Council Presidential Statement of June 18, 1993, declaring Iraq's refusal to comply to be a "material and unacceptable breach";

Whereas on October 6, 1994, Iraq threatened to end cooperation with weapons inspectors if sanctions were not ended, and one day later, massed 10,000 troops within 30 miles of the Kuwaiti border, resulting in United Nations Security Council Resolution 949 demanding Iraq's withdrawal from the Kuwaiti border area and renewal of compliance with UNSCOM;

Whereas on April 10, 1995, UNSCOM reported to the Security Council that Iraq had concealed its biological weapons program, and had failed to account for 17 tons of biological weapons material resulting in the Security Council's renewal of sanctions against Iraq;

Whereas on July 1, 1995, Iraq admitted to a full scale biological weapons program, but denied weaponization of biological agents, and subsequently threatened to end cooperation with UNSCOM resulting in the Security Council's renewal of sanctions against Iraq;

Whereas on March 8, 11, 14, and 15, 1996, Iraq again barred UNSCOM inspectors from sites containing documents and weapons, in response to which the Security Council issued a Presidential Statement condemning "clear violations by Iraq of previous Resolutions 687, 707, and 715";

Whereas from June 11–15, 1996, Iraq repeatedly barred weapons inspectors from military sites, in response to which the Security Council adopted United Nations Security Council Resolution 1060, noting the "clear violation on United Nations Security Council Resolutions 687, 707, and 715" and in response to Iraq's continued violations, issued a Presidential Statement detailing Iraq's "gross violation of obligations";

Whereas in August 1996, Iraqi troops overran Irbil, in Iraqi Kurdistan, employing more than 30,000 troops and Republican Guards, in response to which the Security Council briefly suspended implementation on United Nations Security Council Resolution 986, the UN oil for food plan;

Whereas in December 1996, Iraq prevented UNSCOM from removing 130 Scud missile engines from Iraq for analysis, resulting in a Security Council presidential statement which "deplore[d]" Iraq's refusal to cooperate with UNSCOM;

Whereas on April 9, 1997, Iraq violated the no-fly zone in southern Iraq and United Nations Security Council Resolution 670, banning international flights, resulting in a Security Council statement regretting Iraq's lack of "specific consultation" with the Council;

Whereas on June 4 and 5, 1997 Iraqi officials on board UNSCOM aircraft interfered with the controls and inspections, endangering inspectors and obstructing the UNSCOM mission, resulting in a UN Security Council presidential statement demanding Iraq end its interference and on June 21, 1997, United Nations Security Council Resolution 1115 threatened sanctions on Iraqi officials responsible for these interferences;

Whereas on September 13, 1997, during an inspection mission, an Iraqi official attacked UNSCOM officials engaged in photographing illegal Iraqi activities, resulting in the October 23, 1997, adoption of United Nations Security Council Resolution 1134 which threatened a travel ban on Iraqi officials responsible for non-compliance with UN resolutions;

Whereas on October 29, 1997, Iraq announced that it would no longer allow American inspectors working with UNSCOM to conduct inspections in Iraq, blocking UNSCOM teams containing Americans to conduct inspections and threatening to shoot down U.S. U–2 surveillance flights in support of UNSCOM, resulting in a United Nations Security Council Resolution 1137 on November 12, 1997, which imposed the travel ban on Iraqi officials and threatened unspecified "further measures";

Whereas on November 13, 1997, Iraq expelled U.S. inspectors from Iraq, leading to UNSCOM's decision to pull out its remaining inspectors and resulting in a United Nations Security Council presidential statement demanding Iraq revoke the expulsion;

Whereas on January 16, 1998, an UNSCOM team led by American Scott Ritter was withdrawn from Iraq after being barred for three days by Iraq from conducting inspections, resulting in the adoption of a United Nations Security Council presidential statement deploring Iraq's decision to bar the team as a clear violation of all applicable resolutions;

Whereas despite clear agreement on the part of Iraqi President Saddam Hussein with United Nations General Kofi Annan to grant access to all sites, and fully cooperate with UNSCOM, and the adoption on March 2, 1998, of United Nations Security Council Resolution 1154, warning that any violation of the agreement with Annan would have the "severest consequences" for Iraq, Iraq has continued to actively conceal weapons and weapons programs, provide misinformation and otherwise deny UNSCOM inspectors access;

Whereas on June 24, 1998, UNSCOM Director Richard Butler presented information to the UN Security Council indicating clearly that Iraq, in direct contradiction to information provided to UNSCOM, weaponized the nerve agent VX; *and*

Whereas Iraq's continuing weapons of mass destruction programs threaten vital United States interests and international peace and [security; and] *security:*

[Whereas the United States has existing authority to defend United States interests in the Persian Gulf region:] Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore, the President of the United States is urged to act accordingly.

AMENDMENT NO. 3489

(Purpose: To provide substitute language)

Mr. GORTON. There is an amendment to the joint resolution at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. LOTT, proposes an amendment numbered 3489.

The amendment is as follows:

Strike all after the resolving clause and insert the following: "That the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations."

Mr. GORTON. I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 3489) was agreed to.

Mr. GORTON. I ask unanimous consent that the joint resolution, as amended, be considered read three times and passed, the amendments to the preamble be agreed to, and the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution appear at the appropriate place in the RECORD.

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

The joint resolution (S.J. Res. 54), as amended, was considered read a third time and passed.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The joint resolution, as amended, with its preamble, as amended, reads as follows:

S.J. RES. 54

Whereas hostilities in Operation Desert Storm ended on February 28, 1991, and the conditions governing the cease-fire were specified in United Nations Security Council Resolutions 686 (March 2, 1991) and 687 (April 3, 1991);

Whereas United Nations Security Council Resolution 687 requires that international economic sanctions remain in place until Iraq discloses and destroys its weapons of mass destruction programs and capabilities and undertakes unconditionally never to resume such activities;

Whereas Resolution 687 established the United Nations Special Commission on Iraq (UNSCOM) to uncover all aspects of Iraq's weapons of mass destruction programs and tasked the Director-General of the International Atomic Energy Agency to locate and remove or destroy all nuclear weapons systems, subsystems or material from Iraq;

Whereas United Nations Security Council Resolution 715, adopted on October 11, 1991, empowered UNSCOM to maintain a long-term monitoring program to ensure Iraq's weapons of mass destruction programs are dismantled and not restarted;

Whereas Iraq has consistently fought to hide the full extent of its weapons programs, and has systematically made false declarations to the Security Council and to UNSCOM regarding those programs, and has systematically obstructed weapons inspections for seven years;

Whereas in June 1991, Iraqi forces fired on International Atomic Energy Agency inspectors and otherwise obstructed and misled UNSCOM inspectors, resulting in UN Security Council Resolution 707 which found Iraq to be in "material breach" of its obligations under United Nations Security Council Resolution 687 for failing to allow UNSCOM inspectors access to a site storing nuclear equipment;

Whereas in January and February of 1992, Iraq rejected plans to install long-term monitoring equipment and cameras called for in UN resolutions, resulting in a Security Council Presidential Statement of February 19, 1992 which declared that Iraq was in "continuing material breach" of its obligations;

Whereas in February of 1992, Iraq continued to obstruct the installation of monitoring equipment, and failed to comply with UNSCOM orders to allow destruction of missiles and other proscribed weapons, resulting the Security Council Presidential Statement of February 28, 1992, which reiterated that Iraq was in "continuing material breach" and noted a "further material breach" on account of Iraq's failure to allow destruction of ballistic missile equipment;

Whereas on July 5, 1992, Iraq denied UNSCOM inspectors access to the Iraqi Ministry of Agriculture, resulting in a Security Council Presidential Statement of July 6, 1992, which declared that Iraq was in "material and unacceptable breach" of its obligations under UN resolutions;

Whereas in December of 1992 and January of 1993, Iraq violated the southern no-fly zone, moved surface to air missiles into the no-fly zone, raided a weapons depot in internationally recognized Kuwaiti territory and denied landing rights to a plane carrying UN weapons inspectors, resulting in a Security Council Presidential Statement of January 8, 1993, which declared that Iraq was in an "unacceptable and material breach" of its obligations under UN resolutions;

Whereas in response to continued Iraqi defiance, a Security Council Presidential Statement of January 11, 1993, reaffirmed the previous finding of material breach, followed on January 13 and 18 by allied air raids, and on January 17 with an allied missile attack on Iraqi targets;

Whereas on June 10, 1993, Iraq prevented UNSCOM's installation of cameras and monitoring equipment, resulting in a Security Council Presidential Statement of June 18, 1993, declaring Iraq's refusal to comply to be a "material and unacceptable breach";

Whereas on October 6, 1994, Iraq threatened to end cooperation with weapons inspectors if sanctions were not ended, and one day later, massed 10,000 troops within 30 miles of the Kuwaiti border, resulting in United Nations Security Council Resolution 949 demanding Iraq's withdrawal from the Kuwaiti border area and renewal of compliance with UNSCOM;

Whereas on April 10, 1995, UNSCOM reported to the Security Council that Iraq had concealed its biological weapons program, and had failed to account for 17 tons of biological weapons material resulting in the Security Council's renewal of sanctions against Iraq;

Whereas on July 1, 1995, Iraq admitted to a full scale biological weapons program, but denied weaponization of biological agents, and subsequently threatened to end cooperation with UNSCOM resulting in the Security Council's renewal of sanctions against Iraq;

Whereas on March 8, 11, 14, and 15, 1996, Iraq again barred UNSCOM inspectors from sites containing documents and weapons, in response to which the Security Council issued a Presidential Statement condemning "clear violations by Iraq of previous Resolutions 687, 707, and 715";

Whereas from June 11–15, 1996, Iraq repeatedly barred weapons inspectors from military sites, in response to which the Security Council adopted United Nations Security Council Resolution 1060, noting the "clear violation on United Nations Security Council Resolutions 687, 707, and 715" and in response to Iraq's continued violations, issued a Presidential Statement detailing Iraq's "gross violation of obligations";

Whereas in August 1996, Iraqi troops overran Irbil, in Iraqi Kurdistan, employing more than 30,000 troops and Republican Guards, in response to which the Security Council briefly suspended implementation on United Nations Security Council Resolution 986, the UN oil for food plan;

Whereas in December 1996, Iraq prevented UNSCOM from removing 130 Scud missile engines from Iraq for analysis, resulting in a Security Council presidential statement which "deplore[d]" Iraq's refusal to cooperate with UNSCOM;

Whereas on April 9, 1997, Iraq violated the no-fly zone in southern Iraq and United Nations Security Council Resolution 670, banning international flights, resulting in a Security Council statement regretting Iraq's lack of "specific consultation" with the Council;

Whereas on June 4 and 5, 1997 Iraqi officials on board UNSCOM aircraft interfered with the controls and inspections, endangering inspectors and obstructing the UNSCOM mission, resulting in a UN Security Council presidential statement demanding Iraq end its interference and on June 21, 1997, United Nations Security Council Resolution 1115 threatened sanctions on Iraqi officials responsible for these interferences;

Whereas on September 13, 1997, during an inspection mission, an Iraqi official attacked

UNSCOM officials engaged in photographing illegal Iraqi activities, resulting in the October 23, 1997, adoption of United Nations Security Council Resolution 1134 which threatened a travel ban on Iraqi officials responsible for non-compliance with UN resolutions;

Whereas on October 29, 1997, Iraq announced that it would no longer allow American inspectors working with UNSCOM to conduct inspections in Iraq, blocking UNSCOM teams containing Americans to conduct inspections and threatening to shoot down U.S. U–2 surveillance flights in support of UNSCOM, resulting in a United Nations Security Council Resolution 1137 on November 12, 1997, which imposed the travel ban on Iraqi officials and threatened unspecified "further measures";

Whereas on November 13, 1997, Iraq expelled U.S. inspectors from Iraq, leading to UNSCOM's decision to pull out its remaining inspectors and resulting in a United Nations Security Council presidential statement demanding Iraq revoke the expulsion;

Whereas on January 16, 1998, an UNSCOM team led by American Scott Ritter was withdrawn from Iraq after being barred for three days by Iraq from conducting inspections, resulting in the adoption of a United Nations Security Council presidential statement deploring Iraq's decision to bar the team as a clear violation of all applicable resolutions;

Whereas despite clear agreement on the part of Iraqi President Saddam Hussein with United Nations General Kofi Annan to grant access to all sites, and fully cooperate with UNSCOM, and the adoption on March 2, 1998, of United Nations Security Council Resolution 1154, warning that any violation of the agreement with Annan would have the "severest consequences" for Iraq, Iraq has continued to actively conceal weapons and weapons programs, provide misinformation and otherwise deny UNSCOM inspectors access;

Whereas on June 24, 1998, UNSCOM Director Richard Butler presented information to the UN Security Council indicating clearly that Iraq, in direct contradiction to information provided to UNSCOM, weaponized the nerve agent VX; and

Whereas Iraq's continuing weapons of mass destruction programs threaten vital United States interests and international peace and security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations.

POTOMAC HIGHLANDS AIRPORT AUTHORITY COMPACT

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 512, S.J. Res. 51.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 51) granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. GORTON. I ask unanimous consent that the joint resolution be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to joint resolution appear at the appropriate place in the RECORD.

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

The joint resolution (S.J. Res. 51) was considered read the third time and passed, as follows:

S.J. RES. 51

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

Congress hereby consents to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia. The compact reads substantially as follows:

"Potomac Highlands Airport Authority Compact

"SECTION 1. COUNTY COMMISSIONS EMPOWERED TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS RELATING TO CUMBERLAND MUNICIPAL AIRPORT.

"The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, may enter into intergovernmental agreements with this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, and with the Potomac Highlands Airport Authority regarding the operation and use of the Cumberland Municipal Airport situated in Mineral County, West Virginia. The agreements shall be reciprocal in nature and may include, but are not limited to, conditions governing the operation, use, and maintenance of airport facilities, taxation of aircraft owned by Maryland residents and others, and user fees.

"SEC. 2. POTOMAC HIGHLANDS AIRPORT AUTHORITY AUTHORIZED.

"The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may create and establish, with proper governmental units of this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County, and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, or any one or more of them, a public agency to be known as the 'Potomac Highlands Airport Authority' in the manner and for the purposes set forth in this Compact.

"SEC. 3. AUTHORITY A CORPORATION.

"When created, the Authority and the members of the Authority shall constitute a public corporation and, as such, shall have perpetual succession, may contract and be contracted with, sue and be sued, and have and use a common seal.

"SEC. 4. PURPOSES.

"The Authority may acquire, equip, maintain, and operate an airport or landing field and appurtenant facilities in Mineral County, on the Potomac River near Ridgeley, West Virginia, to serve the area in which it is located.

"SEC. 5. MEMBERS OF AUTHORITY.

"(a) IN GENERAL.—The management and control of the Potomac Highlands Airport Authority, its property, operations, business, and affairs, shall be lodged in a board of seven or more persons who shall be known as members of the Authority and who shall be appointed for terms of three years each by those counties, municipal corporations, or other governmental units situated in West Virginia and Maryland as contribute to the funds of the Authority, in such proportion between those States and counties, municipal corporations, and units, and in whatever manner, as may from time to time be provided in the bylaws adopted by the Authority.

"(b) FIRST BOARD.—The first board shall be appointed as follows:

"(1) The County Commission of Mineral County shall appoint two members for terms of two and three years, respectively.

"(2) The governing official or body of the municipal corporation of Cumberland, Maryland, shall appoint three members for terms of one, two, and three years, respectively.

"(3) The governing official or body of Allegany County, Maryland, shall appoint two members for terms of one and two years, respectively.

"SEC. 6. POWERS.

"The Potomac Highlands Airport Authority has power and authority as follows:

"(1) To make and adopt all necessary bylaws, rules, and regulations for its organization and operations not inconsistent with law.

"(2) To take all legal actions necessary or desirable in relation to the general operation, governance, capital expansion, management, and protection of the Cumberland Municipal Airport.

"(3) To increase the number of members of the Authority, and to set the terms of office and appointment procedures for those additional members.

"(4) To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation.

"(5) To enter into contracts with any person, firm, or corporation, and generally to do anything necessary for the purpose of acquiring, equipping, expanding, maintaining, and operating an airport.

"(6) To delegate any authority given to it by law to any of its officers, committees, agents, or employees.

"(7) To apply for, receive, and use grants in aid, donations, and contributions from any sources.

"(8) To take or acquire lands by purchase, holding title to it in its own name.

"(9) To purchase, own, hold, sell, and dispose of personal property and to sell and dispose of any real estate which it may have acquired and may determine not to be needed for its purposes.

"(10) To borrow money.

"(11) To extend its funds in the execution of the powers and authority hereby given.

"(12) To take all necessary steps to provide for proper police protection at the airport.

"(13) To inventory airplanes and other personal property at the airport and provide the assessor of Mineral County and other proper governmental officials with full particulars in regard to the inventory.

"SEC. 7. PARTICIPATION BY WEST VIRGINIA.

"(a) APPOINTMENT OF MEMBERS; CONTRIBUTION TO COSTS.—The county commissions of

Mineral County and of counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may appoint members of the Authority and contribute to the cost of acquiring, equipping, maintaining, and operating the airport and appurtenant facilities.

"(b) TRANSFER OF PROPERTY.—Any of the foregoing county commissions or municipal corporations may transfer and convey to the Authority property of any kind acquired previously by the county commission or municipal corporation for airport purposes.

"SEC. 8. FUNDS AND ACCOUNTS.

"(a) CONTRIBUTION AND DEPOSIT OF FUNDS.—Contributions may be made to the Authority from time to time by the various bodies contributing to its funds and shall be deposited in whatever bank or banks a majority of the members of the Authority direct and may be withdrawn from them in whatever manner the Authority directs.

"(b) ACCOUNTS AND REPORTS.—The Authority shall keep strict account of all of its receipts and expenditures and shall make quarterly reports to the public and private bodies contributing to its funds, containing an itemized account of its operations in the preceding quarter. The accounts of the Authority shall be regularly examined by the State Tax Commissioner in the manner required by Article nine, Chapter six of the Code of West Virginia.

"SEC. 9. PROPERTY AND OBLIGATIONS OF AUTHORITY EXEMPT FROM TAXATION.

"The Authority is exempt from the payment of any taxes or fees to the State of West Virginia or any subdivisions of that State or to any officer or employee of the State or other subdivision of it. The property of the Authority is exempt from all local and municipal taxes. Notes, debentures, and other evidence of indebtedness of the Authority are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest on them, are exempt from taxes.

"SEC. 10. SALE OR LEASE OF PROPERTY.

"In the event all of the public corporations contributing to the funds of the Authority so determine, the Authority shall make sale of all of its properties and assets and distribute the proceeds of the sale among those contributing to its funds. In the alternative, if such of the supporting corporations contributing a majority of the funds of the Authority so determine, the Authority may lease all of its property and equipment upon whatever terms and conditions the Authority may fix and determine.

"SEC. 11. EMPLOYEES TO BE COVERED BY WORKMEN'S COMPENSATION.

"All eligible employees of the Authority are considered to be within the Workmen's Compensation Act of West Virginia, and premiums on their compensation shall be paid by the Authority as required by law.

"SEC. 12. LIBERAL CONSTRUCTION OF COMPACT.

"It is the purpose of this Compact to provide for the maintenance and operation of an airport in a prudent and economical manner, and this Compact shall be liberally construed as giving to the Authority full and complete power reasonably required to give effect to the purposes hereof. The provisions of this Compact are in addition to and not in derogation of any power existing in the county commissions and municipal corporations herein named under any constitutional, statutory, or charter provisions which they or any of them may now have or may hereafter acquire or adopt.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

PACIFIC NORTHWEST EMERGENCY MANAGEMENT ARRANGEMENT

Mr. GORTON. I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 475, S.J. Res. 35.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 35) granting the consent of Congress to the Pacific Northwest Emergency Management Arrangement.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. GORTON. I ask unanimous consent that the joint resolution be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution appear at the appropriate place in the RECORD.

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

The joint resolution (S.J. Res. 35) was considered read the third time and passed, as follows:

S.J. RES. 35

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

Congress consents to the Pacific Northwest Emergency Management Arrangement entered into between the States of Alaska, Idaho, Oregon, and Washington, and the Province of British Columbia and the Yukon Territory. The arrangement is substantially as follows:

"PACIFIC NORTHWEST EMERGENCY MANAGEMENT ARRANGEMENT

"Whereas, Pacific Northwest emergency management arrangement between the government of the States of Alaska, the government of the State of Idaho, the government of the State of Oregon, the government of the State of Washington, the government of the State of the Providence of British Columbia, and the government of Yukon Territory hereinafter referred to collectively as the 'Signatories' and separately as a 'Signatory';

"Whereas, the Signatories recognize the importance of comprehensive and coordinated civil emergency preparedness, response and recovery measures for natural and technological emergencies or disasters, and for declared or undeclared hostilities including enemy attack;

"Whereas, the Signatories further recognize the benefits of coordinating their separate emergency preparedness, response and recovery measures with that of contiguous jurisdictions for those emergencies, disasters, or hostilities affecting or potentially affecting any one or more of the Signatories in the Pacific Northwest; and

"Whereas, the Signatories further recognize that regionally based emergency preparedness, response and recovery measures will benefit all jurisdictions within the Pacific Northwest, and best serve their respective national interests in cooperative and coordinated emergency preparedness as facilitated by the Consultative Group on Comprehensive Civil Emergency and Management established in the Agreement Between the government of the United States of America and the government of Canada on Cooperation and Comprehensive Civil Emergency Planning and Management signed at Ottawa, Ontario, Canada on April 28, 1986: Now, therefore, be it is hereby agreed by and between each and all of the Signatories hereto as follows:

"ADVISORY COMMITTEE

"(1) An advisory committee named the Western Regional Emergency Management Advisory Committee (W-REMAC) shall be established which will include one member appointed by each Signatory.

"(2) The W-REMAC will be guided by the agreed-upon Terms of Reference-Annex A.

"PRINCIPLES OF COOPERATION

"(3) Subject to the laws of each Signatory, the following cooperative principles are to be used as a guide by the Signatories in civil emergency matters which may affect more than one Signatory:

"(A) The authorities of each Signatory may seek the advice, cooperation, or assistance of any other Signatory in any civil emergency matter.

"(B) Nothing in the arrangement shall derogate from the applicable laws within the jurisdiction of any Signatory. However, the authorities of any Signatory may request from the authorities of any other signatory appropriate alleviation of such laws if their normal application might lead to delay or difficulty in the rapid execution of necessary civil emergency measures.

"(C) Each Signatory will use its best efforts to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment or other resources into or across its territory, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating Signatories.

"(D) In times of emergency, each Signatory will use its best efforts to ensure that the citizens or residents of any other Signatory present in its territory are provided emergency health services and emergency social services in a manner no less favorable than that provided to its own citizens.

"(E) Each Signatory will use discretionary power as far as possible to avoid levy of any tax, tariff, business license, or user fees on the services, equipment, and supplies of any other Signatory which is engaged in civil emergency activities in the territory of another Signatory, and will use its best efforts to encourage local governments or other jurisdictions within its territory to do likewise.

"(F) When civil emergency personnel, contracted firms or personnel, vehicles, equipment, or other services from any Signatory are made available to or are employed to assist any other Signatory, all providing Signatories will use best efforts to ensure that charges, levies, or costs for such use or assistance will not exceed those paid for similar use of such resources within their own territory.

"(G) Each Signatory will exchange contact lists, warning and notification plans, and selected emergency plans and will call to the

attention of their respective local governments and other jurisdictional authorities in areas adjacent to intersignatory boundaries, the desirability of compatibility of civil emergency plans and the exchange of contact lists, warning and notification plans, and selected emergency plans.

"(H) The authority of any Signatory conducting an exercise will ensure that all other signatories are provided an opportunity to observe, and/or participate in such exercises.

"COMPREHENSIVE NATURE

"(4) This document is a comprehensive arrangement on civil emergency planning and management. To this end and from time to time as necessary, all Signatories shall—

"(A) review and exchange their respective contact lists, warning and notification plans, and selected emergency plans; and

"(B) as appropriate, provide such plans and procedures to local governments, and other emergency agencies within their respective territories.

"ARRANGEMENT NOT EXCLUSIVE

"(5) This is not an exclusive arrangement and shall not prevent or limit other civil emergency arrangements of any nature between Signatories to this arrangement. In the event of any conflicts between the provisions of this arrangement and any other arrangement regarding emergency service entered into by two or more States of the United States who are Signatories to this arrangement, the provisions of that other arrangement shall apply, with respect to the obligations of those States to each other, and not the conflicting provisions of this arrangement.

"AMENDMENTS

"(6) This Arrangement and the Annex may be amended (and additional Annexes may be added) by arrangement of the Signatories.

"CANCELLATION OR SUBSTITUTION

"(7) Any Signatory to this Arrangement may withdraw from or cancel their participation in this Arrangement by giving sixty days, written notice in advance of this effective date to all other Signatories.

"AUTHORITY

"(8) All Signatories to this Arrangement warrant they have the power and capacity to accept, execute, and deliver this Arrangement.

"EFFECTIVE DATE

"(9) Notwithstanding any dates noted elsewhere, this Arrangement shall commence April 1, 1996.".

SEC. 2. INCONSISTENCY OF LANGUAGE.

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this Act is hereby expressly reserved.

MARION NATIONAL FISH HATCHERY AND CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER CONVEYANCE ACT

Mr. GORTON. I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 493, S. 1883.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1883) to direct the Secretary of the Interior to convey the Marion National Fish Hatchery and the Claude Harris National Aquacultural Research Center to the State of Alabama, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1883

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 "Marion National Fish Hatchery and Claude Harris National Aquacultural Research Center Conveyance Act".

SEC. 2. CONVEYANCE OF MARION NATIONAL FISH HATCHERY AND CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER TO THE STATE OF ALABAMA.

(a) CONVEYANCE REQUIREMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Alabama without reimbursement, and subject to the condition described in paragraph (2), all right, title, and interest of the United States in and to the properties described in subsection (b) for use by the Game and Fish Division of the Department of Conservation and Natural Resources of the State of Alabama (referred to in this section as the "Game and **[**Fish Division")—

[(A) as part of the fish culture program of the State of Alabama; or

[(B) for any other purpose approved in writing by the regional director of the United States Fish and Wildlife Service for the region in which the properties are located.

[(2) LEASE OF CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER.—

[(A) TO ALABAMA AGRICULTURE EXPERIMENT STATION.—As a condition of the conveyance under paragraph (1), the Game and Fish Division shall offer to lease the property described in subsection (b)(1)(B) to the Alabama Agriculture Experiment Station—

[(i) at no cost to the Station or the Game and Fish Division; and

[(ii) for the period requested by the Station and provided by Alabama law.

[(B) TO ANOTHER PUBLIC ENTITY.—If the Station declines the offer or fails to renew any lease, the Game and Fish Division shall offer to lease any portion of the property to another public entity.**]**

Fish Division)" as part of the fish culture program of the State of Alabama.

(2) LEASE OF CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER.—As a condition of the conveyance under paragraph (1), the Game and Fish Division shall offer to lease the property described in subsection (b)(1)(B) to the Alabama Agriculture Experiment Station—

(A) at no cost to the Station or the Game and Fish Division; and

(B) for the period requested by the Station and provided by Alabama law.

(b) DESCRIPTION OF PROPERTIES.—The properties referred to in subsection (a)(1) consist of—

(1)(A) the portion of the Marion National Fish Hatchery leased to the Game and Fish Division, located 7 miles northeast of Marion, Alabama, on State Highway 175, as described in Amendment No. 2 to the Cooperative Agreement dated June 6, 1974, between the United States Fish and Wildlife Service and the Game and Fish Division, consisting of approximately 300 acres; and

(B) the Claude Harris National Aquacultural Research Center, located 7 miles northeast of Marion, Alabama, on State Highway 175, as described in a document of the United States Fish and Wildlife Service entitled "EXHIBIT A" and dated March 19, 1996, consisting of approximately 298 acres;

(2) all improvements and related personal property under the control of the Secretary of the Interior that are located on the properties described in paragraph (1), including buildings, structures, and equipment; and

(3) all easements, leases, and water and timber rights relating to the properties described in paragraph (1).

(c) REVERSIONARY INTEREST.—

(1) REQUIREMENT.—If any property conveyed to the State of Alabama under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States.

(2) CONDITION OF PROPERTY ON REVERSION.—In the case of a reversion of property under paragraph (1), **[**subject to any sale or lease of timber or mineral interests on or under the property,**]** the State of Alabama shall ensure that all property reverting to the United States under this subsection is in substantially the same condition as, or in better condition than, at the time of conveyance under subsection (a).

[(d) JURISDICTION.—Effective at the time of conveyance of the properties under subsection (a), the United States retrocedes jurisdiction over the properties to the State of Alabama.**]**

Mr. GORTON. I ask unanimous consent that the committee amendments be agreed to, 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 the appropriate place in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 1883), as amended, was considered read the third time and passed.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS AUTHORIZATION ACT OF 1998

Mr. GORTON. I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 488, H.R. 3504.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3504) to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the

Performing Arts and to further define the criteria for capital repair and operation and maintenance.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, the bill now before the Senate is the "John F. Kennedy Center for the Performing Arts Authorization Act."

The concept of a national Center for the performing arts originated during the administration of President Dwight D. Eisenhower. President Eisenhower envisioned a national cultural center in the nation's capital, and in 1958, with the support of Congress, he signed into law the National Cultural Center Act, which established the Center as an independently administered bureau of the Smithsonian Institution. Following the death of President Kennedy, the Congress in 1964 renamed the Center in honor of the late president.

The Kennedy Center was opened to the public in September 1971. The response was overwhelming—so much so that the Center's Board of Trustees requested help from Congress in maintaining and operating the Center, for the benefit of the millions of visitors. In 1972, Congress authorized the National Park Service to provide maintenance, security, and other services necessary to maintain the facility. For the next two decades, the Park Service received federal appropriations for the maintenance and operation of the Presidential monument.

In the early part of this decade, however, it became clear that the Kennedy Center facility—which had not seen comprehensive capital repair since its opening—had deteriorated significantly due to both age and intensive public use. Those repairs that had taken place—such as the 1977 repair of the leaking roof—were undertaken in response to threatening conditions. The Board of Trustees, with the support of the Park Service, therefore set out to achieve a more effective long-term approach to management of the facility, with one entity responsible for both the care of the physical plant and the staging of performance activities.

In 1994, therefore, Congress approved and the President signed the John F. Kennedy Center Act Amendments (Public Law 103–279). That Act authorized the transfer of all capital repair, operations, and maintenance of the Center from the Park Service to the Kennedy Center Board of Trustees.

The Act also directed the Board to develop a comprehensive, multi-year plan for the restoration and ongoing maintenance of the Kennedy Center. In 1995, the Board delivered the Comprehensive Building Plan, which set forth a long-term, two-stage program for the remediation of substandard building conditions, as well as continuous maintenance for the future. Phase I, scheduled for Fiscal Years 1995 through 1998, has concluded successfully. During this time, several major projects were completed, including the installation of a new, energy-efficient heating and cooling system, replacement of the leaking roof and roof terrace, and the major renovation of the Concert Hall. Phase II is scheduled to take place over the next eleven fiscal years, through Fiscal Year 2009. This stage will involve the massive "Center Block" project, during which the Opera House will be overhauled, as well as projects to make improvements to the plaza, improve accessibility to the theaters, install fire and other safety technology, and make a host of other repairs designed to ensure that the facility meets life safety standards.

That brings us to the legislation we are considering today. For the major Phase II projects to get underway, Congress must revise the 1994 Act to authorize appropriate funding for the next several fiscal years. This bill authorizes significant funding levels for the next eleven fiscal years for maintenance as well as capital repair work.

The bill before the Senate is H.R. 3504, the House-passed bill. It is almost identical to S. 2038, legislation that I introduced and that was reported by the Environment and Public Works Committee on June 12, 1998. Because of the similarity in the two bills, we are pleased to pass the House bill without amendment sending it to the President for his signature.

The Kennedy Center is a living Presidential memorial and a national monument, and as such demands a high standard of maintenance and upkeep. As an ex-officio member of the Board, and Chairman of the authorizing Committee, I am dedicated to the appropriate restoration and preservation of the facility, which millions of Americans have enjoyed for more than a quarter of a century.

Mr. President, I ask unanimous consent that a letter from the Congressional Budget Office setting forth the budgetary impacts of this legislation be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 23, 1998.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3504, the John F. Kennedy Center for the Performing Arts Authorization Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Sadoti.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3504—John F. Kennedy Center for the Performing Arts Authorization Act of 1998

Summary: H.R. 3504 would provide additional authorizations in the amount of $146 million for capital projects, operations, and maintenance at the John F. Kennedy Center for the Performing Arts for fiscal years 1999 through 2003. Because H.R. 3504 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 3504 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3504 is shown in the following table.

The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

	By fiscal year, in millions of dollars					
	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Authorizations under current law:						
Authorization levels	20	21	0	0	0	0
Estimated outlays	18	20	9	4	3	1
Proposed changes:						
Authorization levels		12	34	34	34	32
Estimated outlays		4	19	26	30	33
Authorization under H.R. 3504:						
Authorization levels	20	33	34	34	34	32
Estimated outlays	18	24	29	30	33	34

Basis of estimate: H.R. 3504 would amend the John F. Kennedy Center Act to reauthorize appropriations for the John F. Kennedy Center. The bill would authorize spending on maintenance, repair, and security at $13 million for 1999, $14 million for each of fiscal years 2000 and 2001, and $15 million for each of fiscal years 2002 and 2003. Capital projects would be authorized at $20 million annually for fiscal years 1999–2001, $19 million for fiscal year 2002, and $17 million for fiscal year

2003. Currently these functions are authorized through fiscal year 1999—maintenance, repair and security at $12 million and capital projects at $9 million. Thus, enactment of H.R. 3504 would result in a net increase in authorizations of $12 million for fiscal year 1999 and $146 million over the 1999–2003 period. Assuming that the amounts authorized are appropriated and that spending follows historical outlay patterns, H.R. 3504 would result in increased outlays of $112 million during fiscal years 1999–2003.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 3504 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimates: On May 6, 1998, CBO provided an identical estimate for H.R. 3504 as ordered reported by the House Committee on Transportation and Infrastructure. In addition, CBO provided an identical estimate for a similar bill, S. 2038, on May 22, 1998.

Estimate prepared by: Federal Cost: Christina Hawley Sadoti; Impact on State, Local, and Tribal Governments: Marc Nicole; and Impact on the Private Sector: Jean Wooster.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. GORTON. I ask unanimous consent that 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 the appropriate place in the RECORD.

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

The bill (H.R. 3504) was considered read the third time and passed.

D.C. CONVENTION CENTER AND SPORTS ARENA AUTHORIZATION ACT OF 1995

Mr. GORTON. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4237 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4237) to amend the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 and to revise the revenues and activities covered under such Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GORTON. I ask unanimous consent the bill be considered read the third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the appropriate place in the RECORD.

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

The bill (H.R. 4237) was read the third time and passed.

GRANTING A FEDERAL CHARTER TO THE AMERICAN GI FORUM OF THE UNITED STATES

Mr. GORTON. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1759, and further, that the Senate now proceed to its consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1759) to grant a Federal charter to the American GI Forum of the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3490

(Purpose: To make a technical amendment)

Mr. GORTON. Senator HATCH has a technical amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. HATCH, proposes an amendment numbered 3490.

The amendment is as follows:

On page 1, line 7, strike "New Mexico" and insert "Texas"

On page 2, line 5, strike "New Mexico" and insert "Texas"

On page 2, line 6, strike "New Mexico" and insert "Texas"

On page 3, line 15, strike "New Mexico" and insert "Texas"

On page 4, line 3, strike "New Mexico" and insert "Texas"

On page 4, line 9, strike "New Mexico" and insert "Texas"

On page 5, line 7, strike "New Mexico" and insert "Texas"

On page 5, line 10, strike "New Mexico" and insert "Texas"

Mr. GORTON. I ask unanimous consent the amendment be considered read and agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear in the RECORD.

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

The amendment (No. 3490) was agreed to.

The bill (S. 1759), as amended, was agreed to, as follows:

S. 1759

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

SECTION 1. RECOGNITION AND GRANT OF FEDERAL CHARTER.

The American GI Forum of the United States, a nonprofit corporation organized under the laws of the State of Texas, is recognized as such and granted a Federal charter.

SEC. 2. POWERS.

The American GI Forum of the United States (in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State of Texas and subject to the laws of the State of Texas.

SEC. 3. PURPOSES.

The purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include the following:

(1) To secure the blessing of American democracy at every level of local, State, and national life for all United States citizens.

(2) To uphold and defend the Constitution and the United States flag.

(3) To foster and perpetuate the principles of American democracy based on religious and political freedom for the individual and equal opportunity for all.

(4) To foster and enlarge equal educational opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities for all United States citizens, regardless of race, color, religion, sex, or national origin.

(5) To encourage greater participation of the ethnic minority represented by the corporation in the policy-making and administrative activities of all departments, agencies, and other governmental units of local and State governments and the Federal Government.

(6) To combat all practices of a prejudicial or discriminatory nature in local, State, or national life which curtail, hinder, or deny to any United States citizen an equal opportunity to develop full potential as an individual.

(7) To foster and promote the broader knowledge and appreciation by all United States citizens of their cultural heritage and language.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State of Texas and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Except as provided in section 8(g), eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the corporation.

SEC. 6. BOARD OF DIRECTORS.

Except as provided in section 8(g), the composition of the board of directors of the corporation and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the corporation and in conformity with the laws of the State of Texas.

SEC. 7. OFFICERS.

Except as provided in section 8(g), the positions of officers of the corporation and the election of members to such positions shall be as provided in the bylaws and articles of incorporation of the corporation and in conformity with the laws of the State of Texas.

SEC. 8. RESTRICTIONS.

(a) INCOME AND COMPENSATION.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any member, officer, director, or employee of the corporation.

(c) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation may not issue

any shares of stock or declare or pay any dividends.

(d) DISCLAIMER OF CONGRESSIONAL OR FEDERAL APPROVAL.—The corporation may not claim the approval of Congress or the authorization of the Federal Government for any of its activities by virtue of this Act.

(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation organized and incorporated under the laws of the State of Texas.

(f) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State of Texas.

(g) NONDISCRIMINATION.—In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote in any proceeding of the corporation, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) APPLICATION OF STATE LAW.—This section may not be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

"(80) American GI Forum of the United States.".

SEC. 12. ANNUAL REPORT.

The corporation shall annually submit to Congress a report concerning the activities of the corporation during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 11. The annual report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to Congress.

SEC. 14. TAX-EXEMPT STATUS REQUIRED AS CONDITION OF CHARTER.

If the corporation fails to maintain its status as a corporation exempt from taxation as provided in the Internal Revenue Code of 1986 the charter granted in this Act shall terminate.

SEC. 15. TERMINATION.

The charter granted in this Act shall expire if the corporation fails to comply with any of the provisions of this Act.

SEC. 16. DEFINITION OF STATE.

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

CARL B. STOKES UNITED STATES COURTHOUSE

Mr. GORTON. I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 487, H.R. 643.

The PRESIDING OFFICER. The clerk will report.

A bill (H.R. 643) to designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the "Carl B. Stokes United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GORTON. I ask unanimous consent the bill be considered read the third time and passed, a motion to reconsider be laid upon the table, and any statements relating to the bill appear in the RECORD.

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

The bill (H.R. 6743) was read the third time and passed.

UNANIMOUS CONSENT—H.R. 4354

Mr. GORTON. I ask unanimous consent when the Senate receives from the House H.R. 4354, a bill regarding the U.S. Capitol Police Memorial Fund, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear in the RECORD.

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

Mr. GORTON. I further ask consent that if the language of H.R. 4354, as amended, as received, is different than that of the bill currently at the desk, this consent be vitiated.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GORTON. I ask unanimous consent the Agriculture Committee be discharged from further consideration of the nominations of James E. Newsome, Keith C. Kelly, Charles Rawls, and Barbara Pedersen Holum, and further that the Senate proceed to their consideration and consideration en bloc the following nominations on the Executive Calendar, 701, 702, 703, 704, 705, 707, 708, 710, 712, 713, 714, 715, 717, 723, 724, 725, 727, 729, 736, 737, 782, 791, and 792, and all nominations on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be confirmed en bloc; the motion to reconsider be laid upon the table; any statements relating to the nominations appear in the RECORD; and the President be immediately notified of the Senate's action; and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

John D. Kelly, of North Dakota, to be United States Circuit Judge for the Eighth Circuit.

Dan A. Polster, of Ohio to be United States District Judge for the Northern District of Ohio.

Robert G. James, of Louisiana, to be United States District Judge for the Western District of Louisiana.

Ralph E. Tyson, of Louisiana, to be United States District Judge for the Middle District of Louisiana.

Raner Christercunean Collins, of Arizona, to be United States District Judge for the District of Arizona.

DEPARTMENT OF COMMERCE

Deborah K. Kilmer, of Idaho, to be an Assistant Secretary of Commerce.

COMMODITY FUTURES TRADING COMMISSION

Barbara A. Pedersen Holum, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 2002.

James E. Newsome, of Mississippi, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 2001.

DEPARTMENT OF AGRIGULTURE

Keith C. Kelly, of Arizona, to be a member of the Board of Directors of the Commodity Credit Corporation.

Charles R. Rawls, of North Carolina, to be General Counsel of the Department of Agriculture.

EXECUTIVE OFFICE OF THE PRESIDENT

Neal F. Lane, of Oklahoma, to be Director of the Office of Science and Technology Policy.

DEPARTMENT OF TRANSPORTATION

Clyde J. Hart, Jr., of New Jersey, to be Administrator of the Maritime Administration.

DEPARTMENT OF THE TREASURY

Raymond W. Kelly, of New York, to be Commissioner of Customs.

James E. Johnson, of New Jersey, to be Under Secretary of the Treasury for Enforcement.

Elizabeth Bresee, of New York to be an Assistant Secretary of the Treasury.

EXECUTIVE OFFICE OF THE PRESIDENT

Jacob Joseph Lew, of New York, to be Director of the Office of Management and Budget.

THE JUDICIARY

Kim McLean Wardlaw, of California, to be United States Circuit Judge for the Ninth Circuit.

DEPARTMENT OF STATE

Richard Nelson Swett, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Arthur Louis Schechter, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

James Howard Holmes, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Latvia.

John Bruce Craig, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

David Michael Satterfield, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Charles F. Kartman, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for the Korean Peace Talks.

William B. Milam, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

DEPARTMENT OF ENERGY

Bill Richardson, of New Mexico, to be Secretary of Energy.

DEPARTMENT OF JUSTICE

Howard Hikaru Tagomori, of Hawaii, to be United States Marshal for the District of Hawaii for the term of four years.

Paul M. Warner, of Utah, to be United States Attorney for the District of Utah for the term of four years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Homi Jamshed, and ending Joseph E. Zadrozny, Jr., which nominations were received by the Senate and appeared in the Congressional Record of June 18, 1998.

Foreign Service nominations beginning Robert Bigart, Jr., and ending Carol J. Urban, which nominations were received by the Senate and appeared in the Congressional Record of July 15, 1998.

NOMINATION OF RAYMOND W. KELLY

Mr. D'AMATO. Mr. President, today this body formally approved the nomination of Raymond W. Kelly, of New York, to be Commissioner of Customs. I am deeply, deeply pleased and believe that we have a Customs Commissioner of whom we can be proud, who will do the kind of outstanding work that Ray Kelly has done over the years in law enforcement.

He is a native New Yorker. He spent quite a bit of his time as a young man in the village of Island Park, where I live and grew up. So it is a great pleasure to see him come to this highly regarded position. I know he is going to be an outstanding Commissioner, and I look forward to working with him.

NOMINATION OF JACOB JOSEPH LEW

Mr. BROWNBACK. Mr. President, as we confirm the nomination of Mr. Jack Lew to the Director of the Office of Management and Budget, I want to take this opportunity to highlight a problem that OMB has the power to help correct, but to this date has chosen not to.

As many are aware, there is a real problem right now in rural America brought about the dismal farm prices. The only way that commodity prices are going to increase is to boost exports. Certainly, passage of Fast Track, funding of the IMF, continuing normal trade relations with China, and lifting sanctions are necessary parts of the strategy to grow our export markets.

However, there is also a tool, the Export Enhancement Program, that the federal government can be using to help boost exports and revive farm exports in the near term. Congress has done its part in providing appropriations for this program, but the Administration has failed to utilize the program.

The EEP program is designed to help our agricultural exports compete in the face of subsidized competition in international markets. Despite clear evidence that subsidized competition is eroding U.S. markets, particularly for wheat flour, the Administration has been dragging its feet in initiating the EEP.

The USDA has been pushing for the use of the Export Enhancement Program for wheat flour for almost two years. However, before the program can be initiated, an interagency review group, of which OMB is a member, must approve the initiative. OMB has not endorsed usage of the Export Enhancement Program to counteract European subsidies for wheat flour, and thus has effectively blocked use of the program.

It is objectionable that the Clinton Administration is not compelled to stand up for its farm community in the face of adversity in the same way that its European counterparts are. Secondly, it is objectionable that the OMB is driving agricultural trade policy, instead of the Department of Agriculture in conjunction with the U.S. Trade Representative.

Exports of U.S. wheat flour have come to a virtual standstill, and it is not because U.S. farmers and millers are relatively inefficient. It is because our competitors, namely the European Union, highly subsidize flour milling. The Administration has the power to correct this by using our own export subsidy program, but OMB is preventing it.

The Administration has announced its intention to purchase wheat and donate it overseas for humanitarian purposes. This is a fine idea, but it is not a substitute for an initiative that will target commercial markets. The EEP program can be used in countries that pay cash for the wheat flour they consume and that do not qualify for humanitarian assistance. These are important markets that the U.S. wheat industry has spent years developing. Furthermore, using the EEP to leverage sales will allow USDA to facilitate a larger amount of wheat flour sales using fewer federal dollars that it would through a donation program.

The EEP is needed not only because it wall help us regain our commercial presence in markets traditionally held by the U.S., but also because it will increase our leverage in future trade negotiations. The real objective here needs to be to eliminate export subsidies worldwide. However, our competitors have no reason to come to the negotiating table if the U.S. has already unilaterally eliminated export subsidies.

The Export Enhancement Program needs to be utilized now for wheat flour. I encourage Mr. Lew to make that a priority when he enters office.

NOMINATION OF BILL RICHARDSON TO BE SECRETARY OF ENERGY

Mr. WARNER. Mr. President, I have had the opportunity to work with the current Ambassador to the United Nations, Bill Richardson, on a number of occasions. I have met with him briefly twice this week. I find him to be a very impressive man.

I, first, wish to commend him for his work at the United Nations, and particularly that chapter of his work which occurred during the course of the crisis in the gulf with Saddam Hussein in the early part of this year. I accompanied the Secretary of Defense on his trip to the gulf region and to Russia and to meet with his counterpart in Germany, and throughout that process then-Ambassador Richardson played a key role.

I know for a fact Ambassador Richardson had a very significant participation, together with the President and the Secretaries of State and Defense, in negotiating with other nations to avoid the need for the use of force and to bring about a conclusion, while not entirely satisfactory to this Senator and to others, nevertheless, it was the best that could be achieved at that time. It was an extraordinary role that he played.

I also observed, as did others, his tireless efforts throughout the world in fulfilling his responsibilities as Ambassador to the United Nations, and, indeed, he put a particular emphasis on Africa, where assistance is very gravely needed at this time.

I think he comes eminently qualified to the position of Secretary of Energy. The Armed Services Committee, of which I am privileged to be a member, has oversight of approximately two-thirds of the budget of the Department. The key elements of that budget relate to stewardship of our nuclear weapons stockpile. We currently do no underground nuclear testing, and, therefore, there is a very significant challenge

placed on the Secretary of Energy to make certain that the nuclear stockpile is maintained in a state of readiness to ensure its safety and reliability. The nuclear stockpile is an essential part of our arsenal of deterrence, and the certification of the stockpile's safety and reliability is a responsibility under the Secretary.

That, together with the need to do cleanup at numerous Department of Energy weapons sites, places a great challenge on the Secretary. In my judgment, I believe unequivocally he has the ability to meet these challenges, and I join others in the Senate in supporting his nomination.

Again, the term Secretary of Energy is aptly named for Bill Richardson because, as I think my good friend and colleague from New Mexico would say, he is a man of unlimited energy and is, indeed, the right man for that job.

I yield the floor.

Mr. MURKOWSKI. Mr. President, on July 22, exactly one week after receiving the nomination of Ambassador Bill Richardson to be Secretary of Energy, the Committee on Energy and Natural Resources held a hearing on his nomination. Two days ago, exactly one week after the hearing, the Committee ordered his nomination reported. Now, two days later, the nomination is before this body for final passage at 2:00 p.m. I describe this to make it clear that the Committee on Energy and Natural Resources, and its Chairman, have made every effort to go beyond simple good faith and work cooperatively with the White House and Department of Energy to fill this vital cabinet position.

I believe that Ambassador Richardson is personally well-qualified to be Secretary of Energy. However, I, along with other members of the Energy Committee, have had serious reservations about this nomination. I have supported the demand of Senators CRAIG and GRAMS, and others, that this Administration show that it intends to live up to its responsibility to solve this Nation's nuclear waste problem.

The Federal government is in breach of its contractual obligation to remove nuclear waste from more than 80 sites in 40 states by last January, making the American taxpayer liable for as much as $80 billion in damages. The Administration's failure to address this pressing environmental problem threatens to eliminate our single largest source of emissions-free power, and is already resulting in dirtier air.

The Administration not only failed to propose a solution for this problem, they threatened to veto a Congressional solution that has overwhelming bipartisan support in both Houses. This issue was raised when the previous Secretary was nominated and confirmed, and we received assurances that he would work with us to address this problem. However, all we received from the Department of Energy was silence and a threat to veto Congress' proposed solution.

All during this time, my request, echoed by many others on both sides of the aisle, to the Administration has been simple: live up to your obligation. The problem is real, and getting worse every day. If you do not like the solution Congress has proposed, you have an obligation to propose an alternative. I have made it clear that, while I can accept and support Ambassador Richardson as Secretary of Energy, I cannot accept any Secretary of Energy that would attempt to undertake all of this responsibility with no real authority. If the President does not trust, or expect, his nominee to undertake a resolution of one of the most important problems facing the Department of Energy, then he should not nominate him. If the Secretary of Energy cannot work with Congress to resolve such problems, then there is no point in having a Secretary of Energy.

As I indicated earlier, despite these reservations, I, along with all of the members of the Committee on Energy and Natural Resources have gone out of our way to engender a spirit of cooperation with the Administration with respect to this nomination. In response, I am glad to say that the President has confirmed, via letter, the Administration's commitment to resolving the nuclear waste storage issue, and has assured me that Ambassador Richardson, if confirmed, will have the portfolio, and full authority, to address this problem. I ask unanimous consent that a copy of this letter be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, July 30, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to encourage your support for an expeditious confirmation of Ambassador Bill Richardson as Secretary of Energy. Ambassador Richardson brings a wealth of experience to this position and I believe he will be able to move the Department of Energy forward on its many critical missions.

I want to assure you that my Administration is committed to resolving the nuclear waste storage issue. I have personal confidence in Ambassador Richardson's ability to deal with this complex matter in a competent, straight-forward professional manner.

It is extremely important that Ambassador Richardson be confirmed so he can oversee the Department of Energy's viability assessment process for the Yucca Mountain site. As you know, the viability assessment will be completed by the end of this year. Once that assessment is made, the Ambassador will have my complete support in talking with Members of Congress on future issues related to the Yucca Mountain site. Let me assure you that Ambassador Richardson has the portfolio for addressing the nuclear waste issue and has full authority to carry out his responsibilities in this area.

I believe it is in the Nation's interest to confirm Ambassador Richardson as quickly as possible so that he can bring his full attention to the viability assessment and the future of Yucca Mountain as well as to the other important missions of the Department of Energy.

Sincerely,

BILL CLINTON.

Mr. MURKOWSKI. The letter does make it clear that Congress should not expect to hear anything substantive from the new Secretary of Energy on this matter until the end of the year, well after the election. This concerns me, as a signal that the Administration plans to continue to hold nuclear waste hostage for political posturing, while the physical and economic health of American citizens is held in abeyance.

However, the President also assures me of his faith in Ambassador Richardson's ability to deal with this complex matter in a competent, straight-forward professional manner. I have faith in his ability, as well, as long as he is given the authority to exercise it. As I now have a promise that he will have such authority, I will take this commitment in good faith, the spirit in which I have conducted this entire process, and will expect no less from President and Ambassador Richardson.

Therefore, I encourage my colleagues to join me in supporting the confirmation of Ambassador Richardson to be Secretary of Energy.

Mr. GRAMS. Mr. President, the Senate today passed by unanimous consent the nomination of Bill Richardson to be the next Secretary of Energy. Mr. Richardson's nomination passed the Senate unanimously because he was an honorable Member of Congress, he was an honorable representative for our country at the United Nations, and he is an honorable man. Mr. Richardson has the capability to be among the best Secretaries of Energy to serve our nation.

But if we had voted today on Mr. Richardson's nomination, I would have voted no. I would have done so not out of doubt for Mr. Richardson's capabilities, but because of the horrible record of the Clinton Administration in responding to my concerns and the concerns of many other Members of Congress with regard to nuclear waste storage.

On April 8, 1998, I wrote a detailed letter to the President outlining my dissatisfaction with responses to questions I have posed to nominees for positions within the Department of Energy. In that letter I quoted those nominees and showed very clearly how they all want to do something, how they all want to work with Congress, and how they all recognize the problems at the DOE. Regrettably, not one of them has ever been allowed to tackle the issues for which they express so

much concern before Congress. This Administration has yet to allow a nominee or professional staffer from the DOE to come to Congress and speak openly about nuclear waste.

As I stated earlier, I wrote to the Administration with my concerns on April 8, and just received a response this morning. They knew I was going to be looking closely at the answers of Mr. Richardson and that I expected those answers to be detailed and substantive. Instead, they ignored my letter until the last minute and sent to me responses from Mr. Richardson that displayed the same lack of candor as all previous nominees. Let me read for the Senate a couple of examples.

I provided Mr. Richardson with a detailed description of what I learned on a recent trip to France about its nuclear industry. I explained how France uses nuclear energy to meet over 80% of its electricity needs. I explained their use of reprocessing and MOX fuel and the level to which they are able to reduce the amount of nuclear waste they retain for final disposal. I then asked Mr. Richardson if he felt we should begin to look for ways to expand our use of nuclear energy. Mr. Richardson's response was notable in its brevity. He wrote:

> I agree that nuclear energy must be a viable option to meeting future electricity demand in the United States.

I find it hard to believe that Mr. Richardson, who used to represent the Congressional District in which Los Alamos National Laboratory rests, cannot be more specific in his views on the future of nuclear power in the United States. The answer provided above was written by a staffer at the DOE who sought to evade my question.

I expanded on that question by asking Mr. Richardson how we expand our use of nuclear power? He wrote:

> The Department, in its FY 1999 Budget Request, recognized the need to maintain a viable nuclear option for the future. The Budget Request proposed new programs to work on the technologies required to extend the licenses nuclear plants and to undertake the research necessary to develop more efficient, more reliable, and safer nuclear plants for the future. I think these efforts are a good start at providing the Nation with the option of safe and affordable nuclear power in the future.

Again, not a very definite statement on the future of nuclear power, but at least it was longer than the one sentence answer to the previous question. Sadly, Mr. Richardson's answer doesn't address any of the real issues in relation to the continuation and expansion of nuclear power. First, he never once mentioned nuclear waste storage in his answer. Without a storage solution, not only will we not build new plants, but our existing plants will begin to shut down prematurely. In fact, Minnesota is set to lose our Prairie Island facility in 2007 due to a lack of storage space for nuclear fuel. Minnesota will at that point lose 20% of its electricity generating capacity and will be forced to replace clean nuclear power with polluting fossil fuels at exactly the same time the Kyoto Protocol is set to take effect—and consumer costs will soar.

That brings me to the next consideration unmentioned in Mr. Richardson's response: the role of nuclear power in our efforts to reduce greenhouse gas emissions. Nuclear power is responsible for 90% of our greenhouse gas emissions reductions from the electricity industry since 1973. The countries of Europe and Japan are going to meet their requirements under the Kyoto Protocol using nuclear power. Mr. Richardson mentioned a new program to develop more reliable and safer nuclear power plants. Europe, Japan, and others are using our technology right now to build new plants—technology we continue to ignore.

Those are but two of the important issues which must be addressed when we consider expanding or maintaining our use of nuclear power in the next century. I find it unreasonable that this Administration would send to me responses which so clearly lack the information directly asked for in the question.

Mr. Richardson did, however, write some interesting things about nuclear power in his responses. Let me share with you a couple of those responses. They read:

> Nuclear power is a proven means of generating electricity. When managed well, it is also a safe means of generating electricity.
>
> It is my understanding that spent nuclear fuel has been safely transported in the United States in compliance with the regulatory requirements set forth by the Nuclear Regulatory Commission and the Department of Transportation.
>
> From the experience that France, England, and Japan have reported, it appears that they have engaged in successful shipping efforts. However, my understanding is that these countries also have experienced some degree of difficulty and criticism from the public.
>
> The widely publicized shipment last week of spent fuel from California to Idaho is proof that transportation can be done safely. The safety record of nuclear shipments would be among the issues I would focus on as Secretary of Energy.

I asked Mr. Richardson to tell me who would pay the billions of dollars in damages some say the DOE will owe utilities as a result of DOE failure to remove spent nuclear fuel by January 31, 1998. After writing about the DOE's beliefs on their level of liability he wrote: "I will give this issue priority attention once I am confirmed as Secretary of Energy."

I asked Mr. Richardson if he felt the taxpayers had been treated fairly. Again, after telling me about the history of the Department's actions to avoid their responsibilities, he wrote: "I share your interest in resolving these issues and I will continue to pursue this once I am confirmed."

Now, Mr. President, lets look at who then nominee Federico Peña responded to my question regarding the responsibility of the DOE to begin removing spent nuclear fuel from my state. He said in testimony before the Energy and Natural Resources Committee:

> . . . we will work with the Committee to address these issues within the context of the President's statement last year. So we've got a very difficult issue. I am prepared to address it. I will do that as best as I can, understanding the complexities involved. But they are all very legitimate questions and I look forward to working with you and others to try to find a solution.

Does that sound familiar? I suspect Secretary O'Leary had something equally vague to say about nuclear waste storage as well. Secretary Peña, I believe, said it best when he stated, "I will do that as best as I can, understanding the complexities involved." Those complexities, Mr. President, are not that complex at all. Quite simply, the President of the United States, despite the will of 307 Members of the House of Representatives and 65 Senators, does not want to keep the DOE's promise and does not want to address this important issue for our nation. His absence in this debate is all the complexity we need identify.

Mr. President, I want to be very clear that I am sincere in these complaints. My concern is for the ratepayers of my state and ratepayers across the country. They have poured billions of dollars into the Nuclear Waste Fund expecting the DOE to take this waste. They have paid countless more millions paying for on-site nuclear waste storage. Effective January 31, 1998, they are paying for both of these cost simultaneously even though no waste has been moved.

Mr. President, when the DOE is forced to pay damages to utilities across the nation, the ratepayers and taxpayers will again pay for the follies authorized by the DOE. Some estimate the costs of damages to be as high as $80 to $100 billion or more. The ratepayers will also have to pay the price of building new gas or coal fired plants when nuclear plants must shut down. And, if the Administration gets its way, my constituents will pay again when the Kyoto Protocol takes effect in 2008—exactly the same time Minnesota will be losing 20% of its electricity from clean nuclear power and replacing it with fossil fuels.

Six years of rudderless leadership in the White House with regard to nuclear energy holds grave consequences for the citizens of my state. I cannot merely sit by now and tell my constituents I tried. I must take whatever action I can to raise this issue with this Administration and with this Congress.

The Administration has admitted nuclear waste can be transported safely. They have admitted they neglected their responsibility. They have admitted nuclear power is a proven, safe

means of generating electricity. And they have admitted there is a general consensus that centralized interim storage is scientifically and technically possible and can be done safely. If you add all of these points together and hold them up against the Administration's lack of action, you can only come to one conclusion: politics has indeed won out over policy and science.

If the Senate would have voted on the Richardson nomination I would have voted no. I like Bill Richardson and I think he will do a fine job as Secretary of Energy—but my state and my constituents need someone to take substantive action at the DOE to begin removing nuclear fuel from my state. Regrettably, as long as Bill Clinton occupies 1600 Pennsylvania Avenue, I do not believe it will happen. I do not believe Bill Richardson will have the opportunity to do what is needed to resolve these problems. I know he will have to advocate the policies of President Clinton and Vice President GORE. And in my opinion, that is the problem. This Administration has made this a political issue at the expense of the electricity needs of the country. Until this Administration wants to deal with policy and not politics, I will not support its continued lack of action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

EMERGENCY FAMINE RELIEF FOR THE PEOPLE OF SUDAN

Mr. GORTON. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 267 submitted earlier by Senator FRIST.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 267) expressing the sense of the Senate that the President, acting through the United States Agency for International Development, should more effectively secure emergency famine relief for the people of Sudan, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I rise to speak on behalf of a Sense of the Senate which, with the help of Senators FEINGOLD, DEWINE, ASHCROFT, and GRAMS, I have brought before this body in an effort to more clearly define the role of the United States Agency for International Development in the ongoing multinational effort to address the needs of the people of southern Sudan. At least 1.2 million Sudanese are hovering on the brink of starvation, with an additional 1.4 million being targeted by the World Food Program in an effort to stave off the famine conditions which may soon threaten them.

This Sense of the Senate we offer both urges the President to go forward with a more aggressive approach to our contribution to that effort, and it gives him explicit Senate backing for the efforts which the Administration is already undertaking to that end. The underlying premise of the legislation is simple: the United States' role in that relief effort and in other, proactive self-sufficiency programs has general recognized the constraints placed upon the members of Operation Lifeline Sudan—the United Nations' agreement with the government of Sudan in Khartoum, where the regime holds veto authority over the member's specific deliveries of humanitarian relief. This flawed arrangement has allowed Khartoum to use that very humanitarian relief as a weapon in their war on the South, and with devastating effect. Indeed, the current famine conditions now threatening the lives of over 2 million Sudanese is largely created by the massive disruptions to the fragile agrarian and pastoralist populations in the South these acts of war represent. While the United States should continue to provide relief through the established channels of Operation Lifeline Sudan, it must also seek to use other distribution channels to reach populations to which Khartoum has routinely and with devastating calculation denied relief agencies access. Additionally, the United States must also begin to plan how we can help in preventing future threats of famine.

To realize these goals and directives, the Sense of the Senate recommends that the President take three specific actions. First, through the Agency for International Development, he should begin to more aggressively utilize relief agencies which distribute famine relief outside the umbrella of Operation Lifeline Sudan, thus unimpaired by the restrictions of Khartoum. Second, the Agency for International Development should begin to incorporate areas of southern Sudan which are outside of Khartoum's control into its overall strategy for sub-Saharan Africa in an effort to prevent future famine conditions and assist in helping the region realize a greater level of self-sufficiency—both in food production and in rule of law. Finally, the President is urged to use the current tentative cease-fire in Sudan, and international attention the famine has created, to push for the United Nations and the State Department to revamp the terms under which Operation Lifeline Sudan operates. It is especially important to guarantee that food cannot be used as a weapon and thus end Khartoum's veto authority over shipments of humanitarian relief in southern Sudan.

Mr. President, I am grateful for the support this critical piece of legislation has received on both sides of the aisle, and I am especially thankful for the effort and support of the Senators who have cosponsored this Sense of the Senate. It is important that the Administration and the Congress work together to ensure that the United States relief effort is the most effective it can possibly be.

Mr. President, I also ask unanimous consent that an op-ed I wrote for The Washington Post's July 19, 1998 edition be printed in the RECORD.

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

[From the Washington Post, July 19, 1998]

SUDAN'S MERCILESS WAR ON ITS OWN PEOPLE

(By Senator Bill Frist)

When the United Nations World Food Program announced last week that up to 2.6 million people in Southern Sudan are in imminent danger of starvation, the news was received with surprising nonchalance. Such news is becoming almost routine from misery-plagues East Africa, but what is unfolding in southern Sudan is at least the fourth widespread, large-scale humanitarian disaster in the region in the past 15 years.

In all cases, the United States' record is not one of success. Ethiopia in 1984, a disastrous military involvement in Somalia in 1993 and shameful neglect in Rwanda in 1994 have left the public bitter toward the prospect of yet more involvement. But again, as famine hovers over the region, we face a disconcertingly similar quandary on the nature of our response.

In January I worked in southern Sudan as a medical missionary, and I have seen firsthand the terrible effects of the continuing civil war and how that war came to help create this situation. As a United States senator, however, I fear that by failing to make necessary changes in our response, American policy toward Sudan may be a contributing factor in the horrendous prospect of widespread starvation.

The radical Islamic regime in Khartoum is unmatched in its barbarity toward the sub-Saharan or "black African" Christians of the country's South. It is largely responsible for creating this impending disaster through a concerted and sustained war on its own people, in which calculated starvation, bombing of hospitals, slavery and the killing of innocent women and children are standard procedure.

Our policy toward Khartoum looks tough on paper, but it has yet to pose a serious challenge to the Islamic dictatorship. Neither has our wavering and inconsistent commitment to sanctions affected its behavior or its ability to finance the war.

Khartoum is set to gain billions of dollars in oil revenues from fields it is preparing to exploit in areas of rebel activity. The U.S. sanctions prohibit any American investment, but recent evidence indicates that enforcement is lax. Additionally, relief groups operating there report that new weapons are flowing in as part of a deal with one of he partners—a government-owned petroleum company in China.

It is our policy toward southern Sudan that is of more immediate importance to the potential humanitarian disaster. From my own experience operating in areas where U.S. government relief is rarely distributed, I fear that both unilaterally and as a member of the United Nations, the United States unnecessarily restricts our own policy in odd deference to the regime in Khartoum.

In southern Sudan our humanitarian relief contributions to the starving are largely funneled through nongovernmental relief organizations that participate in Operation Lifeline Sudan. All of our contributions to the United Nations efforts are distributed through this flawed deal.

In this political arrangement the Khartoum regime has veto power over all decisions as to where food can be sent. That which is needed in the areas outside their control is often used as an instrument of war, with Khartoum routinely denying permission for a flight to land in an area of rebel activity, especially during times when international attention lacks its current focus. This practice starves combatants and noncombatants alike and compromises the integrity and effectiveness of relief groups desperately trying to fend off famine.

Despite associated risks, some relief groups operate successfully outside the arrangement's umbrella, getting food and medicine to areas that the regime in Khartoum would rather see starve. Out of concern that the Khartoum regime would be provoked into prohibiting all relief deliveries under the scheme, the U.S. Agency for International Development and its Office of Foreign Disaster Assistance do not regularly funnel famine relief through outside organizations, and thus our relief supplies are only selectively distributed—a decision that unnecessarily abets Khartoum's agenda.

The U.S. policy in Sudan does not seek an immediate rebel victory and the fragmenting of Sudan that could follow. Because the splintered rebel groups could not provide a functioning government or civil society at this time, that policy cannot be thrown out wholesale. Yet our failure to separate this policy from the action necessary to save these people from starvation results in absurdity.

Thus, even while generously increasing the amount of aid, for political reasons we seek the permission of the "host government" in Khartoum to distribute it and feed the very people they are attempting to kill through starvation and war. A second reason for this posture is, presumably, a fear that even modest, calculated food aid would allow the rebels to mobilize instead of foraging for their families—a factor that could turn the outcome on the battlefield in their favor.

The prospect of widespread starvation in southern Sudan does not necessitate that the United States seek a quick solution on the battlefield. Military victory and an end to hostilities are not a substitute for food. However, the administration should make an immediate and necessary distinction between the policy principle and the humanitarian challenge. It should articulate a response without political limitations, which, frankly, are trivial in comparison to the human lives at stake, and it should press the United Nations to do the same.

We can no longer afford to dance around the issues of sovereignty and political principles while restraining our response to a looming disaster that Khartoum helped create. Such academic debates and diplomatic concerns are for the well fed, but offer no solace to the starving.

Mr. GORTON. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear in the RECORD.

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

The resolution (S. Res. 267) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 267

Whereas the National Islamic Front regime in Khartoum, Sudan, continues to wage a brutal war against its own people in southern Sudan;

Whereas that war has already caused the death of more than 1,500,000 Sudanese since 1983;

Whereas famine conditions now threaten areas of southern Sudan as a direct consequence of the concerted and sustained effort by the regime in Khartoum to subdue its southern regions by force and including violations of basic human rights;

Whereas famine conditions are exacerbated by diversions of humanitarian assistance by armed parties on all sides of the conflict;

Whereas the United Nations World Food Program has now targeted 2,600,000 Sudanese for famine relief aid, to be distributed through an umbrella arrangement called "Operation Lifeline Sudan";

Whereas the regime in Khartoum retains the ability to deny the relief agencies operating in Operation Lifeline Sudan the clearance to distribute food according to needs in Sudan;

Whereas the regime in Khartoum has used humanitarian assistance as a weapon by routinely denying the requests by Operation Lifeline Sudan and its members to distribute food and other crucial items in needy areas of Sudan both within the Khartoum regime's control and areas outside the Khartoum regime's control, including the Nuba Mountains;

Whereas the United States Agency for International Development provides famine relief to the people of Sudan primarily through groups operating within Operation Lifeline Sudan and, thus, subjects that relief to the arrangement's associated constraints imposed by the regime in Khartoum;

Whereas several relief groups already operate successfully in areas of southern Sudan where Operation Lifeline Sudan has been denied access in the past, thus providing crucial assistance to the distressed population;

Whereas it is in the interest of the people of Sudan and the people of the United States, to take proactive and preventative measures to avoid any future famine conditions in southern Sudan;

Whereas the United States Agency for International Development, when it pursues assistance programs most effectively, encourages economic self-sufficiency;

Whereas assistance activities should serve as integral elements in preventing famine conditions in southern Sudan in the future;

Whereas the current international and media attention to the starving populations in southern Sudan and to the causes of the famine conditions that affect them have pushed the regime in Khartoum and the rebel forces to announce a tentative but temporary cease-fire to allow famine relief aid to be more widely distributed; and

Whereas the current level of attention weakens the resolve of the regime in Khartoum to manipulate famine relief for its own agenda: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President, acting through the United States Agency for International Development, should—

(A) aggressively seek to secure emergency famine relief for the people of Sudan who now face widespread starvation;

(B) immediately take appropriate steps to distribute that famine relief to affected areas in Sudan, including the use of relief groups operating outside the umbrella of Operation Lifeline Sudan and without regard to a group's status with respect to Operation Lifeline Sudan; and

(C) encourage and assist Operation Lifeline Sudan and the ongoing efforts to develop relief distribution networks for affected areas of Sudan outside of the umbrella and associated constraints of Operation Lifeline Sudan;

(2) both bilaterally and within the United Nations, the President should aggressively seek to change the terms by which Operation Lifeline Sudan and other groups are prohibited from providing necessary relief according to the true needs of the people of Sudan;

(3) the President, acting through the United States Agency for International Development, should—

(A) begin providing development assistance in areas of Sudan not controlled by the regime in Khartoum with the goal of building self-sufficiency and avoiding the same conditions which have created the current crisis, and with the goal of longer-term economic, civil, and democratic development, including the development of rule of law, within the overall framework of United States strategy throughout sub-Saharan Africa; and

(B) undertake such efforts without regard to the constraints that now compromise the ability of Operation Lifeline Sudan to distribute famine relief or that could constrain future multilateral relief arrangements;

(4) the Administrator of the United States Agency for International Development should submit a report to the appropriate congressional committees on the Agency's progress toward meeting these goals; and

(5) the policy expressed in this resolution should be implemented without a return to the status quo ante policy after the immediate famine conditions are addressed and international attention has decreased.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Administrator of the United States Agency for International Development.

EXECUTIVE SESSION

CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS

Mr. GORTON. I ask unanimous consent that the Senate proceed to executive session to consider the following treaty on today's Executive Calendar, No. 21.

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

Mr. GORTON. I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification; that all committee provisos, reservations, understandings, declarations be considered agreed to; that any statements be inserted in the CONGRESSIONAL RECORD as if read; I further ask consent when the

resolution of ratification is voted upon, the motion to reconsider be laid upon the table; the President be notified of the Senate's action, and following the disposition of the treaty, the Senate return to legislative session.

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

Mr. GORTON. I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division vote is requested. Senators in favor of the resolution of ratification please stand and be counted.

All those opposed, please stand and be counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted at Paris on November 21, 1997, by a conference held under the auspices of the Organization for Economic Cooperation and Development (OECD), signed in Paris on December 17, 1997, by the United States and 32 other nations (Treaty Doc. 105–43), subject to the understanding of subsection (a), the declaration of subsection (b), and the provisos of subsection (c).

(a) UNDERSTANDING.—The advice and consent of the Senate is subject to the following understanding, which shall be included in the instrument of ratification and shall be binding on the President:

EXTRADITION.—The United States shall not consider this Convention as the legal basis for extradition to any country with which the United States has no bilateral extradition treaty in force. In such cases where the United States does have a bilateral extradition treaty in force, that treaty shall serve as the legal basis for extradition for offenses covered under this Convention.

(b) DECLARATION.—The advice and consent of the Senate is subject to the following declaration:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the State Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISOS.—The advice and consent of the Senate is subject to the following provisos:

(1) ENFORCEMENT AND MONITORING.—On July 1, 1999, and annually thereafter for five years, unless extended by an Act of Congress, the President shall submit to the Committee on Foreign Relations of the Senate, and the Speaker of the House of Representatives, a report that sets out:

(A) RATIFICATION.—A list of the countries that have ratified the Convention, the dates of ratification and entry into force for each country, and a detailed account of U.S. efforts to encourage other nations that are signatories to the Convention to ratify and implement it.

(B) DOMESTIC LEGISLATION IMPLEMENTING THE CONVENTION.—A description of the domestic laws enacted by each Party to the Convention that implement commitments under the Convention, and an assessment of the compatibility of the laws of each country with the requirements of the Convention.

(C) ENFORCEMENT.—An assessment of the measures taken by each Party to fulfill its obligations under this Convention, and to advance its object and purpose, during the previous year. This shall include:

(1) an assessment of the enforcement by each Party of its domestic laws implementing the obligations of the Convention, including its efforts to:

(i) investigate and prosecute cases of bribery of foreign public officials, including cases involving its own citizens;

(iii) provide sufficient resources to enforce its obligations under the Convention;

(iii) share information among the Parties to the Convention relating to natural and legal persons prosecuted or subjected to civil or administrative proceedings pursuant to enforcement of the Convention; and

(iv) respond to requests for mutual legal assistance or extradition relating to bribery of foreign public officials.

(2) an assessment of the efforts of each Party to—

(i) extradite its own nationals for bribery of foreign public officials;

(ii) make public the names of natural and legal persons that have been found to violate its domestic laws implementing this Convention; and

(iii) make public pronouncements, particularly to affected businesses, in support of obligations under this Convention.

(3) an assessment of the effectiveness, transparency, and viability of the OECD monitoring process, including its inclusion of input from the private sector and non-governmental organizations.

(D) LAWS PROHIBITING TAX DEDUCTION OF BRIBES.—An explanation of the domestic laws enacted by each signatory to the Convention that would prohibit the deduction of bribes in the computation of domestic taxes. This shall include:

(i) the jurisdictional reach of the country's judicial system;

(ii) the definition of "bribery" in the tax code;

(iii) the definition of "foreign public officials" in the tax code; and

(iv) the legal standard used to disallow such a deduction.

(E) FUTURE NEGOTIATIONS.—A description of the future work of the Parties to the Convention to expand the definition of "foreign public official" and to assess other areas where the Convention could be amended to decrease bribery and other corrupt activities. This shall include:

(1) a description of efforts by the United States to amend the Convention to require countries to expand the definition of "foreign public official," so as to make illegal the bribery of:

(i) foreign political parties or party officials,

(ii) candidates for foreign political office, and

(iii) immediate family members of foreign public officials.

(2) an assessment of the likelihood of successfully negotiating the amendments set out in paragraph (1), including progress made by the Parties during the most recent annual meeting of the OECD Ministers; and

(3) an assessment of the potential for expanding the Convention in the following areas:

(i) bribery of foreign public officials as a predicate offense for money laundering legislation;

(ii) the role of foreign subsidiaries and offshore centers in bribery transactions; and

(iii) private sector corruption and corruption of officials for purposes other than to obtain or retain business.

(F) EXPANDED MEMBERSHIP.—A description of U.S. efforts to encourage other non-OECD member to sign, ratify, implement, and enforce the Convention.

(G) CLASSIFIED ANNEX.—A classified annex to the report, listing those foreign corporations or entities the President has credible national security information indicating they are engaging in activities prohibited by the Convention.

(2) MUTUAL LEGAL ASSISTANCE.—When the United States receives a request for assistance under Article 9 from a country with which it has in force a bilateral treaty for mutual legal assistance in criminal matters, the bilateral treaty will provide the legal basis for responding to that request. In any case of assistance sought from the United States under Article 9, the United States shall, consistent with U.S. laws, relevant treaties and arrangements, deny assistance where granting the assistance sought would prejudice its essential public policy interest, including cases where the Responsible Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Convention is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(3) SUPREMACY OF THE CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. FEINGOLD. Mr. President, I rise today in strong support of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and am pleased that the Senate is poised to ratify it today.

This convention seeks to establish worldwide standards for the criminalization of the bribery of foreign officials to influence or retain business. That this treaty has overwhelming bipartisan support is not surprising. But that we have this treaty to consider at all is a rather exceptional event.

For it was just over 20 years ago that the Congress passed the Foreign Corrupt Practices Act, or FCPA. This landmark legislation, which I am proud to say was sponsored by one of Wisconsin's most respected elected officials, Senator William Proxmire, was enacted after it was discovered that some American companies were keeping slush funds for making questionable and/or illegal payments to foreign officials to help land business deals.

For these 20 years, the FCPA has succeeded at curbing U.S. corporate bribery of foreign officials by establishing extensive bookkeeping requirements to ensure transparency and by criminalizing the bribery of foreign officials.

These very important principles do not simply reflect an American sense

of morality and fair play in business. They also strengthen America's trade policy, foster faith in American democracy, and protect our interests in requiring an open environment for U.S. investment.

Certainly, these are principles and guidelines in everyone's best interest, and as such, well worth promoting worldwide.

Yet there has been a price for taking the ethical high road. U.S. companies that are trying to pursue opportunities in the global marketplace are forced to compete with firms from countries whose national laws take a more—shall we say—"laissez-faire" approach to this issue, and turn a blind eye to the corruption and graft evident in many business transactions. Some countries—Germany is the most-often cited example—even allow companies to take a tax deduction for bribes paid to foreign officials as a business expense.

I call such practices corporate welfare of the worst kind!

These laws and practices by our closest trading partners clearly put our businesses at a disadvantage. I have heard from more than one Wisconsin company about international contracts lost as a result of some non-American company paying a bribe to a foreign official. These lost contracts represent lost employment and revenue opportunities for my state, and I am sure for many other states. A 1997 report by the Trade Promotion Coordinating Committee estimates that in a single year, U.S. firms lost at least 50 international commercial contracts—valued at more than $15 billion—as a result of bribes by competitors.

But with the signing of the OECD Convention last December, the rest of the industrialized world, along with several key lesser developed countries, is finally beginning to follow America's lead. What this convention does is initiate several significant steps to raise the standards of our major trading partners to the level established by the FCPA.

Specifically, the convention obligates the parties to criminalize bribery of foreign public officials in all branches of government. Individuals who bribe public officials will be subject to "effective, proportionate and dissuasive criminal penalties," and the parties agree to cooperate in investigations and proceedings related to such crimes.

I have been keenly interested in anti-corruption efforts for many years. In 1994, I authored a provision to close a loophole in defense contracting by outlawing kickback payments in the conduct of offsets—an issue brought to my attention by a major Wisconsin corporation. I have raised the potential problem of corruption in taxpayer-supported export promotion programs to a Wisconsin State trade promotion commission, the Lucey Commission.

In 1995, I introduced legislation that would have specifically barred the extension of U.S. export financing and trade promotion to U.S. subsidiaries of foreign corporations which have not adopted and enforced a company-wide anti-bribery code. I also introduced a resolution expressing the sense of the Senate that bribery is indeed a morally reprehensible business practice and has destabilizing consequences for the international trade environment. Finally, I offered an amendment to the 1996 State Department authorization bill requiring an inter-agency study on bribery and corruption and the impact it has on American businesses.

I believe the Administration's actions with respect to negotiation of this convention have been consistent with my intent in all of these efforts, as well as the intent of the authors of the 1988 amendments to the FCPA. I commend all the individuals involved for their efforts.

In addition, I commend the Chairman of the Senate Committee on Foreign Relations for moving the Committee quickly to recommend ratification of this convention.

I will highlight for my colleagues several provisions in the resolution of ratification. Section (c)(1) requires the President to submit to Congress an annual report that sets out various details regarding ratification, relevant domestic legislation of the parties, and enforcement. It also requires a description of the future work of the parties to expand the definition of "foreign public official." In particular, the President will need to report on the steps taken by the Parties to specifically make illegal the bribery of foreign political parties or party officials and candidates for public office. This provision reflects the strong views of the Committee on Foreign Relations that the pernicious practice of bribery also pervades the political world, and it too must be stopped.

Finally, Section (c)(1)(F) requires the President to provide a description of U.S. efforts to encourage other non-OECD members to sign, ratify, implement, and enforce the treaty. This provision, which I encouraged the Committee to include, is important because it recognizes that while most major international companies are based in OECD members states—the major industrialized nations of the world—it is vitally important to include less developed countries in an undertaking of this nature. As Secretary of State Madeleine Albright noted at the December 1997 signing ceremony for the Convention, "supplier nations have a special responsibility to stop this destructive practice. * * * At the same time, * * * it is vital that nations in the developing world meet their responsibility to act." As noted in the Committee report, we expect the Executive to work through bilateral and multilateral fora to encourage other non-OECD members to join this effort by ratifying the treaty and implementing its provisions.

I think those of us that are members of the Foreign Relations Committee can help in this effort. For example, at the most recent hearing of the Subcommittee on Africa to consider ambassadorial nominations, I asked a panel of seven nominees to provide their views on the effectiveness of the efforts of their respective, prospective host countries' governments to combat corruption, and asked them to comment on how they might work individually with these governments to become more active in dealing with this issue at a multilateral level. These nominees provided quite thoughtful responses, and I certainly encourage all of our ambassadors to pursue similar goals in their respective countries.

Mr. President, in sum, I believe this is a vitally important treaty, and I am thrilled that the Senate has moved so quickly to ratify it. As a direct descendent of Senator Proxmire's Foreign Corrupt Practices Act, it represents the best of a long Wisconsin tradition of good government and ethics, and I am proud to have been a part of the Senate's ratification of this effort.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AUTHORITY TO MAKE APPOINTMENTS

Mr. GORTON. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

AUTHORITY TO FILE COMMITTEE-REPORTED MEASURES DURING THE RECESS

Mr. GORTON. Mr. President, I ask unanimous consent that during the recess, committees have between the hours of 10 a.m. to 2 p.m. on Tuesday, August 25, to file committee-reported legislation and nominations.

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

ORDERS FOR MONDAY, AUGUST 31, 1998 AND TUESDAY, SEPTEMBER 1, 1998

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it

stand in adjournment under the provisions of S. Con. Res. 114 until the hour of 12 noon on Monday, August 31, and that there then be a period for the transaction of routine morning business until 1 p.m., with Members permitted to speak therein for up to 10 minutes each.

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

Mr. GORTON. I further ask that the consent agreement with respect to the conference report to accompany the Texas Compact be postponed and at the hour of 9:30 a.m. on Tuesday, September 1, the Senate proceed to the vote with respect to the Military Construction Appropriations bill.

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

Mr. GORTON. I further ask that the consent agreement with respect to the conference report to accompany the Texas Compact commence on Tuesday September 1, at a time to be determined by the majority leader, after notification of the Democratic leader.

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

Mr. GORTON. Mr. President, I ask unanimous consent that following the vote with respect to the conference report to accompany the Military Construction Appropriations bill, the Senate proceed to the Foreign Operations Appropriations bill.

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

PROGRAM

Mr. GORTON. Mr. President, for the information of all Senators, the first vote following the recess will be at 9:30 a.m. on Tuesday, September 1. Following that vote, the Senate will begin the Foreign Operations Appropriations bill. Therefore, votes can be expected to occur throughout the day on Tuesday.

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. GORTON. 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 MONDAY, AUGUST 31, 1998

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment, under the provisions of S. Con. Res. 114, until 12 noon on Monday, August 31.

Thereupon, the Senate, at 2:28 p.m., adjourned until Monday, August 31, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate July 31, 1998:

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

TERRENCE L. BRACY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOR A TERM EXPIRING OCTOBER 6, 2004. (REAPPOINTMENT)

CONFIRMATIONS

Executive nominations confirmed by the Senate July 31, 1998:

DEPARTMENT OF COMMERCE

DEBORAH K. KILMER, OF IDAHO, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

EXECUTIVE OFFICE OF THE PRESIDENT

NEAL F. LANE, OF OKLAHOMA, TO BE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

DEPARTMENT OF TRANSPORTATION

CLYDE J. HART, JR., OF NEW JERSEY, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION, VICE ALBERT J. HERBERGER, RESIGNED.

DEPARTMENT OF THE TREASURY

RAYMOND W. KELLY, OF NEW YORK, TO BE COMMISSIONER OF CUSTOMS.

JAMES E. JOHNSON, OF NEW JERSEY, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT.

ELIZABETH BRESEE, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

EXECUTIVE OFFICE OF THE PRESIDENT

JACOB JOSEPH LEW, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

DEPARTMENT OF STATE

RICHARD NELSON SWETT, OF NEW HAMPSHIRE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

ARTHUR LOUIS SCHECHTER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE COMMONWEALTH OF THE BAHAMAS.

JAMES HOWARD HOLMES, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LATVIA.

JOHN BRUCE CRAIG, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

DAVID MICHAEL SATTERFIELD, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

CHARLES F. KARTMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR THE KOREAN PEACE TALKS.

WILLIAM B. MILAM, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

DEPARTMENT OF ENERGY

BILL RICHARDSON, OF NEW MEXICO, TO BE SECRETARY OF ENERGY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COMMODITY FUTURES TRADING COMMISSION

BARBARA PEDERSEN HOLUM, OF MARYLAND, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 2002.

JAMES E. NEWSOME, OF MISSISSIPPI, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING JUNE 19, 2001.

DEPARTMENT OF AGRICULTURE

KEITH C. KELLY, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

CHARLES R. RAWLS, OF NORTH CAROLINA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE.

THE JUDICIARY

JOHN D. KELLY, OF NORTH DAKOTA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

DAN A. POLSTER, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

ROBERT G. JAMES, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA, VICE JOHN M. SHAW, RETIRED.

RALPH E. TYSON, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF LOUISIANA.

RANER CHRISTERCUNEAN COLLINS, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

KIM MCLEAN WARDLAW, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

DEPARTMENT OF JUSTICE

HOWARD HIKARU TAGOMORI, OF HAWAII, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF HAWAII FOR THE TERM OF FOUR YEARS.

PAUL M. WARNER, OF UTAH, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF UTAH FOR THE TERM OF FOUR YEARS.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING HOMI JAMSHED, AND ENDING JOSEPH E. ZADROZNY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 18, 1998.

FOREIGN SERVICE NOMINATIONS BEGINNING ROBERT JAMES BIGART, JR., AND ENDING CAROL J. URBAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 15, 1998.

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 31, 1998, withdrawing from further Senate consideration the following nomination:

THE JUDICIARY

MICHAEL D. SCHATTMAN, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS, VICE HAROLD BAREFOOT SANDERS, JR., RETIRED, WHICH WAS SENT TO THE SENATE ON MARCH 21, 1997.