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Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

SENATE—*Saturday, October 10, 1998*

(Legislative day of Friday, October 2, 1998)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Dear God, help us to put into action what we believe. We believe in You as sovereign of this Nation. Strengthen our wills to seek to do Your will. Our motto is, "In God we trust." Help us to trust You in the specific decisions that must be made.

We believe You have called us here to serve. Help us to be servant leaders, distinguished for diligence. Make this a "do it now" quality of day in which we live life to the fullest.

We affirm Your presence, we accept Your love, we rejoice in Your goodness, we receive Your guidance, and we praise Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. HAGEL). The Senate majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning, the Senate will be in a period for morning business until 12:30 p.m. Following morning business, the Senate can be expected to consider any legislative or Executive Calendar items cleared for action, although I don't expect any items to be cleared today. Votes are not anticipated during Saturday's session of the Senate, and it is expected that the Senate will not be in on Sunday, but we will be in Monday afternoon at a time we will discuss with the Democratic leadership.

During Friday's session, the Senate passed a continuing resolution allowing Government to operate until midnight Monday. So it will be anticipated that by Monday afternoon, we will have agreement on an omnibus appropriations bill or we need to consider another short-term continuing resolution.

Negotiations are ongoing at this time with regard to a number of issues, including the tax extender issue, a number of authorizations and appropriations issues, all of which could end up in the omnibus appropriations bill. Of course, there is a possibility on Monday, or at some point, some of the bills that are being discussed in connection with the omnibus appropriations bill might move separately. One example is the Treasury-Postal Service conference report. If we can get an agreement in the omnibus bill on some of the issues involved in that bill, that became controversial, if we get that worked out, we can move the bill freestanding, but all of that is in the process of being discussed right now.

We will update our colleagues as progress is being made. I think that progress is occurring. A lot of negotiations are going on this morning and will continue throughout the afternoon. We have had meetings between the congressional leadership and the White House this morning. We expect to meet again at 5 o'clock this afternoon to get an assessment of where we are. We are getting Senators and House Members, Democrats and Republicans, involved in all those negotiations.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 872 through 885 and all nominations on the Secretary's desk in the Army, Marine Corps and Navy.

I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that 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:

IN THE AIR FORCE

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. James C. Burdick, [redacted]

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Walter R. Ernst, II, [redacted]
Brig. Gen. Bruce W. MacLane, [redacted]
Brig. Gen. Paul A. Pochmara, [redacted]
Brig. Gen. Mason C. Whitney, [redacted]

To be brigadier general

Col. John H. Bubar, [redacted]
Col. Verna D. Fairchild, [redacted]
Col. Robert I. Gruber, [redacted]
Col. Michael J. Haugen, [redacted]
Col. Walter L. Hodgen, [redacted]
Col. Larry V. Lunt, [redacted]
Col. William J. Lutz, [redacted]
Col. Stanley L. Pruett, [redacted]
Col. William K. Richardson, [redacted]
Col. Ravindraa F. Shah, [redacted]
Col. Harry A. Sieben, Jr., [redacted]
Col. Edward N. Stevens, [redacted]
Col. Merle S. Thomas, [redacted]
Col. Steven W. Thu, [redacted]
Col. Frank E. Tobel, [redacted]

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Harry A. Curry, [redacted]

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael A. Canavan, [redacted]

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. John M. Schuster, [redacted]

The following named officer for appointment in the United States Army to the grade

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

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indicated while serving as the Director, National Imagery and Mapping Agency designated as a position of importance and responsibility under title 10, U.S.C., sections 441 and 601:

To be lieutenant general

Maj. Gen. James C. King, xx...

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Edwin P. Smith, xx...

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Anthony R. Jones, xx...

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael L. Dodson, xx...

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Randall L. Rigby, Jr., xx...

The following named officers for appointment in the Reserves of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Jerald N. Albrecht, xx...
Brig. Gen. Wesley A. Beal, xx...
Brig. Gen. William N. Kiefer, xx...
Brig. Gen. William B. Raines, Jr., xx...
Brig. Gen. John L. Scott, xx...
Brig. Gen. Richard O. Wightman, Jr., xxx...

To be brigadier general

Col. Anthony D. DiCorleto, xx...
Col. Gerald D. Griffin, xx...
Col. Timothy M. Haake, xx...
Col. Joseph C. Joyce, xx...
Col. Carlos D. Pair, xx...
Col. Paul D. Patrick, xxx...
Col. George W. Petty, Jr., xxx...
Col. George W.S. Read, xx...
Col. John W. Weiss, xx...

IN THE NAVY

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Marianne B. Drew, xx...

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Scott A. Fry, xx...

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Patricia A. Tracey, xxx...

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE ARMY, MARINE CORPS, NAVY

Army nominations beginning Michael C. Aaron, and ending Richard G *Zoller, which nominations were received by the Senate and appeared in the Congressional Record of September 30, 1998.

Army nominations beginning Matthew L. Kambic, and ending James G. Pierce, which nominations were received by the Senate and appeared in the Congressional Record of September 30, 1998.

Marine Corps nomination of Jeffrey M. Dunn, which was received by the Senate and appeared in the Congressional Record of September 29, 1998.

Navy nomination of Michael C. Gard, which was received by the Senate and appeared in the Congressional Record of September 11, 1998.

Navy nomination of Thomas E. Katana, which was received by the Senate and appeared in the Congressional Record of September 16, 1998.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR MONDAY, OCTOBER 12, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Monday, October 12. I further ask unanimous consent that the time for the two leaders be reserved.

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

Mr. LOTT. Mr. President, I further ask unanimous consent that there then be a period for the transaction of morning business until 3 p.m.—that will be on Monday—with Senators permitted to speak for up to 5 minutes each.

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

PROGRAM

Mr. LOTT. Mr. President, we will come in at 2 p.m., unless there is some need to change it on Monday. We will be in a period for morning business until 3 p.m., and the Senate will then proceed to any legislative or Executive Calendar items that may be cleared for action, and particularly when we do get to the final day, it is my hope and my expectation that some conference reports or some bills that may be available can be cleared for action. I know there is a possibility of that being available, and also nominations still continue to be a possibility, although all of that depends on how the negotiations go. We can't be tied up trying to work through nominations and conference reports while also being involved in negotiations on the omnibus bill. Senators will be advised of the voting situation as long as possible, hopefully 24 hours in advance of any recorded vote.

EDUCATION

Mr. LOTT. Mr. President, let me just say briefly, Mr. President, on the education issue, it is very difficult to deal with these negotiations fairly and honestly and productively when you have the President and the Democratic leadership coming out and bashing negotiators on issues like education. It also makes it difficult, when you have that happen, to be able to work with people with whom you disagree philosophically, although you try to work in good faith, but also it begins to diminish respect and trust.

That is one of the biggest problems we have right now. It is so difficult to maintain a sufficient level of trust to be able to get your work done. I think most people who know me—Senators on both sides of the aisle—know that is very important to me. I strive to be trustworthy myself and to keep my word, and I find it very hard to work with people who I don't have that same feeling about.

When it comes to education, I will stand aside to nobody, especially a bunch of people who went to private schools and then holler and scream about what ought to happen in public schools. I went to public schools from the first grade right through college. I went to Duck Hill Elementary and Grenada Elementary and Pascagoula Junior High School. My wife went to public schools. My children went to public schools.

I believe and care about education and public schools. I worked for the University of Mississippi. My mother was a former schoolteacher. She taught school for 19 years.

For the President to get up down there and demagog this issue about how he is not getting his principles in education is very hard for me to accept, Mr. President. What he wants is a Federal education program. He wants it dictated from Washington. He wants it run by Washington bureaucrats, and he wants it his way.

I don't have faith in Washington bureaucrats. When the money comes to Washington and it trickles down through the Atlanta bureaucracy and trickles down to the Jackson bureaucracy, by the time it gets to the teachers and the kids, half of it is gone. And they are told, you must spend it this way or that way, when it may not be the way it is needed.

I have faith in local school administrators, local teachers, parents, and, yes, the children, to make the decisions about what is needed for reading, what is needed in remedial math, what is needed to fight the drug problem. And so that is the basic difference for the American people. I ask you, who do

you trust on education? The local officials, the local school officials, the parents, or Washington bureaucrats? That is the choice.

President Clinton and his bureaucrats, the liberals in Washington, they want to run education and manipulate education from Washington, DC. The Republicans say we should return the money to the local level. If the schools want to use it for reading, fine. If they want to use it for extra teachers, great. If they want to use it for more school construction, that is their choice. If they want to use it for a drug-free school program, great; do that.

That is the difference. Who do you trust? Local officials or national officials? Who do you trust on education? The son of a schoolteacher and people who went to public education, or pampered people who went to private schools and then stand on their mounts and look down their noses and tell us what ought to happen in public education?

I have about had it on this issue, and I am sending a warning to the President of the United States: I am not going to tolerate a whole lot more demagoguery on this subject.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to commend the able majority leader for his remarks on just what he said. Are the local people going to control education or the people in Washington going to control it? I am in thorough, thorough agreement with the able majority leader in what he has had to say.

ORDER FOR RECESS

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in recess under the previous order.

I withhold that for one second.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 2617 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in recess under the previous order.

The PRESIDING OFFICER. The question is on the motion.

All those in favor——

Mr. DORGAN. I object.

The PRESIDING OFFICER. This is not a unanimous consent.

The question is on the motion.

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

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

Mr. FRIST. Mr. President, I rise to speak in morning business.

The PRESIDING OFFICER. If the Senator from Tennessee would suspend, there is a motion to recess pending.

Mr. LOTT. Mr. President, I ask unanimous consent to withdraw the motion to recess.

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

The Senator from Tennessee.

REGARDING THE MEDICARE+CHOICE PROGRAM

Mr. FRIST. Mr. President, the Medicare+Choice program was created as part of the Balanced Budget Act of 1997 to provide Medicare beneficiaries with high quality, cost effective options, in addition to the continuing option of traditional fee-for-service Medicare. When fully implemented, Medicare+Choice will provide seniors with one stop shopping for health care; including hospital and physician coverage, prescription drugs, and even preventive benefits, at a savings.

This change in Medicare is monumental. It is dramatic. And it is essential to preserving and strengthening Medicare for our seniors and individuals with disabilities. This change breeds challenges—some that can be predicted but many which cannot. The potential for these challenges to hurt and harm is very real. The senior, so relieved to finally find a health plan that covers the cost of his prescription drugs because of Medicare+Choice, hears this week that he might not have that plan—or that coverage next year. Who to call? What to do? We as a government must respond. This Administration must move decisively to respond and to mend flaws in the system.

We on the National Bipartisan Commission on the Future of Medicare are working hard to address ways to strengthen the security provided by Medicare. And the red flags raised by the announcements this week underscore the importance of this work. No longer can we be satisfied with an outdated, 30 year old bureaucracy as the best way to care for our nation's seniors. A typical 65 year old senior who retires moves from a private sector health care system—with a variety of quality, low cost options, including prescription drug coverage, and out-of-pocket protections—to a more limited, antiquated government program, without any limits on how much you are required to pay and no drug coverage. By updating Medicare, we not only ensure its continued existence past the current bankruptcy date 10 years from now, but we provide continuity of care, limited out of pocket expenses, and a mechanism for improving quality of care that you the patient receive.

As of October 8, forty-three of the current health care plans participating in Medicare announced their intention not to renew their Medicare contracts in 1999. Another 52 plans are reducing service areas. The net result is that 414,292 beneficiaries in 371 counties face the daunting task of securing alternative coverage provided by Medicare by January 1, 1999. Although this represents a small number of total beneficiaries, about one percent, those who have relied on their health plan to bridge the traditional gap between Medicare and Medigap now must either find another HMO (which means switching doctors in many cases), or move back to traditional fee-for-service Medicare which frequently means more personal expense. Should these individuals choose the traditional Medicare option, they will probably also scramble to find a supplementary Medigap policy, with likely higher premiums than their original Medigap policy and perhaps fewer benefits. 10% of the disadvantaged beneficiaries live in areas where no alternative Medicare HMO plans are offered. However, traditional Medicare remains an option for every beneficiary, and by law, seniors may return to that program.

In addition to the serious dilemmas this disruption has caused for those seniors, the extent to which HMOs pulled out sent shock waves throughout the Federal government and health care industry. There are many profound questions provoked by this announcement. Why are insurance companies, hospital systems, and physicians who once applauded the Medicare+Choice program, now seemingly hesitant to participate? Are the pullouts the beginning of a trend which will ultimately undermine the Medicare+Choice program, which was specifically designed to restore Medicare's fiscal health and give seniors more options? To what extent are insurance companies and health plans over-reacting to natural "growing pains" associated with the implementation of new policies? What actions, if any, should HCFA and Congress take in response to what President Clinton characterized as HMO's breaking "their commitment to Medicare beneficiaries?" The President now vows to initiate "abandonment" legislation to punish those plans leaving and prevent a further exodus, but will he only succeed in discouraging new Medicare participating contracts? How can we avoid a short-sighted political response and create realistic incentives to provide seamless continuous coverage across geographic boundaries? How can we more adequately risk adjust payments to encourage health plans to accept, rather than avoid the most seriously ill? How can we incentivize health plans, who have little experience in

caring for the chronically ill, to develop systems that appropriately address the very unique and specific needs of the older population?

The insurance industry is responding defensively to charges that they have "abandoned beneficiaries." They contend that in many regions Medicare's payments to HMOs fall far short of even covering the cost of care for beneficiaries. Furthermore, they argue at the very time a fledgling market structure most needs flexibility, the Administration has instead placed such rigid bureaucratic burdens that their hands are tied and they have no choice but to opt out of certain regions. Some believe the recent pullouts may simply reflect an effort on the part of insurance companies to bide time in the hopes that Congress will eventually ease requirements and make further progress with plan payments.

Seeing what has happened to their HMO competitors, provider-sponsored plans, or PSO's, have also been wary of Medicare+Choice contracts. Their uneasiness over the Administration's treatment of new participants, however, is secondary to their concern that private sector plans may boycott their facilities, viewing them as competing insurers, rather than providers. PSOs face an uphill battle with state regulatory agencies. They fear that other insurers will use them as a "dumping ground" for the expensive, chronically ill cases many insurers are tempted to avoid.

Both HMOs and PSOs complain loudly about the high administrative costs inherent in new Medicare contracts. By participating with the government, they agree to submit large amounts of data, pay for extensive education campaigns for their enrollees, participate in government sponsored health fairs, and keep up with all the regulatory rules and regulations. Mayo Clinic estimates that the rules governing their participation in Medicare are spelled out in 586 pages of law and accompanied by 111,088 pages of regulation, guidance, and supporting documents. We in government should listen to this call for simplification, streamlining the regulatory burden, demanding accountability without trying to micromanage.

The Health Care Financing Administration (HCFA), the government agency in charge of Medicare, is surprisingly optimistic and upbeat about the long term feasibility of Medicare+Choice. They urge skeptics to remember that the program is in its infancy. They point to data on Medicare HMO participation, which after a rocky start in the mid 1980s, now boasts one in six Medicare beneficiaries. They anticipate increased enrollment as more Medicare recipients have a greater understanding of their options and of how the opportunity to have a plan that meets specific needs meaning better care with greater security, not less. To date, full scale educational efforts have only occurred in five states. The beneficiary education program, which includes a booklet and hotline campaign, is slated for nationwide expansion by August, 1999. Most seniors are still unaware of their options in their regions. Many associate expanded choice with insecurity. Only education will change this. And that is a government responsibility.

HCFA also takes issue with the HMOs' assertion that it is underpaying managed care plans. They cite evidence obtained by the Physician Payment Review Commission in 1997 that Medicare has been paying $2 billion a year too much to managed care plans. This observation led to HCFA's September decision to reject the insurance companies' proposal to resubmit their cost projections, to obtain additional reimbursement. HCFA did not intend to raise reimbursement levels, and feared that such an opportunity would allow plans to hike beneficiary premiums and decrease benefits. In addition, HCFA points to reluctance on the part of HMOs to pay their fair share of marketing and education costs. But, despite HCFA's point that, in the aggregate, they overpay HMOs, the agency governing Medicare may not be adequately considering the fact that within that average there may well be plans with a disproportionate number of older and sicker beneficiaries who are indeed underpaid. We must be committed to fair and just payment to these plans for the service we are asking them to deliver. Because of the tendency, at the federal level, to look at averages, rather than individuals, and the reality of where people live, we must commit to address reasonable compensation in greater detail. The reality is: the reimbursement system for health care plans is surprisingly disassociated with the actual costs of delivering care. We must invest today in designing and implementing a realistic, scientifically based reimbursement structure.

A key component of the Balanced Budget Act was the move toward equity in payment across the country. Many HMOs were counting on receiving additional funds, following review by HCFA on the vast geographic disparities in payment. However, HCFA decided to postpone this adjustment until 2000, based on inadequate funds following an across-the-board 2% update. Thus, the so-called "blended rates" will not be applied until 2000. HCFA plans to incorporate risk adjustment in 2000 to reduce selective enrollment by plans and reduce total overpayments to managed care plans. HCFA has also recognized the adjustments necessary in implementing new plans, and has thus allowed leeway with quality improvement plans. There are some who feel that recent developments could have been avoided if HCFA acted more rapidly and more responsibly in carrying out Congress' mandate. Congressman Bilirakis, chairman of the House Commerce Subcommittee on Health and the Environment, stated that federal health officials were "guided by a rigid bureaucratic mentality which led to ossification rather than modernization of the Medicare program."

The decision of so many managed care plans to withdraw and downsize their Medicare contracts raises a red flag. We must first resolve the immediate coverage disruptions facing many of our elderly, and then we—this Congress, this President, HCFA, the insurance industry and seniors—must pledge to work together to make this program a success. Not only in the short term, but with an eye to the future. To survive, Medicare must change. Medicare needs the flexibility to respond to the changing health care environment, not only for our generation, but for our children and grandchildren. Now is the time for commitment and compassion, rather than overreaction or prematurely concluding failure of changes made to date. Knee jerk reactions, rather than thoughtfully moving to solve the problems, will only wreak further havoc on this evolving program. A commitment to education, and a more rational, responsive administrative and oversight structure must be pursued to meet future needs in Medicare and the care of our seniors. On a positive note, there are 48 pending applications of private plans wishing to enter the Medicare Market; 25 plans have requested to expand their current service areas. By working with HCFA, the insurance industry, hospitals, health care providers, and beneficiaries, we can assure that the Medicare+Choice program will reach its full potential of better and more secure care for seniors and individuals with disabilities.

Also embedded within my remarks is a challenge to the Congress. Although we just passed, last year, the Balanced Budget Act that stretched the solvency of Medicare until 2008, it is clear that the Congress must promptly revisit Medicare once the National Bipartisan Commission on the Future of Medicare files its report by March 1, 1999. The dynamics of American health care, and the rapid changes in care for the nation's seniors, will not allow for maintenance of the status quo for the next decade. It is my hope that the current focus on Medicare+Choice serves as a catalyst for renewed discussion on the future of Medicare once we have the Medicare Commission's recommendations in hand. We will be remiss in our responsibility if we do not again next year continue our efforts to insure the solvency and improve the quality of the Medicare program—for our seniors, our parents and grandparents, today—

and for all Americans—including our children—tomorrow.

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

Mr. GRAMS. I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

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

EDUCATION AND THE FEDERAL GOVERNMENT

Mr. DORGAN. Mr. President, I would like to respond briefly to the comments made by the majority leader earlier this morning on the subject of education.

I have great respect for our Senate majority leader. He and I agree on some things and disagree on others, but I always have great respect for his opinion. But on the issue of schools and what kind of, if any, involvement the Federal Government shall have on this issue, I think we have a very substantial disagreement.

State and local governments, especially local school boards, will always run our school system, and that is how it should be. I don't suggest, and would never suggest, that we change that.

However, there are some things that we can and should aspire to as a nation in dealing with education. One is to improve and invest in the infrastructure of our schools. I have spoken on the floor a good number of times about the condition of some of the schools in this country. I won't go into that at great length, but let me just describe a couple of them.

At the Cannon Ball Elementary School in Cannon Ball, ND, most of the children going to that school are Indian children. There are about 150 students who must share only two bathrooms and one water fountain. Part of the school has been condemned. Some of those students spend time in a room down in the older part of the school that can only be used during certain days of the week because the stench of leaking sewer gas frequently fills that room with noxious fumes that requires it to be evacuated.

They can't connect that school to the Internet because the wiring in that 90-year-old facility will not support technology. The young children who go through those schoolroom doors are not getting the best of what this country has to offer. And that school district simply does not have the funds on its own to repair that school or build a new one.

I challenge anyone in this Congress to go into that school building and say no to young Rosie in third grade who asked me, "Mr. Senator, can you buy us a new school?" I would challenge anyone to go into that school, and decide whether that is the kind of school you want your children to go to. Can you say that your children are entering a classroom that you are proud of? I don't think so.

That school district doesn't have the capacity to repair that school on its own. It has a very small tax base that will not support a bonding initiative for building a new school. There are schools like that—the Cannon Ball Elementary School, or the Ojibwa Indian School on the Turtle Mountain Reservation—all over this country, and we ought to do something about it. We can do something about it we enacted a number of proposals on school construction. That ought to be a priority for this Senate. So, too, ought this Senate have as its priority trying to help State and local governments and school districts reduce class size. It makes a difference.

I have two children in public schools, in grade school. One goes to school in a trailer, a portable classroom. The other is in a class with 28 or 29 students. And it has almost always been that way. Would it be better if they were in schools with class sizes of 15, 16 or 18 students? Of course, it would. Does a teacher have more time to devote to each student with smaller classrooms? Of course. Of course. Can we do something about that? Only if this U.S. Senate determines that education is a priority. Only if we decide to do something about it. I am not suggesting that we decide that we ought to run the local school systems; that is not the case at all. But we should decide that we as a nation have the capability and the will to modernize and help construct the kind of schools that all of us would be proud to send our children to.

NEED FOR URGENT ACTION ON HOME HEALTH CARE

Mr. DORGAN. Mr. President, as we reach the conclusion of this 105th Congress, I note that there are a good many issues yet to be discussed and resolved. I wanted to come to the floor to talk about one issue that is very important, the issue of home health care. It is vitally important that Congress take action on this issue before adjourning.

I am very familiar with home health care. This is not theory to me. It is not an issue that I just read about and only understand from books and manuals and rules and regulations.

One snowing Wednesday evening in January a number of years ago, my mother was killed in a tragic manslaughter incident in North Dakota. She had gone to the hospital to visit a friend and on her drive home, four blocks from home, a drunk driver going 80 to 100 miles an hour and being chased by the police hit her and killed her instantly.

During this same period, my father was having significant health problems, and as so often is the case, my mother was providing the bulk of his care at home in Bismarck, ND. I will perhaps never forget the moment of having to wake my father up and tell him that my mother had lost her life.

In addition to the shock of losing our mother, my family understood that we were also going to have to struggle to make sure my father got the care he needed. In the days ahead, we began talking about what we could do to help my father in his fragile state of health. One of the things we discovered was that there is in this country a system of home health care. Through this system, skilled health care providers will come into the home on a routine basis to help to meet the health care needs of those who desperately need it.

My family used the home health care system and the services of wonderful nurses and others who worked in home health to care for my father. It allowed us to keep my father out of a nursing home and in the home that he had lived in for so many years with my mother.

Was that important? Yes. It was very important and made life much, much better for him. And it occurred because we have a home health care system that could provide the routine health care needed to allow my father to continue to live at home. My father is gone now, but I still remember how important that home health care was and still is to millions of families all across this country.

Home health care is a wonderful Medicare benefit because it allows older Americans to remain at home and to be independent where they are most comfortable, rather than having to go into more costly hospitals or nursing homes.

But at this time, we have in our country a very serious financing problem with home health care that is jeopardizing this Medicare benefit. Before we end this session of the Congress, we need to do something to address it. I would like to describe just for a moment what that problem is.

Congress, last year, passed the Balanced Budget Act, something I supported. This legislation made a lot of changes to Medicare and to the home health care program. Some of those changes were warranted because the home health care program had mushroomed, and we had to constrain the

rate of growth of home health care spending, which had more than tripled in the early 1990s.

But Congress went too far and, in my judgment, made a mistake in the way it implemented what is called the interim payment system, which is now having a devastating impact on home health care agencies and Medicare beneficiaries. The current interim payment system penalizes the very home health care agencies that have operated most efficiently in the past, and it locks in the payment inequities that currently exist. The result is that 1,100 home health agencies nationwide have closed their doors.

Unfortunately, the very Medicare beneficiaries who are being harmed the most by this interim payment system that is so unfair are those Americans who need home health care the most. That is because, under this interim payment system, more than 80 percent of home health agencies will be paid a capped amount called the "per-beneficiary limit."

In my home State, the average per-beneficiary limit is $2,247, not nearly enough to cover the cost of care needed by the sickest and the most frail of Medicare beneficiaries.

The home health care folks have a Hobson's choice. They can close their doors, or they can start a kind of cherry-picking with respect to those who need home health care service. In other words, they can choose to serve only the less ill or less sick Medicare beneficiaries whom they know will not exceed the per-beneficiary cap.

I am told cherry-picking is not yet occurring in my home State. But I am afraid it is only a matter of time before home health agencies have no choice and begin to do that.

I don't believe it was Congress' intention to cause efficient home health agencies to close or to stop caring for sicker patients, and I think it is imperative that this Congress solve this problem.

In the negotiations on the budget, I hope very much that will happen. If we wait until next year, it is going to be too late. Hundreds of agencies will probably not be there and a good many of the sickest and the most frail health care beneficiaries who need home health care will not get it.

I have cosponsored a bill introduced by Senator COLLINS and others, the Medicare Home Health Equity Act, that would make the home health payment system more fair to the historically efficient providers, and reduce the incentive for dropping sick patients.

Let me emphasize again that the purpose is to make the home health care system more fair to the historically efficient home health care providers.

There have been dozens of bills introduced to solve the problem, and to date more than two-thirds of the Senate from both political parties have cosponsored one or more of these bills, or have gone on record in support of efforts to address the problem.

With nearly 70 Senators cosponsoring or supporting legislation of this type, I think we ought to, before Monday evening or whenever we adjourn, fix this home health care payment system.

I know my colleagues on the Senate Finance Committee have been working to develop legislation that will at least deal with the most pressing problems in this interim payment system and to tide the home health agencies over until permanent changes can be implemented.

One of the challenges they face is to do this in a fiscally responsible way that will not harm other areas of Medicare.

It is also important, I think, not to be asking older Americans, especially those who have reached the age of declining income, to shoulder the cost for this change through a new copayment on home health services.

I know that the Congress can meet this challenge if it decides this is a priority between now and perhaps Monday evening. Congress must, in my judgment, begin to select the right priorities.

We seem to be at loggerheads here in negotiations between the House and the Senate, the Congress and the President, Democrats and Republicans. Between now and when we complete the final omnibus spending bill, we must make choices about what our priorities are, what is more important, and what is less important.

I ask that we decide that dealing with the home health care payment system is more important. That it be one of the priorities.

This is something we can do. It is not something that is terribly difficult. It is simply a choice that we will make—Democrats, Republicans, liberals, conservatives, all of us deciding together how we spend limited resources on nearly unlimited wants in this country.

Mr. President, I know others wish to speak, and I would say to the majority leader that this will be an interesting couple of days. He, I am sure, will have a significant challenge working with all of us to try to figure out what the priorities will be in the closing hours of this session. It is my fervent hope that one of those priorities will be to address the interim payment system in home health care.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the previous unanimous consent agreement with respect to morning business on Monday, October 12, be amended so that 30 minutes are under the control of Senator Bob KERREY, 15 minutes under the control of Senator FORD, and the remaining 15 minutes under the control of Senator LOTT, or my designee.

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

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business be extended until 3 p.m., with Senators permitted to speak for up to 10 minutes each for debate only with no motions in order, and at 3 p.m. the Senate automatically stand in recess under the previous order.

I further ask that during morning business the following Senators be recognized: Senator John KERRY for 15 minutes, Senator DASCHLE for 30 minutes, Senator KENNEDY for 20 minutes, Senator ENZI, Senator KEMPTHORNE, Senator GRAMS for 20 minutes, and Senator DOMENICI for 20 minutes.

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

Mr. DORGAN. Mr. President, reserving the right to object, and I shall not object, I would like to inquire of the Senator from Mississippi, is that the only morning business leadership would intend to have on Monday? I would like to have 15 minutes in morning business on Monday as well.

Mr. LOTT. I think we will be able to extend that. It was just we had specific requests. Senator Bob KERREY was here. He needs 30 minutes on intelligence. We had thought we would have at least an hour just in general, but we are getting specific requests. I am sure we will extend it. On Monday, hopefully, we will be able to do some business and, hopefully, even do the omnibus appropriations bill. But there is no need to limit it just to that. We will extend it.

Mr. DORGAN. Would the Senator be willing to add me for 15 minutes on Monday?

Mr. LOTT. I certainly will. I ask unanimous consent that Senator DORGAN have 15 minutes in morning business as well on Monday, October 12.

Mr. KENNEDY. Mr. President, would the Senator be kind enough to make a similar request on my behalf?

Mr. LOTT. Why don't I just ask for 15 minutes every morning for Senator KENNEDY for the remainder of the year.

The PRESIDING OFFICER. Is that the Senator's request?

Mr. LOTT. No.

Mr. KENNEDY. And a happy birthday to you.

Mr. LOTT. I amend that request to include 15 minutes for Senator KENNEDY on Monday morning, also.

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

Mr. LOTT. I yield the floor.

Mr. KENNEDY. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I hope my friend, our majority leader, had a joyous and happy birthday.

Mr. LOTT. Thank you very much.

Mr. KENNEDY. Maybe it is spilling over to today. But we wish to thank him.

FUNDING EDUCATION

Mr. KENNEDY. Mr. President, I appreciate the opportunity to speak on the Senate floor this afternoon about matters which I am very hopeful can be addressed and will be addressed and I think should be addressed in the remaining hours before the Congress actually recesses. And this is in the area of education and what we are going to do finally in trying to meet the responsibilities that we have to assure a smaller class size for the 53 million Americans who will be attending and are attending schools across this country, which means an expansion in terms of the total number of teachers.

I am very hopeful that in the ultimate and final budget agreement there will be an agreement on the President's recommendation of 100,000 teachers over the period of the next 5 years, and that we will also embrace the very, very important and, I think, essential school modernization program which effectively would provide about $22 billion in interest-free bonds to local communities all over this country in order to modernize their schools.

What we have seen now is a rather dramatic change in the demography and the growth in the total number of children who are going into the school systems all across this country, and at the same time you have seen a continued deterioration in many of the school buildings across the country. That is certainly true in my State, which has many of the oldest school buildings in the country, but it is also true in many of the other States across this country, and even in a number of the rural communities.

As a matter of fact, the General Accounting Office did a study in terms of what would be necessary in our country in order to make sure that we are going to have good classrooms for the students, and it was estimated to be $110 billion. That is what the need is according to a nonpartisan evaluation of what the conditions are in our school buildings across the country.

Therefore, the recommendation the President has made for $122 billion is a very modest recommendation. We have not embraced that recommendation at the present time. The urging of the President of the United States is that before we move out from this Congress, we ought to be about the business of addressing that particular education need. Education is of prime importance to every family in this country. It is of essential importance to every young person in this Nation, and it is a matter of enormous importance in terms of our country being able to compete in a global economy.

So the urgency of these proposals—one is to have a reduced class size and the second is to be able to modernize our classrooms—is enormously important. If we look over the amount of resources we devote to education in the budget of this country, we will find that it is only about 2 percent. It is only 2 percent of our national budget.

This is the 1998 Federal budget, and you can see from this pie chart the allocations of resources. The area of education is only 2 percent. If you ask people what percent of a dollar they believe goes to education, I think most Americans would think 10 or 12 percent, or 10 or 12 cents should be going to education. If you ask what they believe they would like to be the number, it would be even higher.

We are only talking about 2 percent. So the real question is, in a time now when our appropriators and negotiators are meeting to have final resolution on what will be a $1.7 billion budget, will we be able to find the resources to provide for the reduced class size for K through 3—$1 billion for fiscal 1999, $7 billion over the next 5 years—to see a dramatic reduction in the number of students per class in K through 3, that is what we are trying to do, and to modernize our school buildings all across this country.

Those are two priorities. I must say I strongly agree with the President, with Senator DASCHLE, and with Leader GEPHARDT who said we should not leave this city until we respond in a positive way to make sure those requirements are fulfilled, because there is nothing that is more important than meeting the needs of the children of this country.

Finally, Mr. President, I think this is important to do for a number of reasons. Every day that children go into the school systems of this country, they go into dilapidated schools, they go into old schools, they go to classrooms with windows broken or with poor heating or poor air-conditioning in the course of the early fall and the late spring and early summer in many other parts of the country, or where the pipes are leaking, or where some schools are actually closed in the wintertime because of the failure of the heating system, we are sending a very powerful message to those children.

On the one hand, we as parents are saying that education counts, that we believe it ought to be a priority, that we think the future of this Nation is our children and we ought to be about the business of looking out for the interests of these children to make sure they are going to have a well-qualified teacher in every classroom in this country. That ought to be our hope, that ought to be our challenge, and that is what we are working for. And that ought to be an effort made in the local community. It ought to be an effort made at the State level. But we should not say we are going to abandon our national interest by saying we are not going to interfere if there are inadequate capabilities, or an inability, which is too often the case, to help and assist local communities, particularly when so many local communities such as we have seen in the recent times in Chicago and many other communities—my own city of Boston—are making this extraordinary effort to enhance the academic achievement for the children of this country and in those communities.

We ought to be able to say we will be a partner with you, we are willing to be a partner with the local community, we are willing be a partner with the State, and we are going to be a partner in helping to modernize our facilities. Otherwise, the promise that we are going to convince this next generation that we are serious about their education is going to be a hollow one. No child will go into a classroom and see that it is in a deteriorated condition and then be exposed to other areas where everything is bright and shiny and new because of greater expenditures and not say, "What is really important? What do our parents really think is important? Where they are spending the money is what is bright and shiny and new."

When we are not expending the resources in the classrooms, we send a very powerful message—it may be a subtle message but it is a powerful one—that we are not prepared as a nation to do what needs to be done to upgrade the classrooms in this country.

I hope in the remaining hours of this process, as our leaders, our appropriators and leaders, members of those committees, get together to work out the final budget, as we are starting over for the next year, that the education budget is going to have the priority that every American family wants it to have, and that is priority No. 1. I hope when we come to that No. 1 we are going to say, "The size of our classes is of enormous importance and consequence in terms of the ability of the teacher to relate to the children."

We have just heard an eloquent statement to that effect from some wonderful teachers from the State of South Dakota, as well as from Missouri, talking about the relationship between the teacher and the student and how it is enhanced to such an extraordinary degree when we have smaller class sizes. It ought to be self-evident and it ought to be intuitive. It is, in fact, true.

I am not taking the time this morning—although I have at other times

and will again—to talk about the progress that has been made in academic achievement in a number of communities when they have seen the significant reduction in the number of students per teacher that has taken place in communities and States across this country. The evidence is overwhelming that it has an enormously important positive impact.

So let's get about doing what we know works, and that is to increase the number of teachers that we need in our schools. Even with the expansion of the number of students in our schools, let us increase the number of teachers, and let us enhance the quality of those teachers to make sure we are going to have good, qualified teachers in every classroom. Let's make sure the number of students in those classrooms will be such that the teacher is going to be able to identify and spend some moments with each child in that classroom. That is the hope and desire of the teachers who have committed themselves to excellence, to trying to enhance that academic achievement and accomplishment. Let's be a partner with the local communities and the States that are embarking on that effort.

Let us, as we are going through the final days now—let's not leave town. Let's not say we will take whatever is served up to us in the budget. Let us say education is important. We can go about the business of trying to make a difference in the classrooms and in the quality of the people who will be in those classrooms. Let us resolve that we will do that before we leave this town. That is, I think, an important responsibility that we have. We should not fail our children.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Minnesota.

DOMESTIC VIOLENCE AWARENESS MONTH

Mr. GRAMS. Mr. President, I rise today to recognize the work of domestic violence shelters and centers in my home state of Minnesota. As my colleagues may know, October is recognized as "National Domestic Violence Awareness Month." This is a time to strengthen our resolve to end domestic violence and sexual assault. More importantly, it is also a time to remember those who have suffered and died as a result of these terrible crimes.

I am very concerned about the number of domestic violence incidents in our society. Americans should not have to live in fear of being abused by anyone, let alone a family member.

In my view, community-based domestic violence shelters and centers should be commended for their support for victims of physical, emotional, and sexual abuse. Their efforts to provide shelter, counseling, and assistance to battered women and children have helped families and communities escape domestic violence.

I ask unanimous consent the names of these Minnesota organizations be printed in the RECORD.

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

Advocates For Family Peace.
African American Family Services.
Aitkin County Advocates Against Domestic Abuse.
Alexandra House.
Anishinable Circle of Peace.
Anne Pierce Rogers Home.
Asian Women United of Minnesota.
B. Robert Lewis Intervention Project.
B. Robert Lewis House Shelter.
Battered Women's Legal Advocacy Project.
Big Stone County Outreach.
Bois Forte Battered Women's Program.
Breaking Free.
Brian Coyle Community Center.
Brown County Victim Services.
Casa de Esperanza.
Cass County Family Safety Network.
Center for Family Crisis.
Chisago County Victim's Assistance Program.
Citizen's Council Victim Services.
Committee Against Domestic Abuse.
Community University Health Care Center.
Cornerstone Advocacy Services.
Crime Victims Resource Center.
Division of Indian Work.
Domestic Violence Abuse Advocates of Wabasha County.
Domestic Abuse Intervention Project.
Domestic Abuse Project.
Domestic Abuse Project of Goodhue County.
Eastside Neighborhood Service.
Family Help Center.
Family Safety Network.
Family Services.
Family Violence Intervention Project.
Family Violence Network.
Family Violence Program.
Fillmore Family Resources, Inc.
Fond du Lac Reservation Business Committee.
Forest Lake Area New Beginnings.
Freeborn County Victim's Crisis Center.
Friends Against Abuse.
Gay and Lesbian Community Action Council.
Gender Violence Institute.
Grand Portage Reservation "Wil Dooka Wada".
Grant County Outreach.
Hands of Hope Resource Center.
Hands of Hope.
Harriet Tubman Center, Inc.
Harriet Tubman Pilot City Outreach Program.
Headwaters Intervention Center, Inc.
Health Start.
Health System Minnesota AdvoCare.
Hennepin County Legal Advocacy Project.
Hill Home.
Home Free Domestic Assault Intervention Project.
Home Free Shelter—Missions, Inc.
Houston County Mediation & Victims Services.
Houston County Women's Resource.
Lakes Crisis Center.
Leech Lake Family Violence Prevention/Intervention Program.
LeSeuer/Sibley Violence Project.
Listening Ear Crisis Center.
Lyon County Violence Intervention Project.
McLeod Alliance for Victims of Domestic Violence, Inc.
Methodist Hospital AdvoCare Program.
Midway Family Service and Abuse Center.
Migrant Health Service.
Mille Lacs Women's Project.
Minneapolis Intervention Project.
Mujeres Unidas/Los Ninos.
North Memorial Women's Center.
North Shore Horizons Women's Resource Center.
Northwoods Coalition for Battered Women.
OtterTail County Crisis Center.
PEARL: Battered Women's Resource Center.
Phyllis Wheatley Community Center.
Pillsbury Neighborhood Services.
Pope County Outreach PRIDE (Women Used In Prostitution).
Project P.E.A.C.E.
Ramsey Intervention Project.
Range Women's Advocates.
Rape and Abuse Crisis Center.
Refuge.
Refuge East.
Refuge North.
Region IV Council on Domestic Violence.
Rivers of Hope—Buffalo.
Rivers of Hope—Elk River.
Safe Journey.
SAFE, Inc.
St. Cloud Intervention Project.
St. Paul Intervention Project.
Sheller House/Woodland Centers.
Sojourner Project.
Sojourner Project intervention.
Southern Minnesota Crisis Support Center.
Southern Valley Alliance for Battered Women.
Southern Valley Intervention Project.
Southwest Crisis Center.
Stevens County Outreach.
Traverse County Outreach.
Tuning Point for Victims of Domestic Abuse.
Unity/Waite House.
Victim's Crisis Center.
Violence Intervention Project (CADA).
Violence Intervention Project—Ada.
Violence Intervention Project—Crookston.
Violence Intervention Project—Hallock.
Violence Intervention Project—Rouseau.
Violence Intervention Project—Thief River Falls.
Waseca Area Violence Intervention Project.
Washington County Intervention Services.
Wilkin County Outreach.
W.I.N.D.O.W.
Wilder Community Assistance Program.
Wilder Domestic Abuse Program.
Winona Domestic Assault Intervention Project.
Woman House.
Woman House advocates at St. Cloud hospital.
WomanKind (Fairview Ridges).
WomanKind (Fairview Southdale).
WomanKind (Fairview University).
WomanSafe.
Women Alive Crisis Center "Equay Be Mah De See Win"
Women of Nations Eagles' Nest Shelter.
Women of Nallons Community Advocacy Project.
Women's Advocates.
Women's Center, Inc.
Women's Center of Mid-Minnesota.
Women's Coalition.
Women's Resource Center of Steele County.
Women's Resource Center.

WRAP of Cottonwood County.
WRAP of Lincoln County.
WRAP of Redwood Co.
Women's Shelter.
Women's Shelter intervention Project.
Womenspace.
Yellow Medicine Women's Center.
African American Family Service.
Battered Women's Programs.
Battered Women's Justice Project.
Battered Women's Legal Advocacy Project.
Black, Indian, Hispanic & Asian Women In Action.
BrotherPeace.
Minnesota Coalition for Battered Women.
Minnesota Indian Women's Resource Center.

Mr. President, we should also note that this year marks the fourth anniversary of the Violence Against Women Act. Through increased sentences, grants to State governments for prevention programs and other services, and the new national domestic abuse hotline, the Violence Against Women Act has contributed significantly toward protecting individuals from sexual offenses and domestic abuse. I am proud to have supported this landmark legislation as a member of the House of Representatives during the 103rd Congress.

Since the passage of the Violence Against Women Act, funding provided for these programs has led to the further development of policies to prevent and respond to domestic abuse incidents. This includes specialized domestic violence court advocates who obtain protection orders, in conjunction with greater support to enhance the ability of prosecutors and law enforcement to punish those who commit these crimes.

Despite these important achievements, the number of siblings, spouses, and children subjected to domestic abuse remains too high. Regrettably, most victims of domestic violence are women.

According to the Minnesota Coalition for Battered Women, 210 Minnesota women died from domestic abuse between 1988 and 1997. Sadly, this loss of life underscores the importance of increasing public awareness regarding domestic violence and the community-based organizations that are working to prevent others from falling victim to this violence.

Mr. President, domestic abuse is not limited to the privacy of households. In many places of businesses, battered individuals are subjected to emotional abuse in the form of threatening phone calls and harassment.

Fortunately, companies have begun to recognize that employees who are subject to domestic violence at home are more likely to be absent from work and less productive at their jobs.

In fact, a recent survey of corporate senior executives by Roper Starch Worldwide on behalf of Liz Claiborne, Inc. found that: Fifty-seven percent of those surveyed believe that domestic violence is a major problem in society; thirty-three percent feel that domestic abuse had a negative impact on their bottom lines; and four out of ten executives surveyed were personally aware of employees and other individuals affected by domestic violence.

I commend efforts by private sector employers who have responded to this problem by establishing Employee Assistance Programs and other services that will safely protect employees who have become domestic violence victims.

Mr. President, Minnesotans will have the opportunity this month to participate in a variety of National Domestic Violence Awareness Month initiatives. Throughout October, citizens will raise public awareness through candlelight vigils, rallies, and marches throughout our communities.

One of the more creative programs will be an art exhibit honoring 30 Minneapolis public high school students who are finalists in the "Speak Up" domestic violence awareness poster contest.

This initiative, co-sponsored by the Harriet Tubman Center and Intermedia Arts in Minneapolis, will encourage students to increase public awareness and prevention of family violence. The competition will award scholarships to twelve individuals who present various domestic violence themes in their artwork.

Next fall, these works will be part of the Annual Domestic Violence Art exhibit in the Russell Senate Office Building sponsored by my colleague, Senator Paul WELLSTONE.

I am certain many Members of Congress will visit this exhibit to admire the important contributions of these young Minnesotans toward raising the consciousness of our communities about the issue of domestic abuse.

Domestic violence is not an insurmountable problem facing our society. We must work together to curb this problem that crosses over economical, cultural, and political boundaries.

Through the efforts of community groups, families, and law enforcement, Americans can take meaningful steps toward eradicating the presence of this crime in their daily lives.

PRINCIPLE, COURAGE, AND TAX CUTS

Mr. GRAMS. Mr. President, I want to take the remaining part of my time this morning to talk about a subject I have worked on for the 6 years I have been in Congress, and that is trying to raise the awareness of the issue of taxes in this country, that we are now taxed at an all-time high, and that Americans need and deserve some form of tax relief.

So, Mr. President, I wanted to take time to rise today to express my disappointment over the Senate's failure to fulfill its obligations to the taxpayers to consider and to pass any kind of tax relief bill this year.

Fiscally, socially, morally, this is a tremendous mistake, and I believe my colleagues are wrong. I am equally disappointed at President Clinton's threats to veto this important legislation had it passed. It is the same case as last year when, in the State of Virginia, when then-candidate for Governor Gilmore was pledging a tax cut of his own. The President said at that time that Virginians would be "selfish" to vote for tax relief. This year he says "to squander money on a tax cut"—again, that is how President Clinton is describing our attempt this year to let working Americans keep more of their money—"to squander money on a tax cut."

Unfortunately, there is a pattern here, and apparently neither President Clinton nor the rest of Washington has changed their mind. Both want as much money as they can get from the taxpayers, so they can spend it the way they think is best.

According to Webster's Dictionary, the definition of "squander" is "to spend extravagantly or foolishly." I say to President Clinton that I am shocked that you actually believe taxpayers squander their salaries in this way and that only Washington can spend the money wisely. With such highly placed disregard for the fiscal abilities of the American people, I believe it is no wonder that Washington has been unwilling to give the taxpayers more control over their own dollars.

Let me focus first this morning, Mr. President, on the budget surplus. In a recent series of high-profile celebrations, folks here in Washington could hardly wait to rush to the cameras to claim credit for the $70 billion budget surplus, watching them slap their own backs with their hands. Politicians have been humming happy ditties all around this town while approving big-ticket spending items right and left. Meanwhile, those same politicians pontificate about preserving the surplus to "save Social Security first."

The truth is, the White House didn't generate this surplus, nor did the U.S. House or the Senate. The politicians have no rightful claim to the surplus. Washington should not be allowed to sit around and dream up ways to spend even more money because a surplus has arrived. Working Americans are responsible for propelling our economy forward and generating this budget surplus, and they deserve to get it back as tax relief. There should be no debate. Taxpayers have overpaid, and, like any other time a person overpays for anything, they ought to get it back. If you go into a store and pay too much for an item, you expect to get the change back. But somehow in Washington, if you overpay, that is just too bad, Washington wants to pocket your money.

The surplus is the product of the recent revenue surge—a surge, I believe, generated directly by increased productivity and increased individual income tax payments, including the payment of capital gains taxes as investors took advantage of the lower capital gains rate—again, proving that reducing the tax rates can actually increase revenues, because the economy will grow. Very little of the surplus comes from policy changes, however, related to deficit reduction.

On the other hand, there are others in this Chamber who claim there is no surplus, that if we subtract the dollars Washington has routinely raided from the Social Security trust fund, the Government is still in the red. Therefore, they oppose using the unified budget surplus for any kind of tax relief.

Mr. President, they are right on the facts, but I believe they are dead wrong about the conclusion. Washington's big spenders are the ones who have exhausted every penny of the Social Security surplus. They have already exhausted every penny of the Social Security surplus on other Government programs. They have wish lists. The taxpayers shouldn't be denied relief from a stifling tax burden just because Washington has managed to juggle the Nation's bank accounts.

I urge my colleagues to review the CBO's "August Economic and Budget Outlook," which shows precisely where revenues will come from in the next 10 years. The data shows that the greatest share of the projected budget surplus comes directly from income taxes paid by the taxpayers, not the FICA taxes. In 1998, individual income, corporate, and estate taxes make up nearly 80 percent of total tax revenue growth, while the share of FICA tax is about 20 percent. General tax revenues are expected to grow by $723 billion, or 60 percent, over the next 10 years.

What I am saying, Mr. President, is that the taxpayers generated the surplus, outside the money earmarked for Social Security, and the Government has no right to absorb it. It is only moral and fair to return at least a part of it to the taxpayers.

If we don't return at least a portion of the surplus to the taxpayers, and do it soon, Washington is going to spend it, leaving nothing then for tax relief for the vitally important task of actually trying to preserve and save Social Security. Such spending will only enlarge the Government, and if the Government is enlarged today, it will make it even more expensive to support it in the future.

Mr. President, the situation we find ourselves in today reflects two very fundamentally different principles of government: Are we going to embrace tax cuts for working Americans, or are we going to embrace more spending for social engineering?

I am proud to serve here as a member of the Republican Party—a party which, since its creation, has firmly held that a person owns himself, a person owns his labor, and a person owns the fruits of his labor. We believe the pursuit of individual and States rights and a restricted role for the Federal Government create economic growth and prosperity.

The two parties have traditionally offered a marked choice—a choice between the Democratic Party belief that people should work for the Government or our vision of a Government that works for the people. One party believes that it has a right to spend every penny that it can take from working Americans—again echoing the President's words that people are "selfish" to want to cut taxes or to "squander money on a tax cut."

The Republican Party, on the other hand, believes Government should be limited only to that amount needed for necessary services, and this is, indeed, a choice between two futures: a choice between small Government or big Government, a choice between fiscal discipline or irresponsibility, a choice between individual freedom or servitude to a bigger Government, responsibility or dependency, long-term economic prosperity for the Nation or some short-term benefits for the special interest groups and the politicians who feed them.

Mr. President, that is exactly why the American taxpayers ushered in an era of Republican congressional leadership in 1994, a new majority that pledged to provide fiscal discipline, individual freedom, personal responsibility, and prosperity for all people.

Unfortunately, Congress has so far delivered on only a small portion of that pledge, blocked by the competing forces of tax-and-spend versus tax relief and personal empowerment. The choice I spoke of a moment ago has become blurred as both parties fight in a misguided effort to purchase some measure of the people's trust.

They think you can run out and with their own money buy the trust of the American people. But in doing so, Congress has allowed annual Federal spending to increase from $1.5 trillion in 1994 to $1.73 trillion today. In fact, Federal spending has never been higher. During the same period, the national debt has grown from $4.9 trillion to $5.7 trillion, an $810 billion increase in our national debt.

Mr. President, take a look at the current debate over the supplemental spending to be included in the omnibus appropriations bill. A week ago, we were hearing encouraging words that much of this would be offset by cuts in other programs. Now, as we careen toward adjournment, it appears there will be as much as $20 billion in emergency spending—out of the surplus, of course—and the report this morning is that there could be even more as we work and maybe have to give in to the administration demands for more money to be spent in order to avoid a Government shutdown.

Mr. President, despite a $70 billion budget surplus, total taxation is at an all-time high. The tax relief Congress enacted last year does not go nearly far enough. I am proud we had the courage to enact the $500 per-child tax credit, which I authored in 1993, but when our tax bill overall returns to the taxpayers only one cent for every dollar they send to Washington—especially now, during a time of surpluses—I believe we have failed them miserably.

Working Americans see their earnings taxed, and then re-taxed repeatedly. Washington taxes their income when they first earn it. It is then subject to excise taxes when they spend it. And their savings and investments are also taxed. And when they die, the Government is the first to put their hands into the estate.

Farmers and small business owners cannot easily pass their businesses on to their families because the huge estate and gift taxes still exist. The Government imposes a 43 percent tax on all American couples simply because they are married. Even seniors—retired people in our country, our senior citizens—they have their earned benefits taxed.

If the 105th Congress was supposed to be about cutting taxes and forever reforming the tax system—and I believe that was our mandate—the 105th Congress did not complete the job.

Our progress has fizzled not because our efforts have lost the support of the people—in fact, two thirds of the American people supported tax relief during the 1996 elections, and broad tax relief still enjoys overwhelming support today—but because some in Congress have lost their backbones. They have lost the courage to make a stand on principle and not abandon their moral compass at the first sign of resistance.

In too many instances, this Congress has become a willing collaborator of President Clinton's tax-and-spend policies. We have helped to build a bigger, more expensive government, and in doing so have abandoned our promise of tax relief for working Americans.

Mr. President, each time Congress makes a promise to the taxpayers—and then deserts them—Congress comforts itself by saying it would come back next year and enact an even larger tax cut. This is self-deceiving at best.

If we do not take a stand today, what is going to happen to make us more courageous a year from now? Besides, each year we wait, the Government takes an ever-greater bite of the earnings of working Americans and the Government gets bigger and becomes harder to trim in the future.

Another point I would like to make, Mr. President, is that a tax cut is not

spending. Only in convoluted bookkeeping practices of Washington would we consider a cut in tax rates to be spending. The reason is simple: first, it is the taxpayers' money that supports and keeps the Government running; second, tax relief not only ensures a healthy and strong economy, but also generates more revenues for the Government.

In a recent study, economists at the Institute for Policy Innovation concluded that the House-passed tax relief bill of $80 billion—an unforgivably moderate tax relief measure, in my view—would add an additional $300 billion to our GDP and create more than 135,000 jobs. This economic growth would in turn generate about $80 billion in additional revenues to the Federal Government.

Mr. President, when it comes to federal spending, Washington rarely asks how the American taxpayers can afford to give up more of their income to the government, and how such excessive spending will affect a working family's budget and finances. Equally upsetting is the fact that when it comes to tax relief, Washington is always reluctant to act.

Oh, they say it is easy to give an election year tax cut. That is impossible around here. It is hard to get a tax cut. It is easy to spend; it is very hard to give tax relief. Congress even goes so far as to compel tax cut advocates to pay for any tax relief via Washington's PAYGO rule. That is a rule that requires increasing taxes on some or lowering entitlement benefits in order to cut tax relief to others. Nothing is more ridiculous than the requirement of the PAYGO rule. We must repeal it so we can do the job of shrinking the size of the Government and let working families keep more of the money, the money they earn in order to spend it on their priorities—not Washington priorities.

One major reason for the failure of this year's tax relief bill is that Washington's spin doctors took full advantage of Americans' anxiety about Social Security. "Save Social Security first" is just another Washington lie. Mark my word, Mr. President, Social Security crisis or not, Washington has spent, and will continue to spend, surplus dollars whenever it can for its pet programs.

Since 1983, Washington has raided more than $700 billion from the trust funds for non-Social Security programs, and Congress approved that spending every time. In the next 5 years, the Federal Government will raid another $600 billion from the Social Security trust funds. Those politicians who insist on using the surplus for Social Security have voted for most, if not all, of those spending bills, and so it is those politicians who in the last 15 years have stripped the trust funds of any surplus.

Mr. President, despite the rhetoric about saving Social Security, few have come up with a concrete plan to save it. The problem is that by law, the Social Security surplus has to be put into Treasury securities. That means Washington can legally use the money to fund its favorite non-Social Security programs, rendering these "assets" little more than Treasury IOUs. Unless we change the law, Washington will continue to abuse Social Security until it goes broke.

I agree that reforming Social Security to ensure its solvency is vitally important. Any projected budget surplus should be used partly for that purpose. In fact, I have introduced a bill to just do that. Yet, I believe strongly that the surplus alone will not save Social Security and therefore fundamental reform is needed to change it from a pay-as-you-go system to a fully funded one.

Mr. President, the States offer us an excellent model of how we should use the budget surplus. In recent years, many Governors have cut taxes and shrunk the size of their governments, and in the process have turned budget deficits into surpluses. They are now using those surpluses to provide even further tax relief. Some States, such as Missouri and Florida, even have constitutional or statutory requirements to return to taxpayers any revenues that exceed income growth.

The States have proved that if government performs only legitimate and necessary functions, and does so without waste, it can leave much more money in the pockets of the people. And it is the people who can best spend their money, whether it is for their children's health care, saving for a college education, giving more to their church and charities, or just helping to set something aside for their retirement.

Now, Mr. President, back to the question of the budget surplus and who should spend this money—the Government or the workers who earned it?

In conclusion, Washington's tax and spending policies have systematically ignored our children's future and severely undermined the basic functions of the family. We must abandon those policies and help restore the family to an economic position capable of fulfilling its vital responsibilities. In answer to my own question, we must provide American families with meaningful tax relief, allowing them to keep more of their hard-earned money.

It is their money. Let us give it back.

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

Mr. ENZI addressed the Chair.

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

ORDER FOR RECORD TO REMAIN OPEN FOR INTRODUCTION OF A BILL

Mr. ENZI. Mr. President, I ask unanimous consent that the Senators from New Mexico, Mr. DOMENICI and Mr. BINGAMAN, have until 6 p.m. tonight to file the Valles Caldera Preservation Act for purposes of introducing the bill.

The PRESIDING OFFICER. Is there objection?

Hearing none, without objection, it is so ordered.

OSHA LEGISLATION DURING THE 105TH CONGRESS

Mr. ENZI. Mr. President, I can think of few issues that are more important to the average American than the safety and health of our Nation's workers. During the last 2 years, Congress stepped up to the plate and confronted this important issue head-on. The end result was three separate bills becoming law that amended the Occupational Safety and Health Act of 1970. Until this year, in 28 years, the act was amended one time—in 1990—and that was to increase fines. The American workplace has changed quite a bit over the last three decades and I'm pleased that Congress in now changing, too.

During the first session of the 105th Congress, I introduced a comprehensive piece of legislation with the support of Senators GREGG and FRIST and 20 other Senate cosponsors, entitled the Safety Advancement for Employees Act or SAFE Act. At the same time, my good friend, JIM TALENT, introduced similar legislation in the House which received strong, bipartisan support—a rarity for such a polarized issue.

It is important to understand that both the Senate and House versions did not attempt to reinvent OSHA's wheel, just change its tires. Treading water for 27 years, OSHA has never seriously attempted to encourage employers and employees in their efforts to create safe and healthful workplaces. Instead, OSHA chose to operate according to a command and control mentality. This approach has lead to burdensome and often incomprehensible regulations which do not relate to worker safety and health and are, quite often, only sporadically enforced.

The AFL-CIO publically acknowledges that with only 2,450 State and Federal inspectors regulating 6.2 million American worksites, an employer can expect to see an inspector once every 167 years. In addition to this enormous time lapse, the sheer diversity of safety and health concerns stemming from restaurants to funeral homes across America prohibits an inspector from fully understanding each worker's needs and concerns.

OSHA seems more concerned about collecting fines each year than it is about improving worker safety. OSHA

proposes over $140 million in fines to be paid by the regulated public each year—over $100 million of that total gets assessed. Even more troubling is that OSHA's existing voluntary and cooperative compliance programs impact a mere fraction of worksites and consume only a small share of the agency's annual budget. Despite OSHA's claim that it is "putting a lot of resources into compliance assistance and partnership initiatives," only 22 percent of OSHA's 1997 fiscal appropriation was spent on federal and state plan compliance assistance. It is difficult for anyone to say that current initiatives are having an impact on the number of workplace fatalities and injuries when OSHA spends so little of its annual funds on preventive measures.

It is important to point out that the SAFE Act would not have dismantled OSHA's enforcement capabilities. It was that approach that kept Congress from amending the 1970 statute for so long. Enforcement alone, though, will never ensure the safety of our nation's workplaces and the health of our working population. By encouraging employers to seek individualized compliance assistance from OSHA qualified third party consultants, the SAFE Act would ensure that more American workplaces are in compliance with existing law while allowing OSHA to concentrate its enforcement resources on those worksites that truly need immediate attention. America would be better served by an OSHA that manages its resources more wisely and the SAFE Act was crafted to strike that balance.

In addition to establishing OSHA qualified third party consultations, the SAFE Act included additional voluntary and technical compliance initiatives to assist employers in deeming their worksites "safe" for their employees. I firmly believe that it is this approach that will ultimately bring a greater number of workplaces into compliance with existing law and help prevent more workers from being injured or killed on the job.

The SAFE Act would ensure that federal occupational safety and health standards are based on sound, scientific data that all vested parties can live with. By injecting independent scientific peer review into the rule-making process, future regulations would reflect greater clarity and simplicity—helping businesses to better understand what they are required to do. I also believe that scientific peer review will help speed up the implementation process for OSHA's rules by eliminating conflicts of interest. Under the present system, draft rules can idle in the process for more than 15 years, because no one agrees on the rule's scientific validity. At the same time, annual funding continues to be channeled toward research at the expense of the taxpayer. That must change.

Last October, we marked up the SAFE Act in the Senate Committee on Labor and Human Resources and favorably reported the bill out of committee. In the following months, I continued to work with Senators KENNEDY, DODD, WELLSTONE, and REED—as well as with Assistant Secretary of Labor, Charles Jeffress, to find common ground that would result in a bill that would pass the House and Senate and be signed by the President into law. A number of good suggestions were made to improve the bill, but remaining differences and the lack of floor time quickly became an insurmountable obstacle.

I was pleased to have the opportunity to testify at a hearing chaired by Chairman TALENT in the House Small Business Committee. As the House author of the SAFE Act, Representative TALENT understood the importance of third party consultations. He invited specialists in occupational safety and health to share their candid opinions of the bill. Having witnessed the testimony firsthand, I was pleased that safety and health professionals—those who have the most education, training, and field experience in abating occupational hazards—embraced this bill so enthusiastically.

In both Chambers, the SAFE Act gained considerable momentum after its introduction. The bill stuck to a theme—advancing safety and health in the workplace. Maintaining this spirit of cooperation, it is my intention to promote this theme well into the 106th Congress. Until each of the SAFE Act's provisions become law, this debate is far from over.

Despite the Senate's inability to complete its consideration of the SAFE Act, legislative successes were still abundant. Last June, I was pleased to have had the opportunity to pass two bills in the Senate that were authored by Representative BALLENGER. One was the Occupational Safety and Health Administration Compliance Assistance Authorization Act, and the other was H.R. 2877, which eliminated the imposition of quotas in the context of OSHA's enforcement activities. Both bills are now law and have already been implemented by OSHA.

Following the same lines as the SAFE Act, these two bills were written to increase the joint cooperation of employees, employers, and OSHA in the effort to ensure safe and healthful working conditions. It will never be productive to threaten employers with fines for non-compliance when millions of safety conscious employers don't know how they are supposed to comply. Nor is it effective to burden employers with more compliance materials than they can possibly digest or understand, many of which have no application to their business. To achieve a new, cooperative approach, the vast majority of employers who are concerned about worker safety and health must have compliance assistance programs made more accessible to them and more related to their actual operation. Passage of H.R. 2864 was a good, first step in providing employers just that.

H.R. 2877 eliminated enforcement quotas for OSHA compliance inspectors. This bill prohibits OSHA from establishing a specific number of citations issued, or the amount of penalties collected. I believe that inspectors must not face institutional pressure to issue citations or collect fines, but rather they should work to identify potential hazards and assist the employer in abating them. OSHA's success must depend upon whether the nation's workforce is safer and healthier, and not upon meeting or surpassing goals for inspections, citations, or penalties.

In July, both the Senate Committee on Labor and Human Resources and full Senate unanimously passed S. 2112, the Postal Employees Safety Enhancement Act. The bill was written to bring the Postal Service and its more than 800,000 employees under the full jurisdiction of OSHA. Government must play by its own rules. Although 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. The lack of any enforcement tool renders compliance requirements for the public sector ineffective at best.

My first look at this issue occurred when Yellowstone National Park was cited by OSHA last February for 600 violations—92 of them serious. One of those serious violations was the park's failure to report an employee's death to OSHA. In fact, Yellowstone posted five employee deaths in the past three and one-half years. Although there are these and other serious problems noted in the park's safety and health record, overall federal injury, illness, lost work-time, fatality and workers's compensation rates show the United States Postal Service leading the pack in almost every category.

Postal workers injuries and illnesses represent 42 percent of the government's lost-time cases. From 1992 to 1997, the Postal Service paid an annual average of $505 million in workers' compensation costs and its annual contribution accounted for almost one-third of the federal program's $1.8 billion price tag. These alarming statistics made my decision to slowly bring the federal government into compliance rather easy.

In 1982, the Postal Service became fiscally self-sufficient—depending entirely on market-driven revenues rather than taxpayer dollars. They should be congratulated for that. Today, the United States Postal Service handles over 43 percent of the world's mail—delivering more mail in one week than Federal Express and the United Parcel

Service combined deliver in an entire year. With annual profits that exceed $1.5 billion, if the Postal Service were a private company, it would be the 9th largest business in the United States and 29th in the entire world.

Realistically speaking, the Postal Service is hardly a Federal agency. It's better characterized as a self-sufficient, quasi-government entity. It is the only federal agency where its employees can collectively bargain under the 1935 National Labor Relations Act. It's the only federal agency that posts annual profits exceeding $1.5 billion. In fact, the Postal Service exhibits almost every characteristic of a private business, yet it never had to fully comply with federal occupational safety and health law—until now. Last month, Representative GREENWOOD, author of the House bill, took the initiative to pass the Postal Employees Safety Enhancement Act in the House and sent it on to the President.

Since the bill's enactment, I learned that OSHA and the National Park Service, have entered into safety pact. I commend both agencies for this commitment to workplace safety and health. It is my understanding that other federal agencies could do the same. I hope that such agreements with OSHA represent a way to introduce third party consultations as a means of bringing a greater number of federal worksites into compliance.

The enactment of S. 2112 and the previous two bills marks the first significant step toward modernizing the nation's 28-year-old occupational safety and health law. I believe that these incremental accomplishments were achieved because this Congress is committed to improving conditions for America's workers. We have a long road ahead of us and that road, so far, had been too slow to save American lives. This debate will not end when Congress completes its work this year. I fully intend to press forward—well into the 106th Congress. More hearings on this important issue are necessary. We need a bipartisan effort—making headway in every area we can reach agreement. We need to dedicate some time to reaching that agreement. This will not happen by accident! Good legislation will ultimately be achieved and increased compliance will undoubtedly result if we simply remain committed to it.

I want to conclude my remarks by thanking members and staff for making occupational safety and health such a successful issue during the last two years. I want to first thank my House colleague and friend JIM TALENT. His impressive knowledge of labor law, complemented by his labor counsel, Jennifer Woodbury, helped bring the SAFE Act to the attention of all House members. I look forward to work on many more bills with JIM TALENT in the coming years. I would also like to thank Congressmen BALLENGER, GREENWOOD, and MCHUGH and their staff. They, too, should be complimented for their efforts. Senators GREGG, FRIST, and JEFFORDS also deserve tremendous thanks. Their staffs spent many hours considering OSHA legislation. Finally, I want to thank my Democratic colleagues on the Senate Labor Committee. Senator KENNEDY was especially considerate in listening to my concerns and I want to extend my appreciation to him and his staff. I am confident that this relationship will pick up next year where it left off.

PASSAGE OF COALBED METHANE LEGISLATION

Mr. ENZI. Mr. President, I want to take a minute before the Senate adjourns to thank a few Members who have been very helpful on an issue of critical importance to my state.

Yesterday evening, the Senate adopted by unanimous consent, S. 2500, a bill to preserve the sanctity of existing leases and contracts for production of methane gas from coal beds. An affirmative U.S. Government policy has been the legal basis for these contracts for nearly eighteen years and it was the intent of this bill to preserve the existing rights of all the parties in light of legal uncertainties cast by a July 20, 1998, 10th Circuit Court of Appeals decision.

On September 18, I introduced the bill to protect these people, with my colleagues, Senator JEFF BINGAMAN of New Mexico and Senator CRAIG THOMAS of Wyoming. The affected people live all across America, but most of the actual lands are in the western states, primarily New Mexico, Utah, Colorado, Wyoming, and Montana.

The circumstances faced by interest owners would be severe. Personal and corporate bankruptcies would have led to local bank insolvencies and the multiplying effect on unemployment and loss of confidence in western states would have been devastating. In this time when Congress is working to offer a $4–7 billion aid package to provide certainty for crop farmers, I am pleased that we have been able to reach agreement to provide some certainty for people in the oil patch—and we did it without spending a single federal dime.

The 1998 Circuit Court decision has clouded all existing lease and royalty agreements for production of gas out of coal where the ownership of the oil and gas estate differs from ownership of the coal estate. This uncertainty jeopardizes the expected income of all royalty owners and the planned investment and development of all existing lessees.

The legislation we passed yesterday addresses that problem faced by owners and lessees by preserving the policy status quo for valid contracts in effect on or before the date of enactment. The legislation applies only to leases and contracts for "coalbed methane" production out of federally-owned coal. It does not apply to leases and contracts for gas production out of coal that has been conveyed, restored, or transferred to a third party, including to a federally recognized Indian tribe.

It is important to note that many older leases and contracts for gas production on coal lands were negotiated prior to "coalbed methane" becoming a term of art. It is, therefore, necessary to clarify that we do not mean to exclude those valid leases and contracts that convey rights to explore for, extract and sell "natural gas" from applicable lands simply because they do not include the term "coalbed methane." That is a possible ambiguity that arose very late in the process, after the time when we could have reasonably perfected the bill, but it is important to note because before this year, "coalbed methane" has been considered in the field, to be part of the gas estate. We chose the term "coalbed methane" because using the term "natural gas from the coalbed," left uncertainty about the gas rights in light of the 10th Circuit ruling. The Department of Interior suggested we use "coalbed methane" so as to be very clear regardless of whether the Courts rule "coalbed methane" to be part of the coal estate or part of the natural gas estate in the future.

While the bill has yet to be completed in the House, I want to thank some of the members who have helped us craft legislation that addresses what we intended to cover. Without any of them, we would not have been able to go forward. Because of very limited time, we had to expedite the process, and we could not have done it without an enormous amount of help. Senator CAMPBELL, and his Indian Affairs Committee staff, were supportive in working out the provisions covering the tribes. Senator MURKOWSKI, and his Energy Committee staff, were very helpful in working out the details of the bill and moving it through that Committee. Senator BUMPERS, and his committee staff, were very cooperative and provided many helpful suggestions.

The Department of Interior Solicitor's office provided good counsel and worked with us through the process. And the people out in the field, the coal companies, who have valid concerns about their existing and future leases to main federal coal, were great to work with. Nothing in this bill should be construed to limit their ability to mine federal coal under valid leases, nor should anything be construed to expand their liabilities to coalbed methane owners covered by the bill. The gas producers and land owners really came together and proposed reasonable solutions to solve the problems. Without their cooperative effort, this bill would not have happened.

So again, my appreciation goes out to all the people who helped us remove the possibility of devastating situation—extensive private property takings, retroactive liabilities, and mountains of combative litigation. On behalf of thousands of Wyomingites, thank you.

Mr. President, I yield the floor.

ROLE OF THE SENATE SUBCOMMITTEE ON COMMUNICATIONS

Mr. LOTT. Mr. President, I want to take this time to recognize the important role and work of the Senate's Subcommittee on Communications this Congress and emphasize the challenges that lie ahead.

The communications world encompasses so many areas that personally touch the lives of practically every person in America—from the telephone to the television to the computer. The ways we interact is a fitting reflection of the fast times in which we live and the constant evolution of technologies. Traditional systems are changing. Options are expanding. Companies continue to shift gears and take the necessary risks to bring fruition of the landmark 1996 Telecommunications Act to the marketplace and to consumers.

Enacting policies to encourage, and not hinder, such activity is Congress' challenge. Mr. President, I believe the members of this subcommittee are ready and willing to embrace that challenge.

I want to express my sincere gratitude to my colleague and friend, Senator CONRAD BURNS of Montana, for his yeoman's work as chairman of the subcommittee during the course of this Congress. His guidance has been instrumental in bringing focus to the many issues that merit attention. His inclusive and enthusiastic approach has engaged all who work with him, and I appreciate that.

Mr. President, many contentious policy areas were considered by the subcommittee during the 105th, and consensus proved elusive. I am confident, though, that the stage has been set for several productive debates in the first session of the 106th—from Federal Communications Commission reauthorization, to international satellite privatization, to transition to digital, to competition issues, to Internet privacy and content.

Speaking of the Internet, let me take this opportunity to mention my deep admiration for the contributions made by retiring Senator DAN COATS in this area. Although not a member of the Commerce Committee, he has tirelessly advocated against the Internet becoming a dirty book for our children, while responsibly taking into account first amendment concerns. I have the utmost respect for his efforts, and will truly miss his wisdom and his counsel.

Mr. President, I appreciate the contributions of each of my subcommittee colleagues this Congress, and look forward to working with them next year in tackling some tough issues and ushering in a truly new era of communications.

NATIONAL BIBLE WEEK

Mr. LOTT. Mr. President, one of our country's most important observances is National Bible Week sponsored by the National Bible Association. This year, as in the past, it will be observed by houses of worship and individuals of all faiths during the week in which Thanksgiving Day falls. That will be from Sunday, November 22 through Sunday, November 29.

It is my great and underserved honor to be this year's congressional co-chair of that observance. In that capacity, I would like to recommend to all my colleagues, and to the American people, that, in this season of strife and division we look to National Bible Week as an opportunity to join together in prayerful reflection.

The German poet Heinrich Heine called the Bible "that great medicine chest of humanity," the greatest cure for the worst ills of mankind. And he observed how—during the great fire that destroyed the Second Temple of ancient Israel—the Jewish people rushed to save, not the gold and silver vessels of sacrifice, not the bejeweled breastplate of the High Priest, but their Scriptures. For the Word of God was the greatest treasure they had.

It remains our greatest treasure today. The lessons it teaches, and the morality it commands, are the foundation on which a free people build self-government. In that sense, the Bible is the charter of our liberties. Daniel Webster put it this way: "If we abide by the principles taught by the Bible, our country will go on prospering."

That has never been a partisan sentiment, and neither should it be so today. Two great political rivals of the early twentieth century, both of whom achieved the Presidency and attained world leadership, agreed on this one point.

Teddy Roosevelt said, "A thorough knowledge of the Bible is worth more than a college education." And Woodrow Wilson, a university president at Princeton before reaching the White House, counselled, "When you have read the Bible, you will know it is the word of God, because you will have found in it the key to your own heart, your own happiness and your own duty."

Here in the Senate, as in the House of Representatives, there are several small Bible study groups. Members of all faiths regularly come together, away from the public spotlight, to learn from one another and seek inspiration from sacred Scripture.

For my part, I find in those sessions both enlightenment and challenge. For any time we read the Bible with an open heart, we may find ourselves falling short, in some way, of the standard it sets for us and the promise it offers us.

In that way, reading the Bible can be like a spiritual work-out. And if, in the process, we feel the spiritual equivalent of a few sore muscles, we can remember the saying, "No pain, no gain." And the gain that Scripture offers lasts a lifetime—and even longer.

For that reason, it is especially appropriate that Thanksgiving Day comes during National Bible Week, for the Bible itself is something for which we should give thanks, on that day and every day.

TITLE BRANDING LEGISLATION

Mr. CAMPBELL. Today I express my appreciation to the majority leader, Senator FORD, Senator GORTON, and Senator MCCAIN for their hard work and efforts on S. 852, the National Salvage Motor Vehicle Consumer Protection Act. I believe S. 852 will deter automobile theft and protect consumers by providing them with notice of severely damaged vehicles. I would like to emphasize one provision contained in the bill. It is my understanding that the process of reducing salvage and nonrepairable vehicles to parts cannot begin before receipt of a salvage title, nonrepairable vehicle certificate, or other appropriate ownership documentation under state law. If a vehicle could be dismantled prior to the receipt of the appropriate ownership documents, then the parts from a severely damaged vehicle could skirt the titling system which this bill has put in place to deter automobile theft. Is my understanding correct?

Mr. LOTT. Yes, that is correct. A vehicle that would qualify as a nonrepairable or as salvage vehicle cannot be taken apart for its parts before appropriate ownership documentation has been received for that vehicle.

Mr. President, I appreciate that the Senator from Colorado has taken the time to address this important issue.

MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998

Mr. HATCH. Mr. President, as we begin to wrap-up the 105th Congress, there remains one essential item of business which I strongly believe warrants Senate action before we adjourn for the year.

Over the past year, numerous concerns have been raised by home health care agency officials and Medicare beneficiaries over the new Medicare payment system established in the Balanced Budget Act of 1997.

As a strong home health care advocate in the Senate for virtually my entire career, I am well aware of the importance home health care is for Medicare beneficiaries with acute needs such as recovering from joint replacements and chronic conditions such as heart failure.

Utahns have consistently told me they prefer to receive care in their homes rather than in institutional settings such as hospitals and nursing homes.

In fact, patients actually do better in their recovery while at home than in a nursing home or hospital. And, clearly, the costs associated with home care are far less than what is charged in an institutional setting.

As a member of the Finance Committee, which has jurisdiction over the Medicare program, I am also well aware of the impending financial crisis Medicare was facing last year. Home health care was the fastest growing component in Medicare.

Between 1989 and 1996, Medicare spending for home health services rose from $2.5 billion to $16.8 billion. Concurrently, according to the GAO, the number of home health agencies grew from 5,700 in 1989 to more than 10,000 in 1997.

Indeed, home health care spending threatened to consume more and more of the limited Medicare dollars.

Last year, Congress was faced with an extraordinary and daunting task—namely, the financial survival of the Medicare program.

No less than President Clinton's own advisors who serve as his appointed Trustees for the Medicare Trust Fund warned Congress that absent immediate action Medicare Part A would be insolvent by the year 2001.

Clearly something had to be done. The status quo was unacceptable.

To control the rapid cost growth in all components of Medicare, Congress passed the Balanced Budget Act of 1997, or the BBA, which required the Health Care Financing Administration (HCFA), the agency responsible for administering the Medicare program, to implement a Prospective Payment System that sets fixed, predetermined payments for home health services.

Until that system could be developed and implemented, agencies would be paid through an Interim Payment System, or IPS, which imposes limits on agencies' cost-based payments. These limits were designed to provide incentives to control per visit costs and the number and mix of visits for each user.

Since the implementation of the IPS on October 1, 1997, numerous concerns have been raised about severe equity issues in the payment limit levels.

For instance, wide disparities exist in reimbursement levels ranging from $760 to $53,000 on average per beneficiary. The payment limits are further exacerbated by a major distinction in the payment rules between the so-called "new" verses "old" agencies.

The impact of the IPS has caused comparable home health agencies providing comparable home health services to receive very different reimbursement payments. The payment limit issues are further exacerbated by the imposition of a 15% across the board cut in payment rates which is scheduled to take effect in October 1999.

According to a September 1998 report from the General Accounting Office, at least 12 home health agencies in my state of Utah have been forced to close their doors since the implementation of the IPS.

This leaves just 75 agencies to serve the entire estimated home health care population of 22,000 home health beneficiaries throughout my state.

And, I note for my colleagues who have not had the pleasure of visiting Utah, with its spectacular vistas and magnificent mountains, essentially is a rural state with population centers far apart.

So if you live in Panguitch or Vernal, and your home health agency closes its doors, you will be very lucky if there is any other service option available.

Home health care is particularly vital in improving efforts to deliver health care in rural areas where quality, long term care has been deficient for too long.

As my colleagues recall last year, there was no disagreement on the need to move to the PPS. The home health care industry was supportive of the new system—and remains supportive to this day.

The problem is with moving to the PPS from the current cost-based payment system. Data which was not available to accurately develop the PPS would be needed before such a system could be put into place.

Accordingly, the IPS was proposed as a mechanism to provide HCFA was the necessary baseline information to develop the PPS.

As we now know, the IPS has resulted in new cost limits causing many home health agencies to close and resulted in beneficiaries, particularly those with high-cost needs, to have difficulty in obtaining care.

I am especially mindful of the situation in my state of Utah where many of my constituents have talked to me about the problem.

I have met with officials from Utah's home health agencies from around the state as well as with beneficiaries who depend on the services performed by these agencies.

Moreover, the Senate Small Business Committee held a hearing on July 15, 1998 on the impact of the IPS on small home health businesses. One of my constituents, Mr. Marty Hoelscher, CEO of Superior Home Care in Salt Lake City testified at the hearing. He stated:

> The IPS provides a flat payment to agencies for each patient, regardless of the amount of care the patient medically requires. What happens to the really sick patients? What happens to the agencies who don't turn their backs on them? In Utah, the patients of the 18 free standing agencies which have recently ceased operations are filling our emergency rooms, intensive care units, nursing homes or morgues.

I have been working concertedly with my Senate colleagues to resolve these problems. For example, in July, I joined with 20 of my colleagues in the Senate on July 16, 1998 to cosponsor S. 2323, the "Home Health Access Preservation Act of 1998."

This legislation was designed to alleviate the problems created by the IPS, and specifically, to address the problems associated with the high costs of caring for the sickest patients and those who need care on a long term basis.

After Senator GRASSLEY introduced S. 2323, it became evident that the budget neutrality provision—which necessitated that S. 2323 incur no new spending—was requiring us to reallocate resources in a way that disadvantaged some home health providers in order to assist others.

Many members expressed concerns that because of the problems inherent in such a reallocation, we should just repeal the IPS totally. I was extremely sympathetic to those concerns, but unfortunately, the Congressional Budget Office advised us that such a repeal was very costly; in fact, it was so costly that a total repeal was clearly out of question if we are to maintain the balanced budget which is so important to our country.

I am pleased that as a result of several months work by the Chairman and ranking minority member of the Finance Committee, Senators ROTH and MOYNIHAN along with those of us on the committee have developed this bipartisan proposal which is supported by the home health industry.

The legislation we are introducing today, while not a perfect measure, is a responsible bill that will improve problems inherent in the current law and which will work to the benefit of thousands of Americans who rely on very valuable home health care services.

Under this legislation, several steps will be taken to improve the IPS.

First, the bill will reduce the extreme variations in payment limits applicable to old agencies within states and across state lines.

The bill also provides for a reduction in the payment level differences between "old" and "new" agencies. Such provider distinctions exist nowhere else in the Medicare system and contribute to the arbitrary nature of the payment system for health care services.

Moreover, the bill delays for one year the 15% across the board cut in payment limits for all agencies that was to

take effect in October 1999. Home health agencies in my state tell me this is perhaps the most significant and important feature of the bill.

The bill further directs the Health Care Financing Administration to take all feasible steps necessary to minimize the delay in the implementation of the PPS. Specifically, HCFA will be required to accelerate data collection efforts necessary to develop the case-mix system which is at the heart of the PPS model.

Mr. President, I am pleased to add my name as an original cosponsor to this vitally needed legislation.

As we are all too painfully aware, our budget rules require that any legislation such as this which proposes "new" Medicare spending be accompanied by a reduction in spending to offset the costs.

While I understand the need to maintain budget neutrality, I am concerned about the offsets in the Roth bill, but I am pleased Senator ROTH has agreed to consider other offsets in order to address my concerns. We cannot move forward without an offset since the Congressional Budget Office has scored the bill at a cost of $1 billion.

With the assurance that I now have received from the Chairman of the Finance Committee, I am lending my support to this important bill.

Our overriding objective at this late time with only hours left in the 105th Congress is to get this bill passed by the Senate and into conference with the House.

I am pleased that the House approved its version of the legislation just moments ago, and while the House legislation is not the measure I would want, its passage does move us substantially closer toward enactment of a final bill prior to adjournment.

I can assure my constituents in Utah who depend on home health care services that I will continue to pursue legislative resolution of these financing issues to preserve the home health care benefit for all Medicare beneficiaries.

And finally, let me also assure the dedicated and hard working people of Utah who provide home health care services that I will continue to work with them to bring some logic to the new Medicare payment system.

I especially want to thank Marty Hoelscher, Steve Hansen, Grant Howarth, Vaughn McDonald, Dee Bangerter and the many others in Utah, especially the Utah Association of Home Health Agencies, for their counsel and leadership over the past year in working on this very complex issue.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed in morning business for such time as I may consume.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

IRAQ

Mr. KERRY. Mr. President, there are two subjects that I wish to bring to my colleagues' attention this afternoon. First, I want to talk about an issue of enormous international consequence—the situation with respect to Iraq. For the last 2 months, as we know, Saddam Hussein has been testing, yet again, the full measure of the international community's resolve to force Iraq to eliminate its weapons of mass destruction. That has been the fundamental goal of our policy toward Iraq since the end of the gulf war and is reflected in the U.N. agreements reached in the aftermath of the war.

Two months ago, on August 5, Saddam Hussein, formally adopting a recommendation that had been made by the Iraqi parliament 2 days earlier, announced that Iraq would no longer permit U.N. weapons inspectors to conduct random searches in defiance of its obligations under those U.N. resolutions that were adopted at the end of the war, and also in violation, I might add, of its agreement last February with U.N. Secretary General Kofi Annan, to give UNSCOM teams, accompanied by diplomatic overseers, unconditional access to all sites where UNSCOM believed that Iraq may be stockpiling weapons or agents to make those weapons.

Let's understand very clearly that ever since the end of the war, it has been the clear, declared, accepted, and implemented policy of the United States of America and its allies to prevent Saddam Hussein from building weapons of mass destruction. And as part of that agreed-upon policy, we were to be permitted unlimited, unfettered, unconditional, immediate access to the sites that we needed to inspect in order to be able to make that policy real.

Iraq's defiance and the low-key—some would say weak—response of the United States and the United Nations initially went unnoticed, in part because of other events, including the dual bombings of our embassies in Kenya and Tanzania, as well as the obvious fascination with domestic events that have dominated the headlines now for so many months. Those events, frankly, have continued to obscure the reality of what is happening in Iraq; and, accordingly, the reality of the potential threat to the region—a region where, obviously, the United States, for 50 years or more, has invested enormous amounts of our diplomatic and even our domestic energy.

Press reports of the administration's efforts to intervene in, or at minimum, to influence UNSCOM's inspection process and the resignation of American UNSCOM inspector, Scott Ritter, focused the spotlight briefly on our Iraqi policy and raised some serious and troubling questions about our efforts to eliminate Iraq's weapons of mass destruction. The principal question raised was a very simple one: Are those efforts still intact, or has our policy changed?

Last month, press reports suggested that administration officials had secretly tried to quash aggressive U.N. inspections at various times over the last year, most recently in August, in order to avoid a confrontation with Iraq—this despite repeatedly demanding the unconditional, unfettered accesses that I referred to earlier for the inspection teams. Scott Ritter, the longest serving American inspector in UNSCOM, charged at the time that the administration had intervened at least six or seven times since last November when Iraq tried to thwart UNSCOM's work by refusing to allow Ritter and other Americans to participate on the teams, in an effort to delay or postpone or cancel certain UNSCOM operations out of fear of confrontation with Iraq.

Those were serious charges. We held an open hearing, a joint hearing between the Armed Services Committee and Foreign Relations Committee on these charges. There were some protestations to the contrary by the administration and a subsequent effort to ensure that the Security Council would maintain the sanctions against Iraq, but, frankly, nothing more.

In explaining his reasons for resigning, Scott Ritter stated that the policy shift in the Security Council supported "at least implicitly" by the United States, away from an aggressive inspections policy is a surrender to Iraqi leadership that makes a "farce" of the commission's efforts to prove that Iraq is still concealing its chemical, biological, and nuclear weapons programs.

Administration officials have categorically rejected the notion that U.S. policy has shifted, either in terms of our willingness to use force or support for UNSCOM. They have also disputed Ritter's charges of repeated U.S. efforts to limit UNSCOM's work. Writing in the New York Times on August 17, Secretary Albright stated that the administration has "ruled nothing out, including the use of force" in determining how to respond to Iraqi actions, and that supporting UNSCOM is "at the heart of U.S. efforts to prevent Saddam Hussein from threatening his neighborhood." While acknowledging that she did consult with UNSCOM's Chairman, Richard Butler, after Iraq suspended inspections last month, she argued that he "came to his own conclusion that it was wiser to keep the focus on Iraq's open defiance of the Security Council." Attempting to proceed with the inspections, in her view, would have "allowed some in the Security Council to muddy the waters by

claiming again that UNSCOM had provoked Iraq," whereas, not proceeding would give us a "free hand to use other means" if Iraq does not "resume cooperation" with the Security Council. At that time, she also stressed the importance of maintaining the comprehensive sanctions in place to deny Saddam Hussein the ability to rearm Iraq and thus threaten his neighbors.

I appreciate the Secretary's efforts to set the record straight. But, Mr. President, I have to say, in all candor, that I don't think that her op-ed or subsequent statements by the administration have put to rest legitimate questions—legitimate questions or concerns about what our policy is and where it is headed—not just our policy alone, I might add, but the policy of the United Nations itself, and the policy of our allies in Europe.

The fact of the matter is, in my judgment, the U.S. response and that of the Security Council to Saddam Hussein's latest provocations are different in tone and substance from responses to earlier Iraqi provocations.

Three times in the last 11 months Saddam Hussein has launched increasingly bolder challenges to UNSCOM's authority and work. In November, he refused to allow American inspectors to participate on the teams. Although that crisis ultimately was resolved through Russian intervention, the United States and Britain were leading the effort to push the Security Council to respond strongly. In subsequent weeks, Saddam Hussein refused to grant UNSCOM access to Presidential palaces and other sensitive sites, kicked out the team that was led by Scott Ritter, charging at the time that he was a CIA spy, and threatened to expel all inspectors unless sanctions were removed by mid-May.

By February, the United States had an armada of forces positioned in the gulf, and administration officials from our President on down had declared our intention to use military force if necessary to reduce Iraq's capacity to manufacture, stockpile or reconstitute its weapons of mass destruction, or to threaten its neighbors.

Ultimately diplomacy succeeded again. In a sense, it succeeded again. It averted the immediate crisis. One can certainly raise serious questions about how effective it was with respect to the longer-term choices we face. But certainly in the short term, Secretary General Kofi Annan successfully struck an agreement with Iraq to provide UNSCOM inspectors, accompanied by diplomatic representatives, full and unfettered access to all sites. There is little doubt that this agreement would not have been concluded successfully without the Security Council's strong calls for Iraqi compliance combined with the specter of the potential use of American force.

Saddam's latest provocation, however, Mr. President, strikes at the heart of our policy, and at the capacity of UNSCOM to do its job effectively. As long as the U.N. inspectors are prevented, as they are, from undertaking random no-notice inspections, they will never be able to confirm the fundamentals of our policy. They will never be able to confirm what weapons Iraq still has or what it is doing to maintain its capability to produce weapons of mass destruction.

Yet, when confronted with what may be the most serious challenge to UNSCOM to date, the administration's response, and that of our allies and the United Nations, has been to assiduously avoid brandishing the sword and to make a concerted effort to downplay the offense to avoid confrontation at all costs, even if it means implicit and even explicit backing down on our stated position as well as that of the Security Council. That stated position is clear: That Iraq must provide the U.N. inspectors with unconditional and unfettered access to all sites.

Secretary Albright may well be correct in arguing that this course helps keep the focus on Iraq's defiance. It may well do that. But it is also true that the U.N.-imposed limits on UNSCOM operations, especially if they are at the behest of the United States, work completely to Saddam Hussein's advantage.

They raise questions of the most serious nature about the preparedness of the international community to keep its own commitment to force Iraq to destroy its weapons of mass destruction, and the much larger question of our overall proliferation commitment itself. They undermine the credibility of the United States and the United Nations position that Iraq comply with the Security Council's demands to provide unconditional and unfettered access to those inspectors. And, obviously, every single one of our colleagues ought to be deeply concerned about the fact that by keeping the inspectors out of the very places that Saddam Hussein wants to prevent them from entering, they substantially weaken UNSCOM's ability to make any accurate determination of Iraq's nuclear, chemical or biological weapons inventory or capability. And in so doing, they open the door for Iraq's allies on the Security Council to waffle on the question of sanctions.

I recognize that the Security Council recently voted to keep the sanctions in place and to suspend the sanctions review process. But, Mr. President, notwithstanding that, the less than maximum level of international concern and focus on the underlying fact that no inspections take place, the continuation of Iraq's weapons of mass destruction program, and the fact that Saddam Hussein is in complete contravention of his own agreements and of the U.N. requirements—that continues to be the real crisis. And Saddam Hussein continues to refuse to comply.

Since the end of the gulf war, the international community has sought to isolate and weaken Iraq through a dual policy of sanctions and weapons inspections. Or, as one administration official said, to put him in a "box." In order to get the sanctions relief, Iraq has to eliminate its weapons of mass destruction and submit to inspections. But it has become painfully apparent over the last 11 months that there are deep divisions within the Security Council particularly among the Permanent 5 members over how to deal with Saddam Hussein's aggressive efforts to break out of the box.

Russia, France and China have consistently been more sympathetic to Iraq's call for sanctions relief than the United States and Britain. We, on the other hand, have steadfastly insisted that sanctions remain in place until he complies. These differences over how to deal with Iraq reflect the fact that there is a superficial consensus, at best, among the Perm 5 on the degree to which Iraq poses a threat and the priority to be placed on dismantling Iraq's weapons capability. For the United States and Britain, an Iraq equipped with nuclear, chemical or biological weapons under the leadership of Saddam Hussein is a threat that almost goes without description, although our current activities seem to call into question whether or not one needs to be reminded of some of that description. Both of these countries have demonstrated a willingness to expend men, materiel and money to curb that threat.

France, on the other hand, has long established economic and political relationships within the Arab world, and has had a different approach. Russia also has a working relationship with Iraq, and China, whose commitment to nuclear nonproliferation has been less than stellar, has a very different calculus that comes into play. Iraq may be a threat and nonproliferation may be the obvious, most desirable goal, but whether any of these countries are legitimately prepared to sacrifice other interests to bring Iraq to heel remains questionable today, and is precisely part of the calculus that Saddam Hussein has used as he tweaks the Security Council and the international community simultaneously.

Given the difference of views within the Security Council, and no doubt the fears of our Arab allies, who are the potential targets of Iraqi aggression, it is really not surprising, or shouldn't be to any of us, that the administration has privately tried to influence the inspection process in a way that might avoid confrontation while other efforts were being made to forge a consensus. But now we have to make a judgment about the failure to reinstate the inspection process and ask ourselves whether or

not that will destroy the original "box" that the administration has defined as so essential to carrying out our policy.

Is it possible that there is a sufficient lack of consensus and a lack of will that will permit Saddam Hussein to exploit the differences among the members of the Security Council and to create a sufficient level of sanctions fatigue that we would in fact move further away from the policy we originally had?

To the extent that his efforts are successful, we will find ourselves increasingly isolated within the Security Council. In fact, it is already clear that some of our allies in the Security Council are very open to the Iraqi idea of a comprehensive review of its performance in dismantling all of its nuclear, biological, and chemical weapons—a review which Iraq hopes will lead to a lifting of some if not all of the sanctions.

I think the question needs to be asked as to how long we can sustain our insistence on the maintenance of sanctions if support for sanctions continues to erode within the Security Council. If it is indeed true that support is eroding—and there are great indicators that, given the current lack of confrontation, it is true—then the question remains, How will our original policy be affected or in fact is our original policy still in place?

In April, Secretary Albright stated that, "It took a threat of force to persuade Saddam Hussein to let the U.N. inspectors back in. We must maintain that threat if the inspectors are to do their jobs."

That was the policy in April. Whether the administration is still prepared to use force to compel Iraqi compliance is now an enormous question. The Secretary says it is, but the recent revelations raise questions about that.

In addition, it seems to me that there are clear questions about whether or not the international community at this point in time is as committed as it was previously to the question of keeping Iraq from developing that capacity to rob its neighbors of tranquility through its unilateral development of a secret weapon program.

In May, India and Pakistan, despite all of our exhortations, conducted nuclear tests. In August, U.S. intelligence reports indicated that North Korea is building a secret underground nuclear facility, and last month North Korea tested a new 1,250-mile-range ballistic missile which landed in the Sea of Japan. Each and every one of these events raises the ante on international proliferation efforts and should cause the Senate and the Congress as a whole and the administration, in my judgment, to place far greater emphasis and energy on this subject.

If the United States and the United Nations retreat in any way on Iraq, if we are prepared to accept something less than their full compliance with the international inspection requirement that has been in place now for 7 years, it will be difficult to understand how we will have advanced the cause of proliferation in any of those other areas that I just mentioned.

Mr. President, over the years, a consensus has developed within the international community that the production and use of weapons of mass destruction has to be halted. We and others worked hard to develop arms control regimes toward that end, but obviously Saddam Hussein's goal is to do otherwise. Iraq and North Korea and others have made it clear that they are still trying, secretly and otherwise, to develop those weapons.

The international consensus on the need to curb the production and use of weapons of mass destruction is widespread, but it is far from unanimous, and, as the divisions within the Security Council over Iraq indicate, some of our key allies simply don't place the same priority on proliferation as we do.

The proliferation of weapons, be they conventional or of mass destruction, remains one of the most significant issues on the international agenda. Obviously, solutions won't come easily. But I am convinced that in the case of Iraq, our failure would set the international community's nonproliferations efforts back enormously.

Our allies need to understand that the ramifications of letting Saddam Hussein out of the box that we put him in with respect to inspections would be serious and far-reaching. So I believe we need to keep the pressure on them to stand firm, to stand firm with us, and unless we reassert our leadership and insist that Iraq allow those inspectors to do their job, we will have destroyed a number of years of our effort in ways, Mr. President, that we will regret in our policy for the long haul.

I would point out also that there are experts on Iraq, those in the inspections team, those at the U.N. and elsewhere in our international community, who are very clear that Saddam Hussein's first objective is not to lift the sanctions. His first objective is to keep Iraq's weapons of mass destruction program—that will come ahead of all else.

The situation is really far more serious than the United Nations, the Congress or the administration have made clear to the American people or demonstrated through the level of diplomacy and focus that is currently being placed on this issue. It is not simply about eliminating Saddam Hussein's capacity to threaten his neighbors. It is about eliminating Iraq's weapons of mass destruction—chemical, biological, and nuclear. Failure to achieve this goal will have a profound impact, I believe, on our efforts with respect to our other nonproliferation efforts including completion of our talks with Russia and the ultimate ratification of the START II treaty by the Duma.

In recent conversations that I had with Chairman Butler, he confirmed that Saddam Hussein has only this one goal—keeping his weapons of mass destruction capability—and he further stated with clarity that Iraq is well out of compliance with U.N. resolutions requiring it to eliminate those weapons and submit to inspections and out of compliance with the agreement that he signed up to in February with Kofi Annan.

Mr. President, I believe there are a number of things we could do, a number of things both in covert as well as overt fashion. There is more policy energy that ought to be placed on this effort, and I believe that, as I have set forth in my comments, it is critical for us to engage in that effort, to hold him accountable.

In February, when we had an armada positioned in the gulf, President Clinton said that "one way or the other, we are determined to deny Iraq the capacity to develop weapons of mass destruction and the missiles to deliver them. That is our bottom line."

The fact is, Mr. President, over these last months there has been precious little to prevent Saddam Hussein from developing that capacity without the inspectors there and without the unwavering determination of the United Nations to hold him accountable. So the question still stands, What is our policy and what are we prepared to do about it?

Mr. President, I had asked to speak also on another topic for a moment. I see my colleague from New Mexico is here. Let me ask him what his intentions might be now and maybe we can work out an agreement.

Mr. DOMENICI. Mr. President, I am on the list for 20 minutes, and I have a 2:30 beginning on the budget process working with the White House on some offsets. How much longer did the Senator need?

Mr. KERRY. Mr. President, under those circumstances, I know that the chairman needs to get to those talks. I was going to speak for a longer period of time. What I will do is just proceed for another 5 minutes, to summarize my thoughts, if it is agreeable.

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

THE EDUCATION CRISIS

Mr. KERRY. Mr. President, we appear to be, obviously, stuck on the issue of education in the Senate as in the country. We have been talking about the crisis for a long time now. The fact is that there isn't a community in the country that isn't struggling with its public school system. Vouchers gain in popularity notwithstanding the fact that they are only going to solve the problem for a few of

our kids. And the truth is that too many of our schools have a diminished tax base and an inability through the property tax to be able to do what they need to do.

We also know that too many of our students are graduating from high school and given a degree by a principal even though principals in this country know that too many of those kids can't even read or write properly. Of 2.6 million kids who graduated from high school a year and a half ago, fewer than a third graduated with a proficient reading level. One-third were below basic reading, one third were at basic reading level, and only 100,000 of them had a world-class reading level. Thirty percent of our kids need remedial reading, writing, and arithmetic in the first days when they go to college. The truth is, we also have a crisis of teachers and their availability in our school system. We need some 2 million new teachers in the course of the next 10 years. We will need to hire 60 percent of them in the course of the next 5 years. This year alone, 61,000 new teachers went into our school systems. But the fact is, we are not able to draw from the best universities, the best colleges, and the best students because we barely pay enough for subsistence as starting salary and because too many kids come out of college today with loan payments due and with other opportunities that draw them away from the prospect of teaching.

We really do have a major set of choices in front of us about our education system. There is a great struggle here in Washington. A lot of people argue the Federal Government has no role whatsoever, there is nothing the Federal Government can do with respect to this. After all, only 7 percent of the budget comes from the Federal Government, and as we all know, it is a cherished notion in America that schools are run locally. And that is the way we want it. I agree with that. There is nothing in what I propose that would suggest the Federal Government ought to increase its relationship. In fact, it can decrease it. But we have to acknowledge the reality that there are too many communities that simply cannot do it on their own. There is a whole new set of relationships that need to be created in our education system between teachers and the principals, the school boards and the layers of bureaucracy that have been created for all of these years.

So I suggest we ought to undo the bureaucracy, think differently, think out of the box and not be locked into a traditional debate between Democrats and Republicans, conservatives and liberals. We ought to look at a way that we can take the best practices, what works best in a parochial school, in a private school—or in a wonderful public school. The truth is, there are some incredible public schools in this country where teaching is going on and kids are going on to the best colleges in the country. When you go to those schools, you will invariably find a principal, above all, who is energized, respected, creative, visionary; who has the respect of the community, who is able to move the school into new curricula, into a new relationship with the school board, into a new relationship with the students and with the teachers and they have worked out their own hybrid relationships with the teachers' unions and with the layers of bureaucracy. They have liberated themselves in many ways from what stifles creativity in too many of our schools. In essence, they have become a charter school within the public school system.

I believe what we ought to strive to do is to allow every school within the public school system to effectively become a charter school within the public school system, allow those schools to be able to have principals who run the school on a local basis, hiring teachers from any walk of life, being responsible for the quality of that teaching. It does not make sense in America that someone who can teach at a college might not be allowed to teach in a high school or in a secondary or elementary school simply because they have not gone through the structure of the education system that is now licensed to provide teachers in most of our communities.

How is it that you can have a professor in a college who would not be able, on a long-term basis—yes, maybe on a provisional basis—but on a long-term basis to teach in the public school system? We need to provide choice and competition within the public school system. We need to have accountability in those systems in ways that parents and children and the community as a whole will be more involved in the life and breadth of that school.

I am going to be introducing legislation together with some Republican colleagues later in the year. I will be putting it in now as an outline, for purposes of the record. I look forward, I hope in the next Congress, to our opportunity to engage in a stronger and more lively debate about real solutions to the crisis of education in America.

I yield the floor and ask unanimous consent the outline be printed in the RECORD.

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

A PLAN TO EDUCATE AMERICA'S CHILDREN

(By Senator John F. Kerry)

TITLE I—VOLUNTARY STATE REFORM INCENTIVE GRANTS

If education reform is to succeed in America's public schools, we must demand nothing less than comprehensive reform effort. The best public school districts are simultaneously embracing a host of approaches to educating our children; high standards and accountability, sufficient resources, small class sizes, quality teachers, motivated students, effective principals, and engaged parents and community leaders. We must not be half-hearted in our efforts to make reform feasible for every school in this country. We cannot address only one challenge in education and ignore the rest. We must make available the tools for real comprehensive reform so that every aspect of public education functions better and every element of our system is stronger.

So let us now turn to a bold answer: Let's make every public school in this country essentially a charter school within the public school system. Let's give every school the chance to quickly and easily put in place the best of what works in any other school—private, parochial or public—with decentralized control, site-based management, parental engagement, and real accountability.

Several schools across the country have devised ways to accomplish this by raising standards to improve student achievement, lowering class size, improving on-going education for teachers, and reducing unnecessary middle-level bureaucracy. Numerous high-performance school designs have also been created such as the Modern Red Schoolhouse program, the Success for All program, and the New American Schools program. The results of extensive evaluations of these programs have shown that these designs are successful in raising student achievement. Studies show that these many of these successful programs cost less than the national median of basic education revenues per pupil for K–12 school districts. If we brought all schools up to the spending level of the national median, all schools could finance these high-performance school designs. Therefore, we should raise spending to the state or the national median, whichever is higher, thereby allowing every school district to finance and implement comprehensive reform based on proven high-performance models and teach students to the highest standards (58 percent of school districts are below either the national or their state median). Although money alone will not solve the problems in poor school districts, it is impossible to solve without adequate resources. Rather than piecemeal, fragmented approaches to reform, the Comprehensive School Reform program is intended to foster coherent schoolwide improvements that cover virtually all aspects of a school's operations.

To ensure that the vast majority of school districts could engage in comprehensive school reform, Title I of the Elementary and Secondary Education Act (ESEA) should also be fully funded. Title I is the primary federal help for local districts to provide assistance to poor students in basic math and reading skills. Title I currently provides help to local school districts for additional staff and resources for reading and math, curriculum improvements, smaller classes, and training poor students' parents to help their children learn to read and do math. However, Title I only reaches two-thirds of poor students because of inadequate funding. Since 90 percent of school districts receive at least some Title I funds, fully funding Title I and allowing school districts to use these additional funds for comprehensive reforms would give schools the ability to implement comprehensive reforms so that all students reach the highest academic standards.

Most poor school districts lack the resources to meet the vital educational needs of all of their students. A well-crafted program with the federal and state governments working in close cooperation with one another could make major strides in closing

these gaps and improving student performance.

Comprehensive school reform will help raise student achievement by assisting public schools across the country to implement effective, comprehensive school reforms that are based on proven, research-based models. No new federal bureaucracy would be established—the program would be implemented at the state level. Furthermore, no funds could be used to increase the school bureaucracy. School districts would implement a comprehensive school reform program and evaluate and measure results achieved. Schools would also provide high-quality and continuous teacher and staff professional development and training, have measurable goals for student performance and benchmarks for meeting those goals, provide for meaningful involvement of parents and the local community in planning and implementing school improvement, and identify how other available federal, state, local, or private resources will be utilized to coordinate services to support and sustain the school reform effort.

The funding for the program would move towards the goal of providing every school district in the country enough funds to implement a high quality, performance-based model of comprehensive school reform at a cost of $4,270. This would mean providing enough funds to bring every district up to the state or the national median, whichever is higher (it is estimated that $30 billion annually would be needed to bring the per-pupil expenditure of every school district up to the national or state average). To move towards this goal, the federal government would provide funds and states would match this money (states would provide 10 to 20 percent with poorer states providing a smaller match). To receive these funds, states would have to provide a minimum spending effort based on state and local school spending relative to the state's per capita income. Funding would be $250 million in FY99, $500 million in FY2000, $750 million in FY2001, $1 billion in FY2002, and $4 billion in FY2002.

Fully fund Title I so almost all school districts would receive some funds to implement comprehensive school reform (90 percent of all local school districts receive Title I funds). Funding would be $200 million in FY99, $400 million in FY2000, $600 million in FY2001, $1 billion in FY2002, and $4 billion in FY2002.

TITLE II—ENSURE THAT CHILDREN BEGIN SCHOOL READY TO LEARN

Recent scientific evidence conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits. Many local communities across the country have developed successful early childhood efforts and with additional resources could expand and enhance opportunities for young children. We must enhance private, local, and state early successful support programs for young children by providing resources to expand and/or initiate successful efforts for at-risk children from birth to age six.

Provide funds to States to make grants to local early childhood development collaboratives. States would fund parent education and home visting classes and have great flexibility to decide whether to also support quality child care, helping schools stay open later for early childhood development activities, or health services for young children. Communities would be required to document their unmet needs and how they would use the funds to improve outcomes for young childen so they begin school ready to learn. Funding would be $100 million in FY99, $200 million in FY2000, $300 million in FY2001, $400 million in FY2002, and $1 billion in FY2002.

TITLE III—EXCELLENT PRINCIPALS CHALLENGE GRANT

Principals face long hours, high stress, and too little pay. To overcome these obstacles, principals in successful schools must have effective leadership skills. However, too few principals get the training they need in management skills to ensure their school provides an excellent education for every child. Attracting, training, and retaining excellent principals is essential to helping every local school district become world class.

Establish a grant program to states to provide funds to local school districts to attract and to provide professional development for elementary and secondary school principals. Activities would include developing management and business skills, knowledge of effective instructional skills and practices, learning about educational technology, etc. Funding would be $20 million per year. States and local school districts would contribute 25 percent of the total although poor school districts would be exempt from the match.

TITLE IV—ESTABLISH "SECOND CHANCE" SCHOOLS FOR TROUBLED STUDENTS

Parents, students, and educators know that serious school reform cannot succeed without an orderly and safe learning environment. The few students who are unwilling or unable to comply with discipline codes and make learning impossible for the other students need behavior management programs and high quality alternative placements. Suspending or expelling chronically disruptive or violent students is not effective in the long run since these students will fall behind in school and may cause additional trouble since they are frequently completely unsupervised; these students need alternative placements that provide supervision, remediation of behavior and maintenance of academic progress. Although some may resist this program for fear that it will be used to isolate disabled students, the purpose is to provide additional interventions for troubled students, not to change disciplinary actions against disabled students.

Add a new title to the Elementary and Secondary Education Act (ESEA) to establish a competitive state grant program for school districts to establish "Second Chance" programs. To receive the funds school districts must enact district-wide discipline codes which use clear language with specific examples of behaviors that will result in disciplinary action and have every student and parent sign the code. Additionally, schools may use the funds to promote effective classroom management; provide training for school staff and administrators in enforcement of the code; implement programs to modify student behavior including hiring school counselors; and establish high quality alternative placements for chronically disruptive and violent students that include a continuum of alternatives from meeting with behavior management specialists, to short-term in-school crisis centers, to medium duration in-school suspension rooms, to off-campus alternatives. Funding would be $100 million per year and distributed to states through the Title I formula.

TITLE V—TEACHER RECRUITMENT AND ON-GOING EDUCATION INCENTIVE GRANT

Approximately 61,000 first-time teachers begin in our nation's public schools each year. Since the average starting salary for teachers is a little more than $21,000 per year, we need to raise their compensation to attract a larger group of qualified people into the teaching profession. Since the average student loan debt of students graduating college who borrowed money for college is $9,068, the most effective way to provide federal assistance to states to raise teachers' salaries is to provide loan forgiveness. In addition, scholarships ought to be available to the most talented high school students in every state in return for a commitment to teach in our public schools (North Carolina has successfully recruited future teachers from within public high schools with the lure of college scholarships).

States would be given funds to provide poor school districts the ability to raise teacher salaries to attract and retain the best teachers. Funding would be provided through the Title I "targeted grant" formula (the minimum threshold would be 20% poor children or 20,000 poor children). Funding would be $500 million for FY 99, $500 million in FY 2000, $1 billion in FY 2001, $1 billion in FY 2002, and $2 billion in FY 2003. Additionally, full-time state certified public school teachers who teach in low-income areas or who teach in areas with teacher shortages such as math, science, and special needs would have 20 percent of their student loans forgiven after two years of teaching, an additional 20 percent after three years, an additional 30 percent after four years, and the remaining 30 percent after five years. The program would be funded at $50 million each year. Finally, an additional $10 million would be provided as grants to states that wish to provide signing bonuses for first-time teachers who teach in low-income areas or areas with teacher shortages.

Provide $10 million in grants for states to establish a program to provide college scholarships to the top 20 percent of SAT achievers or grade point average in each state's high school graduating class in return for a commitment to become a state certified teacher for five years. States would contribute 20 percent of the funds for the scholarships. Five percent of the total funds could be used by local school districts to hire staff to recruit at the top liberal arts, education, and technical colleges (districts would be encouraged to establish a central regional recruiting office to pool their resources). One percent of the total funds would be used by the Secretary of Education to create a national hotline for potential teachers to receive information on a career in teaching.

TITLE VI—TEACHER QUALITY ENHANCEMENT GRANTS

We need to provide on-going education in teaching skills and academic content knowledge, establish or expand alternative routes to state certification, and establish or expand mentoring programs for prospective teachers by veteran teachers (according to the National Commission on Teaching and America's Future, beginning teachers who have had the continuous support of a skilled mentor are more likely to stay in the profession).

Establish Teacher Quality Enhancement Grants, a competitive grant awarded to states to improve teaching. The grants would have a matching requirement and must be used to institute state-level reforms to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas they are assigned to teach. In addition, establish Teacher Training Partnership Grants, designed to encourage reform at the local level to improve teacher training. One

of the uses of these funds would be for states to establish, expand, or improve alternative routes to state certification for highly qualified individuals from other occupations such as business executives and recent college graduates with records of academic distinction. Another use would be to mentor prospective teachers by veteran teachers. Provide $100 million per year for these new teachers training programs so that states can improve teacher quality, establish or expand alternative routes to state certification for new teachers, and mentor new teachers by veteran teachers.

TITLE VII—INVEST IN COMMUNITY-BASED SCHOOLS AND COMMUNITY SERVICE

As many as five million children are home alone after school each week. Most juvenile involvement in crime—either committing crime or becoming victims themselves—occurs between 3 p.m. and 8 p.m. Children who attend quality after-school programs, however, tend to do better in school, get along better with their peers, and are less likely to engage in delinquent behavior. Expansion of both school-based and community-based after school programs will provide safe developmentally appropriate environments for children and help communities reduce the incidents of juvenile delinquency and crime. In addition, many states and localities such as Maryland and the Chicago public school system require high school students to perform community service to receive a high school diploma. The real world experience helps prepare students for work and instills a sense of civic duty.

Expand the 21st Century Learning Centers Act by providing $400 million each fiscal year to help communities provide after-school care. Grantees will be required to offer expanded learning opportunities for children and youth in the community. Funds could be used by school districts to provide: literacy programs; integrated education, health, social service, recreational or cultural programs; summer and weekend school programs; nutrition and health programs; expanded library services, telecommunications and technology education programs; services for individuals with disabilities, job skills assistance; mentoring; academic assistance; and drug, alcohol, and gang prevention activities.

Provide $10 million in grants to states that have established or chose to establish a state-wide or a district-wide program that requires high school students to preform community service to receive a high school diploma. States would determine what constitutes community service, the number of hours required, and whether to exempt some low-income students who hold full-time jobs while attending school full-time. The grants would be matched dollar for dollar with half of the match coming from the state and local education agencies and half coming from the private sector.

TITLE VIII—EXPAND THE NATIONAL BOARD CERTIFICATION PROGRAM FOR TEACHERS

The National Board for Professional Teaching Standards, which is headed by Gov. Jim Hunt, established rigorous standards and assessments for certifying accomplished teaching. To pass the exam and be certified, teachers must demonstrate their knowledge and skills through a series of performance-based assessments which include teaching portfolios, student work samples, videotapes and rigorous analyses of their classroom teaching and student learning. Additionally, teachers must take written tests of their subject-matter knowledge and their understanding of how to teach those subjects to their students. The National Board certification is offered to teachers on a voluntary basis and complements but does not replace state licensing. The National Commission on Teaching for America's Future called for a goal of 105,000 board certified teachers by the year 2006 (since the exam began recently, only about 2,000 teachers are currently board certified). Since the exam costs $2,000, many teachers are currently unable to afford it.

Provide $189 million over five years so that states have enough money to provide a 90% subsidy for the National Board certification of 105,000 teachers across the country.

TITLE IX—HELP COMMUNITIES TO MODERNIZE AMERICA'S SCHOOLS

More than 14 million children in America attend schools in need of extensive repair or replacement. According to a comprehensive survey by the General Accounting Office (GAO) requested by Senator Moseley-Braun, Senator Kerry and others, the repair backlog totals $112 billion. Researchers at Georgetown University found that the performance of students assigned to schools in poor condition fall by 10.9 percentage points below those in buildings in excellent condition.

To help rebuild, modernize, and build over 5,000 public schools, provide federal tax credits to school districts to pay interest on nearly $22 billion in bonds at a cost of $5 billion over five years.

TITLE X—ENCOURAGE PUBLIC SCHOOL CHOICE

Many public schools have implemented public school choice programs where students may enroll at any public school in the public school system. In contrast to vouchers for private schools, public school choice increases options for students but does not use public funds to finance private schools which remain entirely unaccountable to taxpayers.

Provide $20 million annually in grants to states that choose to implement public school choice programs. School districts could spend the funds on transportation and other services to implement a successful public school choice program. Up to 10 percent of the funds may be spent by a school district to improve low performing school districts that lose students due to the public school choice program.

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the Chair recognizes the Senator from New Mexico for up to 20 minutes.

Mr. DOMENICI. Mr. President, I thank Senator SESSIONS from Alabama. He was here ahead of me and, frankly, had a more legitimate right to speak now than I, and I appreciate his permitting me to proceed.

SENATOR DALE BUMPERS

Mr. DOMENICI. First let me talk for a moment, since he is present on the floor, of Senator BUMPERS, the senior Senator from Arkansas. Let me use a couple of minutes of my time to say a few words about him before I proceed to talk about the budget and a few other matters.

First, I want to say to Senator BUMPERS, I don't think he needs me to repeat again what I have said in committee. He is going to be missed. He has been a real credit to this place called the U.S. Senate. I have never known him to behave, act, or in any way conduct himself as to demean this place. He has held it in respect, and that makes it a better place when we do that.

But I also want to remind the Senate, since it has not been stated here on the floor as I know of, that in the energy and water appropriations bill it was my privilege, at the behest of some of DALE BUMPERS' good friends here in the Senate, with the help of his staff and others, to include a resolution honoring him for his diligent and hard work on behalf of the public domain in the United States—the forest lands, the wilderness, the parks. In that bill, the resolution says we want him to be known for as long as there is an Arkansas. Thus, we took eight wilderness areas that are in his State that he had a lot to do with, and for name purposes we made all of them part of one wilderness called the Dale Bumpers Wilderness Area.

That is now 91,000 acres in total that will bear your name. I know many other things could be done to indicate our esteem for you, but many of us thought that this might just be one that would strike you as quite appropriate. And we hope so. It is now the law of the land. The President signed it about 22 hours ago. Thus, I am here saying it in your presence.

I thank you personally on behalf of our side of the aisle for everything you have done.

Mr. BUMPERS. Mr. President, if the Senator will yield just a moment for me to say: I want that to be my legacy, Senator. You couldn't have done anything that would please me more. I have had a few accolades in my 24 years in the Senate. I have had several things named after me. But I can tell you that what you did in that Energy and Water Committee gives me unbelievable satisfaction. The reason I sponsored that legislation and fought so hard for it several years ago is because I wanted my children and my grandchildren to know what my values were. I was trying to save something for them.

I thank you very much.

Mr. DOMENICI. Then, might I say to Senator BUMPERS, that aisle, from your podium on down here to the first step into the well, is going to get a deserved rest when you leave. That aisle and the carpet there is going to take a new breath and say there is nobody walking up and down on top of us, because Dale BUMPERS is not walking, walking the floor there as he delivers his eloquent speeches on the Senate floor. I only say that by way of the great respect we have for the way you talk to us, and talk to the American people. I am very pleased that you used that little 30 feet of carpet and hall as your place to talk.

Mr. BUMPERS. Thank you, Senator.

ADDRESSING PRESIDENT CLINTON

Mr. DOMENICI. Mr. President, I want to talk about three or four things. I am going to try my very, very best to be factual. I am concerned that here, in these waning days, considering the situation that exists on Pennsylvania Avenue, that the President finds himself in a very supercharged political environment. I don't think I had to say that. I think everybody knows that. But I want to suggest that yesterday afternoon, or whatever time of day it was that the President had a quickly called press conference to talk about the Congress of the United States and what we have and haven't done, and particularly to say that we aren't taking care of his education programs, and unless we do, he is going to keep us here.

Normally, when I say "Mr. President," I am addressing the Chair, because that is what we are supposed to do. If we care to address anyone here, we do it through "Mr. President."

Permit me to address the Mr. President on Pennsylvania Avenue, President Bill Clinton.

President Clinton, you have been known to have a fantastic memory. As a matter of fact, I think you acknowledged that at one point recently, although, as with many of us who grow older, you did indicate that with the passage of time and the pressure of many things to do, that that great memory fails every now and then.

Now, Mr. President—Bill Clinton—I am suggesting that maybe your memory failed you when you gave that speech yesterday. So let me tell you what I remember about your education programs that you claim we have not funded.

I want everybody to know that on many things regarding budgets and programs, you can look to the budget that the President sends up here to see what it asks for and what we are giving him. This is the budget for the year we are now appropriating, which started technically on October 1. Here it is.

I had occasion, shortly after it was issued, to have the education parts of this reviewed. I remember coming to the floor of the U.S. Senate to say to the President, which OMB agreed to, "Mr. President, the official scorekeeper and official evaluator of budgets for the U.S. Congress says that your request for money for two education programs—interest reduction so that schools can afford buildings they need and so-called 100,000 teachers so we can lower the classroom ratio—those two programs were found by the official budget analysts to not properly have been placed in this budget. What they said is, they break the budget that you just signed, Mr. President." Point No. 1.

Point No. 2: If they are so important—and I am not denying that the President feels they are, and maybe many Senators feel they are—do you know what the President did in asking us to pay for them? He didn't provide the money to pay for them. He did not. It is not in this budget. He said, "When you pass the cigarette tax, I would like you to use some of it for education."

Let me just say, that sort of says to me, "I couldn't find room in the budget for these things that I am telling you are very important. So if we get a cigarette tax, we'll pay for them."

Do you know what happened? After weeks of debate, we didn't get a cigarette tax.

Mr. President, what I know is that the appropriators in the U.S. Senate, in the bill that takes care of education—so there will be no misunderstanding, in this regular budget you asked for $31.4 billion for education. Look at the appropriations bill, Mr. President. Ask OMB, your official people who look at it. See how much the Senate gave you for education funding for the year you are complaining about. Interesting, $31.4 billion—exactly what you asked for. Now, Mr. President, you tell the American people you are going to keep us here until we do this, as if we are the ones to blame for it not being done—that is, those two programs.

I am living in a different world, or the President's memory has failed him, because do you understand, I say to my fellow Senators, that the President is asking for that money now for these two programs—and for many Senators it is doubtful whether that is the way to help education, but, nonetheless, let's just follow it. He is now saying he is going to keep us here until we do it. But guess what. He knows, his helpers know, that he has to find programs within the Government to cut, which are called offsets, in order to pay for those two programs. He knows that, because this budget says he didn't have room for it in here. He was making room through a cigarette tax that never happened.

As of right now, 2:25 p.m., I am not aware that the President has submitted a means to pay for those programs. I am not aware that the President has told us how to pay for them if we wanted to adopt them. All I am asking is that we depoliticize a few of these issues, or at least state the facts correctly. We do not deserve blame for not including two programs, which, I repeat, are not paid for in this budget, when as of today, 11 days into the fiscal year, we don't know how the President intends to pay for them. All right? That is the first point I would like to make today.

Second point: There has been a lot of discussion this morning on the floor of the Senate by some Senators about this issue of a Patients' Bill of Rights. I think the country understands, but just so it won't be left unaddressed here this morning, let me again refresh our collective memories. With everything that we have to do, we took 3½ weeks to debate the Patients' Bill of Rights on the floor of the Senate.

The minority can say we didn't let it pass, but, Mr. President, the majority can say, they didn't let it pass. They had a bill; we had a bill. We had more than 50 votes; they did not. They kept our bill from passing which had more than sufficient votes. So I ask, who is to blame for a bill not passing? Again, I want to be practical, I can't say it is all their fault, the minority's fault, but clearly it is certainly not all the Republicans' fault.

What was the really big issue between the two parties? And I leave this one to the American people. The principal issue that divided us was the lawyers of the United States. They support the minority heavily—not all of them, not all of them, but those who litigate. What did they want in the bill that we didn't want in the bill? We didn't want a new right to go to court to sue managed care entities, HMOs. We left the right to sue the doctors and the professionals, but we didn't want to create a new right to sue the HMOs in courts of law for damages.

We, on this side, for the most part—not unanimously, but for the most part—have adopted a sense about health care, and it says lawyers and lawsuits don't deliver health care; lawyers and lawsuits make health care cost more. We could not see why, if the minority and the President think it is such an enormous new status and set of rights that we should adopt—and we tend to agree—why would the minority that didn't have the votes to pass here but we had the votes to pass ours—why would they deny a bill's passage based upon, they want lawyers back in the loop and we don't want lawyers back in the loop? I leave it to those listening and those who will look at the RECORD. See if I am correct that that was the biggest stumbling block, and see whether the President and the minority caused the Patients' Bill of Rights bill to fail or not.

Those are two points, and I want to make a third.

Mr. President, in the election past, two things worked for the President. He is probably the best public relations President we have ever had. Two things worked for him as certain—as certain—as when you write a name in ink on a piece of paper with indelible ink; it will be there. And those two things that he has used over and over—you need not think; they will pop into your mind—Social Security and education. Right?

What we have seen, I say to my friend from Alabama, we have seen the Social Security card played. How? "No tax cuts out of the surplus because it jeopardizes Social Security." That is the typical every 2-year issue. It is raised again.

Let me suggest to Mr. President, Bill Clinton, you know, Mr. President, that

we are about, in the next 72 hours, to pass a very big appropriations bill. Maybe Pennsylvania Avenue does not know this, but here is the best estimate I have. We are about to spend—spend; not tax, spend—$18 billion of the surplus that was supposed to be saved for Social Security. Got it? The same pot that the President says, "Don't touch it. It's for Social Security," we are about to spend $18 billion of it for so-called "emergencies." And I will get to that in a moment.

Friends here in the Senate and those listening, you cannot have it both ways. You cannot say to Republicans, "You can't use the surplus to give back to the American people in taxes, even if it's a tiny amount, but you can spend the surplus for bigger Government." You know, it just does not wash. Both are diminishing, to some extent, the surplus of $1.6 trillion that we expect in the next decade.

I do not think it will be that much. In fact, the year we are in right now is supposed to have an $80 billion surplus. I think it will be $20 billion off because of economics. And then we will spend $18-, $20 billion of it that we did not plan to spend. Then we will have something for defense next year that we need, and there will probably be none left for tax cuts. That is what it looks like.

So I want to just talk about one of the emergencies.

I ask unanimous consent for 2 additional minutes.

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

Mr. DOMENICI. One of the "emergencies" is a real emergency. That is to help agriculture in the United States. But let me suggest, to help agriculture in the United States, we sent the President a bill. We had $4 billion in the emergency funding for the farmers of the United States.

When the President of the United States asked us for emergency money—which he knew people like Senator DOMENICI would start adding up to see how much more you are spending of the surplus than the Republicans planned to use in tax cuts—the President asked for $2.3 billion for agriculture. We gave him $4 billion.

But in the meantime, a distinguished Senator on the minority side, whom I have great respect for, the minority leader, Senator DASCHLE, introduced a bill saying, "We want $7.2 billion as an emergency for agriculture. And we want to wipe out the new law which is only 18 months old called Freedom to Farm because we currently have an emergency"—$7.2 billion. The President asked for $2.3 billion. Now we get a communication from the President that says, "I asked you for $2.3 billion, but essentially I want DASCHLE's bill, too." Now, believe it or not, we sent him a bill with $4 billion. He vetoed it and said, "Now you've got to give me what Senator DASCHLE's bill has."

Mr. President, we have had the best people in this body working on agriculture who put this emergency package together. And believe me, the $4 billion package would make the American agriculture whole. There would be no net loss of income to the agriculture community. They know it. The experts know it. But because it is an election year, and because of the turmoil that exists that I have alluded to earlier in my conversation with the Senate here, the President now holds agriculture programs hostage. If we do not do it his way, we will close down the Department of Agriculture. Frankly, if we did, it would be the President's—it would be on his shoulders, not ours. But you know, it will get worked out. I just thought everybody ought to know how these things work.

Now, should it matter? We have worked for 20 years to get a balanced budget and a balanced budget agreement. The result has been nothing but good news for America. Almost everybody that even touched the issue lays claim to having done it all, including the President who claims the entire economic well-being of the country is because he is President. He can do that. That is fine.

The truth of the matter is, there are plenty—plenty—who deserve credit, including the Federal Reserve, including Republicans in the Senate, Democrats in the Senate, the same in the House. But it really started happening, in terms of restraining the budget, when both bodies became Republican. And we can go back and trace that. That is when we fixed welfare to save money, that is when we changed Medicaid to save big dollars, and on and on.

Let's go home, let's wrap this up in the next few days, but let's remember the facts. And let's not let this superheavy, politically charged environment color things such that we are going to take that surplus we take so much pride in, and find out in 3 or 4 months that there is only 25, 30, 40 percent of it left, even though we were told, "You're going to really use it up if you cut taxes." What happened? We did not cut taxes, and it got used up. Interesting.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

FAREWELL SPEECH

Mr. BUMPERS. Mr. President, I rise this afternoon to speak, for what may be the last time, on the floor of the Senate. It is a very bittersweet time for me, after 24 years, most of which have been spent at this very desk. I might say at this moment that I have been blessed by having Senator KENNEDY as my seatmate these many years, and before him Senator GORE—both truly outstanding men.

In order to deliver a speech such as I am about to deliver, Mr. President, I do not think there is anything wrong with listing some of the defining moments in my life, because this speech is really more for the benefit of my children and grandchildren than it is for my colleagues or the people of America.

First of all, I was blessed by my parents. I remind my brother from time to time that everybody was not so lucky in choosing their parents as he and I were. And that really is the reason that I stand here as one of 1,843 men and women ever to serve in the U.S. Senate. We were taught when we were children that when we died we were "going to Franklin Roosevelt". And the reason we were taught that is because we were very poor. Most people do not realize that the South, from 1865 until about the time Franklin Roosevelt became President, was still living almost as a conquered nation. National politicians paid very little attention to the South.

In our household, we were poor during the Great Depression. And I might say, the Great Depression is certainly one of the most important defining moments of my life. But it was during the Great Depression that Franklin Roosevelt began to provide all kinds of things for people in the South that they had previously thought unthinkable.

We didn't have indoor plumbing. We didn't have running water. We didn't have paved streets. We didn't have much of anything. The people in our community died of typhoid fever in the summertime because the outhouse was just a few steps away from the well from which we drew our drinking water. Then Franklin Roosevelt began to provide immunizations for children against smallpox and typhoid. It was free. We got those shots at school.

We had then what we called hobos or tramps; today we call them homeless people. My mother always saved a few scraps after breakfast knowing that some tramp was going to knock on the back door and ask for food. That was back before welfare came into existence. So we were very poor.

I remember when I was 12 years old my father heard that Franklin Roosevelt was coming to Arkansas. He was a great believer in America and the political system and public service. He wanted my brother and me to see Franklin Roosevelt. So we drove over a gravel road 20 miles to Booneville, AR, and when the train on the Rock Island line pulled in, Franklin Roosevelt came out on the back platform, obviously being held up by a couple of Secret Service men. I tugged on my father's arm and I said, "Dad, what's wrong with him?" He said, "I will tell you later." On the way home, he told us that Franklin Roosevelt had contracted polio when he was 37 years old, he couldn't walk, and he carried 12 pounds of steel braces on his legs.

Then he told my brother and me that if Franklin Roosevelt could become President and couldn't even walk, there was no reason why my brother and I, with strong minds and bodies, couldn't become President, too. I never took my eye off that goal until many, many years later.

In the following year, my father was president of the Arkansas Retail Hardware Association. They gave our family $300 to go to Los Angeles to the national convention. I can remember the big party at the Biltmore Hotel in Los Angeles in 1937. I had never stepped on a carpet before in my life, and the Biltmore was filled with thick carpet. We just loved it. We didn't stay at the Biltmore. We were staying at the $2-a-night cabin.

But the night of the big party, everybody was in tuxedos and long dresses, except my parents. And all the children were dressed in tuxedos, too, even in that Depression year of 1937. But I can remember my brother and I had on long pants and white shirts, no tie, no coat. We were terribly embarrassed. My father sensed that, and so the next day he told us that he knew we were embarrassed but he reminded us that the most important thing was that we were clean, our clothes were clean, our bodies were clean, and the kind of clothes you wore really were not all that important. He made it OK.

When I was 15 years old, I had a high school English and literature teacher named Miss Doll. Every member of the U.S. Senate has been influenced by a college professor or high school teacher, maybe a preacher or somebody else. She was my influence.

I remember my mother, who had a tendency—not to denigrate my mother—to not build our self-esteem. My father was working against that, trying to teach us self-esteem, not ego, but esteem.

We were reading Beowulf in English, a great piece of literature. We would read a paragraph and discuss it. One time it came my time to read. I started reading, and all of a sudden—I read about 2 pages and Miss Doll still hadn't stopped me—I looked up and she was standing there. She looked at me and she looked at the class and she said, "Doesn't he read beautifully?" "Doesn't he have a nice voice?" And she said, "And wouldn't it be tragic if he didn't use that talent." At first I thought she was making fun of me, but she did more for my self-esteem in 10 seconds than anybody, except my father, ever did. Some of my political detractors think she overdid it.

And then just out of high school, but only after 6 months at the University of Arkansas, I went into the Marine Corps. World War II was raging. It was a terrifying time. I fully expected to be killed in that war. The Marines were taking terrible casualties in the South Pacific. Happily, I survived that. The best part of it was when I got home there was a caring, generous, compassionate Federal Government, waiting with the GI bill.

While my father would have stolen to make sure we had a good education, my brother went to Harvard Law School and I went to the University of Arkansas and later Northwestern University Law School—both expensive schools my father could never afford. I studied political science and law. The reason I did that is because my father wanted me to go into public service. He wanted me and my brother to be politicians. He may be the last man who ever lived who encouraged his sons to go into politics.

In my first year in law school, he and my mother were killed in a car wreck. They were tragically killed by a drunken driver. Neither of them had ever had a drink in their life. That is what made it so bizarre. The big disappointment of my life was that my father didn't live to see me Governor or Senator.

The next defining moment of my life is when our children were born—first Brent, then Bill and then Brooke.

The next defining moment was when I was practicing law in a little town of 1,200 people and decided to run for Governor. The day I filed, a poll was taken statewide. It was the last day of the filing deadline. I found that of the eight Democrats in the primary, I had 1-percent name recognition. It was probably the most foolhardy thing I had ever done in my life. But I was trying to keep faith with my father, and I believe strongly in our country and I believe in public service.

The next defining moment in my life was shortly after I was elected Governor I got an invitation to go to Kansas City to speak at a Truman Day dinner. I told them I couldn't go, the legislature was in session. I just assumed those legislators would screw the dome off the capital if I left town. They came back and said, "If you will agree to do this, we will let you spend an hour with President and Mrs. Truman," and that was more than I could resist. So I went and spent that hour with President Truman and he asked me how I liked being Governor. I said, "I don't like it, it's a real pressure cooker. I am just a country lawyer. This is all new to me and the press is driving me crazy."

I was telling him what a terrible job being Governor of Arkansas was, and it suddenly dawned on me I was talking to a man who had to make the decision to drop the atomic bomb that ended World War II. And so I shut up. And then he told me, as I left, "Son, while you are looking at the ceiling every night in the Governor's mansion, wondering what you are going to do, remember one thing: The people elected you to do what you think is right and that is all they expect out of you. They have busy lives. So, remember, always tell people the truth; they can handle it."

That didn't sound like very profound advice to me at the time. But indeed it was. I have thought about it every day of my life since then.

Secondly, he said, "When you are debating in your own mind the issues that you have to confront, you think about this: Get the best advice you can get on both sides of the issue, make up your mind which one is right, and then you do it. That is all the people of the State expect of you—to do what you think is right."

So when I drove off the mansion grounds 4 years later, coming to the Senate, as I told my Democratic colleagues the other night, most of whom know this, I came here with the full intention of running for President. I had a very successful 4 years as Governor. I thought the world was my oyster and I fully intended, as I say, to run. The reason I didn't run is because after I had been here for a year, I realized that this whole apparatus was much more complex than I thought it was.

I told my children, if I had three lives to live, at the end of the last one, I would look back prior to 10 years at the end of it and realize how dumb I was. I was so smart when I graduated from high school, I could hardly bear it. When I got out of law school, the problem was compounded. When I drove off the mansion grounds, I was quite sure I was ready to be king of the world.

The other night I told Senator SARBANES I really regret that I have not been as effective a legislator as I should have been. He said, "Everybody feels that way." What I was really saying, I suppose, is I wish I had known then what I know now. In my dying breath I will look back and think about, really, how I was not as smart this Saturday afternoon as I thought I was. That is what a living, learning experience is.

So I chose not to run for President. By the time I felt that I was qualified to be President, I decided that it demanded a price that I was not willing to pay. Not to be purely apocalyptic about our future, because I am not, I must say, in all candor, partisanship has reached a point in this country, and the demands for political money have become so great—two very insidious things—that good men and women are opting out of public service, and not to enter public service. Money is corrupting the political process and it threatens our very democracy.

Since I announced that I would not run last year, I confess to you, Mr. President and colleagues, that I have voted in ways that I would not have if I were running. I think of the few times when I would have had to worry about what kind of a 30-second spot that vote would generate.

I have cast my share of courageous votes since I have been here, as Harry Truman admonished me to do. I have

always tried to use simple tests as to how I voted; How would my children and grandchildren judge me? Did it make me stronger or the Nation stronger? Did it do any irreversible damage to the environment? Is it fair to the less fortunate among us? Does it comport with the thrust of our Constitution, the greatest document ever conceived by the mind of man? Or does it simply make me stronger politically because it satisfies the political whims of the moment? Or does it simply keep the political money supply flowing?

Speaking of courageous votes, I voted for the Panama Canal Treaties in 1978 and, in all fairness, in 1980, had I had a strong opponent, I would not be standing here right now. I lucked out. But I can tell you, people were absolutely livid about my vote on the Panama Canal Treaties—a fabricated political issue. I ask the American people and my colleagues, who today has been inconvenienced by the Panama Canal Treaties? Is this country any weaker? The truth is that it is stronger. Our relationship with Panama is much stronger. It was the Quemoy and Matsu issue of 1978.

Incidentally, Henry Bellmon of Oklahoma voted for the Panama Canal Treaties and made a minute-and-a-half speech in doing it, while the rest of us were pontificating for hours trying to justify our positions. He announced he would not run again because, coming from the conservative State of Oklahoma, he knew he didn't have a prayer of being reelected, so hot was that issue.

When I voted against Ronald Reagan's prayer in school amendment—the only southern Senator to do so, my opponent tried to take advantage of it. But the American people and the people of my State—once you explained what was involved to them, where the school prayers would be written or adopted by the school board and required saying in the schools—came to understand the perils of the amendment. I always tell youngsters, and college groups particularly, when you think about that, you tell me which country that has an official state religion you want to live in.

Mr. President, one of the greatest moments of my life was when I was Governor and a man came into my office wanting me to talk to the highway department about a late penalty they were going to assess him for being 60 days late in completing a highway job. To shorten the story, I said, "If I do this for you, how do I explain to the next guy who walks in the door why I can't do it for him? I don't want to start down that road." After a long conversation, when he started to walk out after I told him I could not, under any circumstances, comply with the request, he said, "Governor, that's the reason I voted for you."

This institution is a great place. It is supposed to be the deliberative body. The Founding Fathers intended the lower House, the House of Representatives, to be the House of the people. They expected this place to be the deliberative body. It is a curious thing—and the minority leader here knows this—every amendment, every bill that comes up, we immediately start trying to figure out, how stringently can we limit the debate on this issue? There are times when that is fully justified, and there are times when only if you fully air something do the Senate Members really come here well enough informed to vote on it.

We are still the oldest democracy on Earth. We are still living under the oldest Constitution on Earth, and without men and women of goodwill being willing to offer themselves for service, there is absolutely no assurance that that will always be. Thomas Jefferson said, "The price of liberty is eternal vigilance." He was not just talking about military vigilance. We are still woefully inadequate in this country in the field of education. If I were the President of the United States and I were looking at a $70 billion surplus, I would make sure the first thing we did was to pass a bill that said no child in this Nation shall be deprived of a college education for lack of money. Look at all the statistics where we rank among the developed nations in education. And look at the state of health care. It is good for those who can afford it. And 45 million who have no health insurance and no health care do the best they can.

Mr. President, I have been richly blessed in my life, as I said, mostly by devoted parents, and good Methodist Sunday school teaching. My mother wanted me to be a Methodist preacher and my father wanted me to be a politician. Think about growing up with that pressure. I am personally blessed with a great family. If I died tomorrow, the people of Arkansas would take note of it, and there would be headlines in all of the papers in the State. But if Betty died tomorrow the people of our State would grieve. She has founded two organizations.

When Ronald Reagan announced to this country that we might just fire one across the Soviet Union's bow to get their attention, he terrified her. She and a group of congressional wives met around my kitchen table for about 6 months. Finally, I came home one night, and she said, "We are forming an organization. And we feel so strongly about it that we are going to put 'peace' in the name. We are going to call it Peace Links". Ultimately, she had almost 250 congressional wives conscripted into that organization.

I told her "you are going to get your husband beat." We are from a conservative State. People in Arkansas believe in a strong defense. People across this Nation believe in a strong defense. She said, "You men are going to get my children killed."

She had already spent all of her public life, from the time I was Governor until this day trying to immunize all of the children in this country. And I am not going to go through all of the successes that she has had, which have been staggering.

The Western Hemisphere is free of polio. Africa will be free of polio by the year 2002. Asia will be free of polio by the year 2004. And measles is next.

I tell you, she deserves a lot of credit for the virtual elimination of childhood diseases in this country. She went to see President Carter when he first came to power. She said, "I tell you something you can do that will have a lasting effect on the health of this Nation, and it will help you a lot when you run again." He put Joe Califano at her disposal. And today she and Rosalynn Carter have an organization called "Every Child By Two." She is still going at it—peace and children.

I have three beautiful children, and six beautiful, healthy grandchildren. I have been blessed with exceptional staff members, most of whom are more than staff members. They are very good friends. I have been blessed with the support of the people of my State in winning almost every election by 60 percent or more of the vote. I was much more liberal than my constituents. I like to believe that they respected me because they knew what I stood for is what I believed instead of what was politically expedient at any given time. But, for whatever reason, I will always be grateful to them.

Our State does not deserve to have been torn apart for the past 6 years. I know so many innocent people who have been destroyed, financially and mentally, by a criminal justice system gone awry. You would have to go back to the Salem witchcraft trials to find anything comparable.

I do not, nor does any Senator, condone the President's conduct. Call it whatever you want—reprehensible, indefensible, unconscionable. Call it anything you want. But most of us take pride in President Clinton's Presidency. And the American people are still saying they like him. But completely aside from that, as I say, I weep sometimes for the unfair treatment to my State, and so many innocent people in it.

I have been blessed by unbelievable friendships of colleagues. Those friendships will probably wane. It is almost impossible to maintain a relationship with a colleague once you leave here. That is really tragic. But I am realistic. And I know that is what it will be. I know we will have a difficult time having the same kind of relationship, if any at all. But I want them to know that I value their friendship. I value my service with them. I have served with some truly great men and women. And, as Senator BYRD likes to say, only 1,843 men and women have ever been so privileged to serve in this body.

I am already nostalgic about this Chamber—24 years in this Chamber, the Cloakroom, the hearing rooms, the Capitol itself. For 24 years, the first 20 of which I went home almost every weekend and came back on Sunday night, I never failed, as we flew by the Washington Monument, to get goose bumps. And I hope I never do. So, colleagues, I thank you for being my friend. To the people of my State, I thank you for allowing me to serve here.

I want to teach, in order to teach children that politics is a noble profession. My father said it long before Bobby Kennedy did. It is a noble calling. And the minute it becomes what so many people think it is, who do you think suffers? All of us do. So I want to inspire this oncoming generation, as my father did me, to get involved in the political process and public service. You have a duty and a responsibility.

So, to the U.S. Senate, to all of my colleagues, God bless and Godspeed.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from New Jersey.

SENATOR DALE BUMPERS

Mr. LAUTENBERG. Mr. President, this is one of those moments that one feels a bit overwhelmed—to follow DALE BUMPERS in a discourse that he gives here on the floor. This is a task that I never liked—to get on the floor after DALE BUMPERS moved us with his oratory and described his feelings for this institution and our responsibility. But there is another reason that I am really feeling uneasy; that is, the prospect that this place will be without DALE'S voice, without his wit, his humor, but more importantly, his commitment to the people of this country.

I want you to know, DALE, what a sacrifice I make today. I decided to stay here rather than to go to a budget conference down the hall trying to wrestle with the issues of the day. So I sacrificed that time just so I could stand on this floor to hear your terminal speech. That is devotion and friendship, I assume.

I have to say that one could see the position that DALE has earned over the years, because people were as generous and as warm and as friendly from the other side of the aisle. That doesn't mean that we always agree, and it doesn't mean that we always share a similar direction for our country.

But DALE has succeeded in winning friends, in making sure that we never forgot about who it is we are here to serve. We could make lots of jokes, but one never wants to compete with DALE's humor. I think about the only close match was with DALE BUMPERS and Alan Simpson. That was a good team. The jokes were always better when we were off the floor somehow. But beyond the wit, beyond the humor, beyond the jokes was always this incredible pursuit of what is right for our country and what is right for our people.

I have submitted a written statement without the kind of eloquence I wish I could have borrowed from DALE. He was right, he was accurate when he said his impression of his IQ was overblown. All of us agree with that.

We know DALE well. We love him. We love to tease him a little bit. There were very few times on this floor when DALE could not get attention from others, and it wasn't just the volume; it was the substance of his mission that we all paid attention to. They kid him about stretching the cord that holds our microphones, but everybody was anxious to hear what DALE had to say or read what was in the RECORD.

So I just wanted to have a chance to say how pleased I am for the opportunity to be here at the last speech Senator DALE BUMPERS was going to make in this Chamber. It has been an honor to serve with DALE as well as to serve with people such as JOHN GLENN. JOHN GLENN is one of the finest people who, it is fair to say, has ever left this Earth. But we are going to see JOHN GLENN at the end of the month and witness his heroic and incredible mission into the sky. JOHN GLENN was with me when I was sworn into the Senate. We happened to be in Colorado on a vacation just 16 years ago, and he stood while I found a magistrate to swear me in because there was an opportunity based on the resignation of the then-appointed Senator.

At the same time we are saying goodbye to WENDELL FORD. WENDELL is someone who you could fight with, get your blood pressure up, more often than not you would lose the argument and lose the debate. But WENDELL FORD got things done. And I want to tell you, if I had to be served by a Senator, I would want that Senator to have the same concern about my State and my well-being and my family and my future as did WENDELL FORD. He never let an opportunity go by without defending his people and the State of Kentucky. Although we disagreed on lots of occasions, I always walked away with a high degree of affection and respect for WENDELL FORD.

So when I listen to DALE BUMPERS summarize his life, I think about where we are, because too often the arguments here overtake the purpose of our functioning. But DALE BUMPERS, Senator DALE BUMPERS reminds us that the mission is almost a holy one and that we have to step back and take a deep breath and get down to the business of the American people.

I wish to thank the Democratic leader for giving me these few minutes. I also wanted to take an opportunity to say so long to Senator DAN COATS. DAN COATS was a formidable opponent for me when New Jersey persisted in sending its trash out to Indiana where it was welcomed by the communities that had the certified landfills and all that. But DAN COATS didn't object when New Jersey sent its All-American football players to Notre Dame or to the University of Indiana. But serving with DAN also has been a privilege.

Mr. President, I wrap up just by saying that DALE BUMPERS, if you listened to his words, arrived here encouraged by a father who saw the value of Government service, and it is an interesting and touching explanation of what it is that provided his motivation. My father also motivated me to engage in whatever enterprise I could to serve the public. But he didn't know it then. He worked. He tried to survive with his family during the lean and tough years, ashamed that he had to resort to a job with the WPA. I will never forget how discouraged he was when he came home, but, he said, he needed the job; he had to feed his family. My father died at the age of 43, after a year of illness with cancer. I had already enlisted in the Army. He disintegrated in front of our eyes, leaving not only an empty house but an empty wallet. My mother had to work. I had to send home my allotment to help pay the bills that were accumulated during that period of time.

But we both got here because we were encouraged by things that occurred in our families, messages that were sent by our parents, mine perhaps less articulate than the one I heard DALE BUMPERS describe. But we are here because they were able to give us that opportunity and we are here because we want to serve, to do something, to give something back as a result of having that opportunity.

To Senator DALE BUMPERS and the others, we say farewell. This place will be a lesser place without your presence, but because of your presence this place will continue to gain strength and to do what we have to do for the future. Rest assured that America will be strong. It will be different forces and different faces, but the work will continue to be done here.

Mr. President, I yield the floor.

The PRESIDING OFFICER. If the Senator will suspend for just a minute, I am going to stretch the prerogatives of the Chair to say I came over to talk about Senator BUMPERS, whom I have gotten to know recently. We worked on park bills. I know no one more committed nor more easy to work with and who keeps his word any better.

I am sorry to say that, but I needed to.

The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I don't think anyone could say it any better than that, and I appreciate the Presiding Officer's comments. They are

certainly well spoken and very appropriate. I join my colleague from New Jersey in expressing feelings that are very hard to express in public. Senator BUMPERS and I have some things in common. I am not as eloquent as he is, but I feel at times such as this probably as emotional.

I love his sense of humor. I have used more Bumpers material in my public career than anybody else in this Chamber. I don't think this is his story, but I might as well start with it. There was a time when Senator BUMPERS was at a dinner. We all go to these banquets over and over and over. We all drag our wives along. And they are so good to come with us so often. Betty was at this particular dinner with Senator BUMPERS, sitting, as she always does, at his side supportive and smiling.

The emcee introduced Senator BUMPERS as one who is a model legislator, a model politician, a model spokesperson for Arkansas, just a model person all the way around. On the way home, DALE commented to Betty about what a wonderful introduction that was. They got home; Betty brought the dictionary to DALE, sitting now in his own study, and read to him the word "model," as it is defined in Webster's. There it is defined as "a small replica of the real thing."

Senator BUMPERS is a model in the truest sense of the word. In many respects I call him my model, for how he speaks, for what he stands for, for how he interacts with his colleagues, for how he represents his State, for all of the courageous positions he has taken. I don't know how you do better than that. I don't know who it was who once said, "If we are to see farther into the future, we must stand on the shoulders of giants." DALE BUMPERS is a giant. And it is upon his shoulders that we have stood many, many, many times to see into the future, as I have seen. He persuades us, he cajoles us, he humors us, he always enlightens us.

As I heard Senator DOMENICI, the senior Senator from New Mexico, say earlier: "He does it in a way that is not in fashion perhaps, not in keeping with what the normal rules of the body are." The normal rules are, you are supposed to stay at your desk. Not Senator BUMPERS. Senator BUMPERS has the longest cord in Senate history. I joked the other night, when we finally see Senator BUMPERS depart, we are going to cut up his cord and give 10 feet to every Senator and save 10 more for the next. He goes up and down that aisle.

Since, as we are prone to do in this body, we name things after our colleagues—I happen to be fortunate enough to reside in the Byrd suite—I am going to start referring to that as the Bumpers corridor. And I am pointing, for the record, to my left. For anybody who has served with DALE, I don't have to point at all. We all know what the Bumpers corridor is.

So it is a bittersweet moment. We recognize the time comes for all of us to depart, to say goodbye. As others have noted, and I am sure more will note before the end of the session, we say goodbye not only to our dear, wonderful friend DALE, but to his wife Betty as well. There is no question, as we all know, he over-married. There is no question who the real force in the family is. There is no question who the visionary and the giant is. As Senator BUMPERS so capably noted, there is no question who is beloved in the State of Arkansas. We will miss Betty Bumpers and her vision and her humor and all of her contributions.

I asked my staff to put some thoughts together and I really want to share some of them because I think, for the record and for our colleagues and for those who may be watching, it is important to remember who it was we just have heard from.

We heard from a Marine. We heard from a man who volunteered to serve during World War II. We heard from a person who grew up in a small town, Charleston, AR—I don't have a clue where it is—where he worked as a smalltown lawyer and taught Sunday school. He may not have been a Methodist preacher, but he was a Sunday school teacher. He told us about his decision, in 1970, to run for Governor. What he did not say is that he was one of eight candidates vying for the Democratic nomination. He did indicate that polls taken at the start of the race gave him a 1-percent approval rating. That is half of what it is right now. He sold a herd of Angus cattle for $95,000 to finance his TV ad campaign. You couldn't get that much for Angus cattle today.

He finished the primary in second place, behind someone whose name we all know, Orville Faubus, whose racebaiting brand of politics still dominated much of Arkansas Democratic politics. He beat Orville Faubus in a runoff and went on to beat the incumbent Republican, Governor Winthrop Rockefeller, in a general election by a margin of 2 to 1.

After being elected Governor, DALE BUMPERS was asked by Tom Wicker, then a reporter for the New York Times, to explain how a man would come from obscurity to beat two living legends. He answered simply, "I tried to appeal to the best in people in my campaign." And that is what he has done his entire public career; he has appealed to the best of people.

As Governor, he worked aggressively and successfully to modernize the State government. He put a tremendous emphasis on improving education and expanding health services. Then, in 1973, with 1 year remaining in his term, he made the decision to challenge another living legend, William J. Fulbright, for the Democratic nomination for the U.S. Senate. Senator Fulbright was, at that time, a 30-year incumbent Senator. It probably did not come as any surprise to people in Arkansas, but it must have to the Nation, because when all the votes were counted, DALE won that race too, 2 to 1.

In the Senate, there is not a colleague in this Chamber who has not been affected by his eloquence and his reasoning on everything from arms control to the environment. He has been a champion for rural America. He has been a consistent advocate for fiscal discipline. In the 1980s he voted against the tax cuts, arguing that they would explode the Federal deficit. In the 1990s he took the tough votes needed to eliminate those deficits.

He has been a tireless defender of the U.S. Constitution and the separation of powers it guarantees. He did not mention this, but he should have. In 1982 he was the only Senator from the Deep South to vote against a proposal stripping the Federal courts of their right to order school busing. He said at the time, while he opposed the use of busing to achieve racial balance, he opposed even more "this sinister and devious attack on the Constitution . . . [this] erosion of the only document that stands between the people and tyranny."

This past July, shortly before launching the last of his annual attempts to kill the international space station, Senator BUMPERS told a reporter that he expected to lose again but he would try anyway because he thought it was the right thing to do. Then he added, "I probably lost as many battles as anybody who ever served in the U.S. Senate."

I want to tell my friend as he prepares to end his Senate career, if you did in fact lose more battles than someone else who may have served here, it is only because you chose tougher and more important battles. Even more than the outcome of your battles, you have earned your place in history for the dignity and the courage and the eloquence with which you have waged those battles.

I remember, having just arrived—I was elected in 1986, sworn in in 1987—by the end of the year, in 1987, I had already decided who my man for President was. I remember the conversation as if it took place yesterday. I was reminded again, as our colleague spoke on the Senate floor, about his ambition. That was the ambition for many of us as well. He would have been the same kind of outstanding President that he has been the outstanding Governor and Senator we know today. That was not to be. But in the eyes of all of us, DALE BUMPERS will always stand as the giant we knew, as the respected legislator we trust, and as the friend we love.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. NICKLES. Mr. President, I compliment my colleagues on their fine remarks about our colleague, Senator BUMPERS. I already made a speech complimenting him for his service to the Senate. I noticed my speech had several things in common with the speech of Senator DASCHLE. I alluded to the fact of Senator BUMPERS' sense of humor, which all of us have enjoyed, Democrats and Republicans, and I also referred to the fact that he had the longest microphone cord in the Senate. He has used it extensively, and we have all enjoyed that as well.

BUDGET NEGOTIATIONS

Mr. NICKLES. Mr. President, I want to make several comments concerning some of the negotiations that are going forward. I remind my colleagues in the Congress that the Constitution gives the Congress, not the President, the authority and the responsibility to appropriate money, to pass bills. As a matter of fact, article I of the Constitution says:

> All legislative Powers herein granted shall be vested in a Congress of the United States. . . .

Not in the executive branch, in the Congress, in the people's body.

It also says under article I, section 9:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

Again, made by Congress. I think some people in the administration think that they are Congress now, that they can write appropriations bills. That is not constitutional. The President has his constitutional authority, and if he wants to veto appropriations bills, he has a right to do so. Let him exercise that right. He doesn't have a right to write appropriations bills.

For some reason, some people have gotten this idea that the administration is an equal partner. They are an equal branch of Government, but we have different functions in Government. The executive branch can submit a budget, they can confer, they can consult, but Congress passes the appropriations bills, and we need to do so.

Now we have the President making ever-extending demands: "Well, I'm not going to sign that bill if you don't spend so much money." Fine. Very good. He vetoed the Agriculture Department appropriations bill because he said we didn't spend enough money and didn't spend enough money under the guise of emergency agriculture assistance.

He requested $2.3 billion for emergency assistance. We appropriated $4.2 billion, and he vetoed it and said, "We want to spend $7 billion." In a period of a couple of weeks, he more than doubled his demands. He has a right to veto the bill; fine. He doesn't have a right to write the bill.

Many people in his administration, maybe the President himself, seem to think, "We are going to write the bill; we're just not going to sign it; if they don't give us more money, we are going to shut down the Government." Fine, he can shut down the Government.

I stated to the press, and I will state it again, this Congress will pass as many continuing resolutions as necessary, and it may last all year. We may be operating under continuing resolutions all year long. I personally don't have any desire, any intention of funding all of the Presidential requests that are coming down the pike, for which, all of a sudden, he is making demands. I hope that our colleagues will support me in that effort.

I am not in that big a hurry to get out of town. I heard the President allude to that in a very partisan statement that he made yesterday with Members of Congress: "We need to keep Congress in." Mr. President, we will stay in. We will pass resolutions continuing Government operations at 1998 levels, this year's levels. We will pass that as long as necessary.

We passed one for a week. We passed one for 3 days. We may have to pass another one. We may have to pass it for the balance of this year, maybe into next year, whatever is necessary. But I do not intend on being held hostage. The President said, "Well, give me more money; I want to spend the surplus, whether it be for education, whether it be for Head Start." He has a whole laundry list. He calls them investments, but, frankly, they are a lot of new social spending. I don't have any desire to spend that money.

I am quite happy and willing to stay here all year, all year next year, if necessary, but I don't want us to succumb to his demands. I have no intention of succumbing to his demands. I am, frankly, bothered by the fact that at this stage in time, the President is really ratcheting up the partisan rhetoric. Frankly, that is not the right thing to do if he wants to work together.

It is interesting, the President made a very nice bipartisan speech saying, "Yes, I compliment the Congress, they worked together and we passed the International Religious Freedom Act." I was involved with that. We worked with the administration. We did do bipartisan work. It took bipartisan work. But you don't get that kind of cooperation on the budget when you have the President making all kinds of partisan statements. I will give you an example.

In his radio address given to the Nation today, the President said:

> This week, unfortunately, we saw partisanship defeat progress, as 51 Republican Senators joined together to kill the HMO Patients' Bill of Rights.

One, I just disagree with that. The majority of Republican Senators—as a matter of fact, unanimous Republican Senators—said, "We are willing to pass a Patients' Bill of Rights," not defeat one. "We are willing to pass one."

We made that offer to our colleagues on the Democratic side. We made it several times in June and several times in July. We said we were willing to pass this bill. As a matter of fact, we wanted to pass it before the August break. We made unanimous consent requests and said, "We will pass either your bill or our bill. You have the best bill that you can put together. You worked on yours for months; we worked on our bill for months. Let's vote, let's pass it, let's go to conference with the House."

But, no, the Democrats wouldn't agree with it. The Democrats kept us from passing a Patients' Bill of Rights. You don't pass a bill this complicated the last day of the session. Senator DASCHLE offered some amendment and said, "Oh, let's run this through." That was nothing but for show.

Yet we even find an e-mail from the House Democrat events coordinator that said, "Hey, let's put on a real show; let's have everybody get together; Senator DASCHLE can orchestrate this; we will have a bunch of colleagues."

Sure enough, they had a bunch of colleagues go over in some show of support on the last day of the session. Bingo.

If they wanted to pass a Patients' Bill of Rights, they should have said "Yea, we agree, we will pass them, find out where the votes are." The Democrats would never agree to a unanimous consent request to pass Patients' Bill of Rights.

They are the ones who killed the bill. When the President said, ". . . we saw partisanship defeat progress . . ." he forgot to say the Democrats wouldn't agree to a process to pass the bill, which we offered in June and several times in July. He forgot to mention that. It kind of bothers me because, again, he says, "We want bipartisanship," and he makes a partisan statement on a national radio address.

I have also heard the President state, "We can't have a tax cut because we're going to reserve every dime of the surplus to protect Social Security." All the while—he knows it and we know it—he has his staff members running around the Congress saying, "We want more money and we want to declare everything an emergency so it won't count on the budget, so it won't be part of the budget agreement" that he adopted and agreed to in 1997. "We want more money."

The totals are right in the $18 to $20 billion-plus range. "We want more money for a lot of things and, oh, yes, it is all off budget; it doesn't count; it's an emergency." What a great game.

Again, I remind my colleagues that the Congress is responsible for passing appropriations bills, and we need to pass them. If he vetoes them, fine, he can shut down the Government. We can pass continuing resolutions, and we can do that as much as necessary.

The President in his weekly radio address said:

> Our Nation needs 100,000 new, highly qualified teachers to reduce class size in early grades.

He said, "We need more teachers, more buildings."

The President said:

> So again today, I call on Congress to help communities build or modernize 5,000 schools with targeted tax credits.

Mr. President, I want more money for education. I want a lot better education, but I really don't want the President of the United States or some bureaucrat in the Department of Education deciding which school in Oklahoma gets a new teacher or which building in Oklahoma is going to be rebuilt or which classroom is going to be modernized or updated.

Why should we have that decision made in Washington, DC? Why should Federal bureaucrats be involved? Maybe our schools in Oklahoma need more teachers or maybe they need new buildings or maybe they need new computers. Why don't we trust Oklahomans to make that decision? Why don't we trust the parents and the teachers and the school boards? No, this administration does not trust local school boards, local teachers, parents, Governors to be making that decision.

He wants to mandate it from Washington, DC. This is a new demand. Guess what? We have had votes on these issues. He did not win. The President's program did not win. We had two or three votes earlier this year. He did not win on the school building program; did not win on the 100,000 new teachers. But yet this is a new demand, that he is going to try to get it, he is not going to sign the bill unless we fund it.

I am going to tell you right now, at least as far as this Senator is concerned—and maybe I do not control the conferences—but I do not have any intention to ever fund those programs. I think decisions on hiring teachers and building school buildings should be made in the local school districts, by the local school boards, by the parent/teacher associations, by the Governors—not by those of us in Congress or, frankly, by some bureaucrat in the Department of Education.

So maybe we will be here for a long time. Again, the President has the right to veto the bill. Fine. Let him veto the bill. Maybe we will be operating on continuing resolutions for the rest of the year. If that is what happens, that is what happens. I will, again, repeat that we will pass enough continuing resolutions as necessary to keep Government open.

Maybe we will have to pass one every day. Maybe we will have to pass one every week. Maybe we will have to pass one every month. But we are not going to shut Government down. We are not going to demand anything. We will pass the continuing resolutions to keep Government operating at fiscal year 1998 levels as long as necessary. We will stay here. We are happy to stay next week. We are happy to stay the following week. We are happy to stay all year, if that is necessary. But I hope, and I believe, we are not going to succumb to this last-minute politicization of, "We want more money. Let's spend the surplus."

I have even heard, in the President's radio or in his speech yesterday—"We've got the first balanced budget in 29 years. Our economy is prosperous. This budget is purely a simple test of whether or not, after 9 months of doing nothing, we're going to do the right thing about our children's future."

"We want more money" is basically what he is saying. I also heard him say we should save the surplus for Social Security. Now he is talking about new investments. In his speech yesterday, he said we need new investments for everything I have mentioned, but he also runs through a whole list of other new spending, social spending, that he is trying to crowd through in the last minute.

I do not have any intentions of succumbing to these demands. I hope my colleagues will not. I just say this, with all respect, how the President could demagog that we cannot have a tax cut because of the Social Security surplus and then in the next minute, propose to spend the so-called surplus on all these investments is beyond me. I just have no intention whatsoever of going along with that.

I think we should abide by the budget. I do not think we should squander the surplus with new Federal spending. Some of us were interested in tax cuts because we knew that if we did not allow taxpayers to keep their money, that Congress and/or the administration would say, "Well, let's have more spending." There is a real propensity around the place to spend money.

I just hope that our colleagues will resist that temptation. I hope that they will resist these new overtures by the administration that seems to think they should be an equal body with Congress in writing appropriations bills. I think we should have legitimate negotiations but, frankly, that does not make people equal partners.

We have equal branches of Government with divisions of powers. Again, the Constitution says that Congress shall write the laws and Congress shall appropriate the money. We need to get on with our business and do that, send the appropriations bills to the President. If he vetoes them, fine, then let's pass a continuing resolution to keep Government open.

TRIBUTE TO SENATOR WENDELL FORD

Mr. NICKLES. Mr. President, I have given accolades to a couple of my colleagues for their service in the Senate, including Senator BUMPERS. I see Senator FORD is on the floor. I have had the pleasure of serving with Senator FORD for 18 years on the Energy Committee. We worked together on a lot of things. And, in my opinion, some of the most significant legislation that passed Congress, in my tenure, we have worked together on.

One was the Natural Gas Deregulation Act that President Bush signed after about 6 years of negotiations and hard work, but probably one of the most difficult pieces of legislation that we have passed.

And if you go back on the history of natural gas regulation and deregulation, it was a very, very difficult task. It was a pleasure for me to work with Senator FORD in that respect. We worked together on other issues as well.

I compliment him for his 24 years of service in the Senate. Anyone that spends almost a quarter of a century of service in the Senate, I think, is to be complimented. I compliment him for his leadership and for his representation of the people of Kentucky. Again, it was a pleasure and honor for me to serve with him. I compliment him and wish him every best wish as he returns to his State of Kentucky.

I yield the floor.

TRIBUTE TO UNITED STATES SENATOR DALE BUMPERS

Mr. BYRD. Mr. President, in the bustling commotion of the ending days of the 105th Congress, members are preoccupied with efforts to enact sought after objectives important to their constituents. We are busy tying up loose ends, putting the finishing touches on projects, and looking forward to going home to our constituents and to a break in the hectic schedule of the United States Senate. Regrettably, as this session of Congress adjourns, we are also faced with the difficult task of saying goodbye to colleagues who have chosen to follow a new path in life.

As I reflect on my years in Congress and on my association with its many members and their various personalities, their goals and, yes, sometimes, their eccentricities, I am reminded of some very important milestones in history made possible by these fine Americans. I am reminded of my good fortune to have been associated with men and women representing the American people from all walks of life and from all corners of the United States.

In my reflections, I have thanked my Creator for allowing me to serve my country with such fine men and women, and I am, indeed, sorrowful at the upcoming loss of some of the finest men I have ever known.

I pay tribute today to an exceptional United States Senator, a man with whom it has been my honor to serve and to have been associated with—a man of unusual conviction, passion, and resolve. He has been called the last Southern liberal, and he is proud of it. He often quotes from "To Kill a Mocking Bird." He is THE commanding foe against the space station.

The above discourse clearly references the actions of only one man—Senator DALE BUMPERS, Democrat from Arkansas. He is the United States Senator responsible for "right-turn-on-red," his first legislative victory and one for which, I am told, he received devilish teasing from a colleague who warned that "many people might want to drive straight!"

I will miss my friend, who is retiring following twenty-four years of service. He leaves a legacy that has made a difference, not only to the people of Arkansas, but to all Americans. His tireless efforts to end Federal policies that he believes give away resources that belong to the taxpayer will long be remembered by certain mining and ranching interests out West. And more than a few NASA space station contractors will continue to run when they hear his name! Contractors who worked on the now-terminated Superconducting Super Collider can only wish that Senator BUMPERS had chosen to retire earlier.

While many a press story covered his crusades against alleged lost causes, Senator DALE BUMPERS is a man that leaves this Senate with a triumphant record for the American people. In particular, Senator BUMPERS has been a national leader in protecting the health of children. In fact, along with his wife, Betty, Senator BUMPERS has long promoted childhood immunizations, known safeguards in protecting the health of millions of children.

As the ranking Democrat on the Senate Appropriations Subcommittee on Agriculture, formerly the Chairman, DALE BUMPERS has represented the rural heart of America. He has fought for policies to help rural families, including securing funding for basic infrastructure projects that provide water and sewer facilities to small towns throughout the nation. I personally wish to thank Senator BUMPERS for being a leading advocate for funding on these vital projects, and I share his concern for the millions of Americans who do not have access to a clean, ample supply of drinking water.

Senator BUMPERS has further made a significant mark on efforts to protect family farmers. In particular, we owe our gratitude to DALE BUMPERS for his efforts to initiate programs to help young Americans become this nation's next generation of family farmers, a dwindling breed at risk of extinction. In honor of his service to rural America, I am proud that this Congress, in the Fiscal Year 1999 Agriculture Appropriations Bill, is formally paying tribute to his work by designating an Agricultural Research Service facility as the Dale BUMPERS National Rice Research Center. This action follows the recognition by the people of Arkansas in dedicating the Dale Bumpers College of Agricultural, Food, and Life Sciences at the University of Arkansas.

Senator BUMPERS' noteworthy record also extends to many other constituencies. Through his ranking membership on the Senate Small Business Committee, he has fought to help self-employed people obtain health care. He has also been an advocate of funding for rural hospitals; for Medicaid; for the Women, Infants and Children feeding program. The list goes on and on.

DALE BUMPERS' legislative skills and record are clear. He is a modern hero to the underdog. But there is yet another side of the Senator from Arkansas that deserves recognition—the DALE BUMPERS who is a husband, a father, and a grandfather. Married to Betty Lou Flanagen, DALE's "Secretary of Peace," for 49 years, he is devoted to his marriage and his family. DALE and Betty have three children and six grandchildren, and DALE often speaks affectionately of his family and of their influence on his consideration of legislative issues. Yes, Senator DALE BUMPERS of Arkansas has a personal record of which he can be proud.

It is with regret that I bid farewell to my friend and colleague, who is now departing the United States Senate. I believe that the Senate has deeply benefited from the work of U.S. Senator DALE BUMPERS. As I say my farewell to DALE BUMPERS, I want him to know that when the 106th Congress convenes, I will remember his thoughtful recital of the fictional Atticus Finch in "To Kill a Mocking Bird," "For God's sake, do your duty."

TRIBUTE TO JOHN GLENN

Mr. LAUTENBERG. Mr. President, I rise today to bid farewell to an American hero, a great Senator and a wonderful friend—Senator JOHN GLENN. Senator GLENN is retiring after serving the people of Ohio for four terms.

But his service to our country did not begin in the Senate, nor will it end here. Senator GLENN served in the Marine Corps during World War II and fought in combat in the South Pacific. He also fought with valor in the Korean conflict and ended up flying 149 missions in both wars. He has received numerous honors including six Distinguished Flying Cross and the Air Medal with 18 clusters.

He later became a test pilot and set a transcontinental speed record in 1957 for this first flight to average supersonic speed from Los Angeles to New York. In 1959, he was selected to be one of seven astronauts in the space program. Three years later, he made history as the first American to orbit the earth, completing a 5 hour, three orbit flight.

His heroism inspired me and all of the American people. He received the Space Congressional Medal of Honor for his service.

After 23 years in military service, he retired in 1965 and went into the private sector. Despite his outstanding service to his country, it was not enough for JOHN GLENN. He ran for the Senate in 1974 and is now completing his 24th year.

Despite his fame, Senator GLENN was a workhorse, not a showhorse in the Senate. He took on complicated issues like nuclear proliferation, troop readiness, government ethics, civil service reform and campaign finance reform. He did his work with great diligence and thoroughness, with his eye on accomplishment not partisanship.

If you add his 23 years of military service to his 24 years of Service to the people of Ohio, that is 47 years of dedication to our nation.

But even this is not enough for JOHN GLENN. On October 29th of this year, he will return to space on a shuttle mission. He will be the oldest person ever to travel in space but even then his journey will not be over.

He will continue to represent the best of the American spirit and be an informal ambassador for scientific exploration.

I wish him, his wife Annie, his children and grandchildren the very best for the future.

RETIREMENT OF DALE BUMPERS

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to an extraordinary person, a respected and honorable man, a true friend, and one whom I am truly saddened to see leave the Senate—Senator DALE BUMPERS.

Mr. President, Senator BUMPERS is, more than most, a true advocate for the citizens of the United States. I know of no better person who embraces issues with the passion and intellect that he demonstrates. His oratory skills are well-known and rarely matched. DALE is a true champion of the public's interests, and particularly when that clashes with special interests.

Throughout his decades of public service, as Governor of Arkansas and United States Senator, Senator BUMPERS has carried with him a strong, unyielding belief in a few basic ideas, ideas that have driven him in his tireless efforts to make our country—and the world—a better place.

Senator BUMPERS believes in ensuring equal opportunities for all, including the poor and indigent. He believes in providing high quality, comprehensive education and health care. He believes in the sanctity of our Constitution. He believes in the value of the

arts and humanities in developing human creativity and a national culture. He believes in the importance of environmental conservation and preserving our natural resources. He believes in eliminating needless corporate subsidies and reducing wasteful defense spending. And he believes in the need to slow the growing gap between the rich and the poor.

Senator BUMPERS has never shied away from taking on the powerful special interests, year after year, even when he knows the odds are stacked against him and he is often disappointed with the results. But he has kept on trying.

We have all been witnesses to his eloquent and powerful discourses on a number of subjects. Every one of his presentations before us and before the country have been grounded in personal experience and intellectual strength. When Senator BUMPERS speaks, we know that he speaks from his heart.

Mr. President, in 1995, the Senate debated an amendment that would require zero tolerance for youth who had any amount of alcohol in their blood. Senator BUMPERS revealed his personal story about his parents and their friend who were killed by a drunk driver while returning from their small farm, just across the Arkansas River. Senator BUMPERS was in law school at the time, far away in Chicago.

DALE, more than most, has the power to sway with his words. That amendment was swiftly adopted.

Mr. President, also three years ago, the Senate was considering an amendment to add funds to the National Endowment for the Humanities. Now, the NEH is a small agency that can, and does, often come under the budget knife as an insignificant agency. Not to Senator BUMPERS. Senator BUMPERS took to the Senate floor, and told all of us about his high school English teacher, Miss Doll Means. He touched us with a personal story that was a turning point in his life. When he was a sophomore, Miss Doll Means told him, after he had read a page of "Beowulf" that he had a nice voice and he read beautifully. That one statement, from an English teacher in a town of 1,000 people, did more for his self-esteem than anybody, except, he said, his father. Not only does he indeed have a nice voice and he reads beautifully, he is among the best orators this Senate has ever seen.

Mr. President, earlier this year during the Appropriations Committee passed an amendment naming a vaccine center at NIH after DALE and Betty Bumpers. For almost 30 years, the two of them have worked tirelessly on a crusade to vaccinate all children—and because of their efforts and others, we have made great progress toward that goal.

Mr. President, when the Senior Senator from Arkansas leaves this body in a few weeks, there will be a noticeable void. We will lose a tireless champion for the underserved; a champion for the public's interest; a champion for responsible spending, not wasteful spending; and a champion for equal opportunity, for our environment, and for the arts and humanities. Senator BUMPERS has our respect, and he has the people's respect. We will miss him.

Mr. President, I wish my friend and his wife Betty, their children and grandchildren the very best for the future.

TRIBUTE TO WENDELL H. FORD

Mr. LAUTENBERG. Mr. President I rise today to pay tribute to our esteemed colleague from Kentucky, the Minority Whip, Senator WENDELL H. FORD. I wish him well. All of us know that we have not heard the last from this dedicated and effective public servant.

His retirement from the Senate will end a formal career of public service to the Commonwealth of Kentucky and the United States which has lasted over three decades. After first serving in the Kentucky Senate, he was elected Lieutenant Governor in 1967 and then Governor of Kentucky in 1971. In 1974, he was elected to serve in the United States Senate.

Mr. President, in the history of this body, few Senators have protected the interests of his or her state as doggedly as WENDELL FORD.

Whether the issue was aviation, tobacco, telecommunications or farm legislation, Senator FORD has always put the people of Kentucky first. And even though we have disagreed on a key issue or two, I know that he is guided by what he believes is best for the people of his state.

As the senior Senator from Kentucky put it himself: "If it ain't good for Kentucky, it ain't good for WENDELL FORD."

And the people of Kentucky have shown their deep appreciation to Senator FORD in return. In 1992, he received the largest number of votes ever recorded by a candidate for elected office in the Commonwealth.

In March of this year, he became the longest serving United States Senator from Kentucky in history.

Mr. President, although New Jersey and Kentucky are very different states, Senator FORD and I share many things in common. First of all, our vintage—we were born in the same year. We both fought for our country in World War II. We both ran businesses before we entered public life.

These common experiences helped make WENDELL FORD an instant friend and mentor to me when I arrived in the Senate. His extensive knowledge and public service experience has made him an invaluable asset to our caucus' leadership.

And he has been quite a leader, now as Minority Whip, first as Chairman and then Ranking Member of the Rules Committee, and in prior years, the Chairman of the Democratic Senatorial Campaign Committee.

Mr. President, Senator FORD has left a formidable legacy to the nation as a whole, in addition to his legendary status in Kentucky. He was the chief sponsor of the National Voter Registration Act, also known as the "motor voter" law.

This law helps ensure that more of our citizens are officially registered to participate in our democracy. He was also instrumental in the enactment of the Family and Medical Leave Act, the Age Discrimination in Employment Act Amendments of 1986, and many other landmark aviation and energy laws.

The Senior Senator from Kentucky will be greatly missed here in the United States Senate. We will miss his leadership, his experience and also his great wit. But our personal loss will be the Commonwealth of Kentucky's gain.

I wish him, his wife Jean, their children and grandchildren Godspeed as he returns to Owensboro.

TRIBUTE TO SENATOR DAN COATS

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the distinguished Senator from Indiana, DAN COATS. While he has only been in the Senate ten years, he has made an important contribution. One example is the work he put into developing the historic, bipartisan Family and Medical Leave Act.

Mr. President, believe it or not, even though I am a Democrat from the Northeast and Senator COATS is a Republican from the Midwest, we have worked together on legislation. Senator COATS has consistently fought to improve the lives of our nation's children. This commitment led him to join me in support of the Juvenile Mentoring Program—otherwise know as JUMP. This program supports mentoring programs across the country, including Big Brothers and Big Sisters. We have fought together for funding and reauthorizing the program because we share the belief that all children can succeed if we lend a helping hand.

Senator COATS also became a leading expert in the Senate on military issues as a member of the Armed Services Committee. He also worked hard on education and poverty legislation as a member of the Senate Labor and Human Resources Committee.

Mr. President, during Senator COATS' tenure in the Senate, we did have disagreements over policy issues. One environmental issue consistently put the State of Indiana at odds with the State of New Jersey. We always had a vigorous debate when this issue came to the floor. Despite our differences, he

showed me great respect and courtesy during these deliberations. I left these debates with a great respect for his energy and determination to help his state.

Mr. President, I wish Senator COATS, his wife Marcia, and their children and grandchildren the very best for the future.

I yield the floor.

A GOOD SENATOR DEPARTS

Mr. BYRD. Mr. President, first appointed to the United States Senate in 1989 by Governor Robert Orr to succeed Vice President Dan Quayle, Senator COATS subsequently won reelection and has served this body during these past nine years with knowledge, skill, and a true dedication to his Senatorial duties. As he departs this great institution to pursue future endeavors, we bid him farewell and best wishes.

Prior to joining the United States Senate, Senator COATS made his mark in several arenas. In his early years, he served as a staff sergeant in the U.S. Army, experience he drew on as a member of the Armed Services Committee. With a passion for law and politics, he worked full-time as a legal intern while attending the Indiana University School of Law at night and serving as Associate Editor of the Law Review. Later, in an effort to gain business experience, he switched tunes from barrister to become a vice president for an Indiana life insurance company, all before embarking on his legislative career in the House of Representatives, where he was elected in 1980 to represent Indiana's Fourth District.

During his tenure in the Senate, Senator COATS has served on three powerful and influential Senate Committees—Armed Services, Intelligence, and Labor and Human Resources, and has crafted sound education, health care, and national security policy for the nation. I have had the pleasure of working with Senator COATS on the Armed Services Committee, where he has served on the Personnel, Readiness, and the Airland Forces Subcommittees. There have been a variety of national defense issues on which we have concurred, always keeping in mind the best interests of our national security and the importance of a strong and well equipped line of defense. Just this year, I appreciated his insight and support of my amendment to the Department of Defense Authorization bill to require separate training units for male and female recruits during basic training.

And, of course, there have been the issues on which we have not seen eye-to-eye. I distinctly remember tangling this year on the Senate floor over Constitutional issues relating to the deployment of troops in Bosnia and Herzegovina. And, on the balanced budget amendment and the line item veto, we have been on opposite sides of the coin as well. Yet, Senator COATS always carries himself well, demonstrating the utmost respect for his colleagues on both sides of the aisle. For this, I hold him in high regard.

Perhaps, Senator COATS' greatest contribution to the United States Senate has been as a member of the Labor and Human Resources Committee. His dedication to strengthening families began long before his political career. He is a longstanding member of Big Brothers/Big Sisters of America, and was recently elected national president of that organization. His service in the House included serving as a leading member of the Select Committee on Children, Youth, and Families. On appointment to the Senate, he became Ranking Member of the Subcommittee on Children and Families, where he has served as Chairman since 1995. He has been the author of the "Project for American Renewal" to revive civil society and America's character-forming institutions, and he is a passionate advocate for school choice, unpaid leave for family and medical emergencies, and prayer in schools.

Most recently, Senator COATS shepherded legislation through Congress to reauthorize the Head Start and Low Income Home Energy Assistance program. In appreciation of his efforts and compassion for our nation's children and families, it was only fitting that this piece of legislation was named in his honor. The Coats Human Service Reauthorization Act is but just one example of his fine work here in the United States Senate.

In speaking of his "Project for American Renewal," he says, "The goal of public policy should be to revive the institutions of civil society that build character. Arguably, it is the erosion of those institutions—the family, community organizations, and private and religious charities—that has led to the most severe pathologies we now suffer." I commend Senator COATS for his tireless efforts in behalf of these fundamental institutions, and, as he departs this body, I wish him well.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I understand we are under an order that the Senate go into recess.

The PRESIDING OFFICER. Yes. We were going to go into recess at 3 o'clock. However——

Mr. BURNS. I ask unanimous consent that I be able to make some remarks about our departing colleagues at this time.

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

TRIBUTE TO FIVE SENATORS LEAVING THE SENATE: SENATORS DIRK KEMPTHORNE, JOHN GLENN, DAN COATS, WENDELL FORD, AND DALE BUMPERS

Mr. BURNS. Mr. President, five Senators will move on at the closing of this session of the 105th Congress. And they are Senators that have, with the exception of one, been here ever since I joined this body back in 1989.

DIRK KEMPTHORNE from Idaho was elected after I was. And now after one term he has elected to go back to his home State of Idaho.

It seems like it becomes more and more difficult, as time goes by, to attract men and women to public service, and especially to public service when there are elections.

He brought a certain quality to this Senate. On his work on the Environment and Public Works Committee, he was sensitive to the environment and all the public infrastructure that we enjoy across this country. It just seemed to fit, because he had come here after being the mayor of Boise, ID. And his very first objective was to tackle this business of unfunded mandates. He took that issue on and provided the leadership, and finally we passed a law that unfunded mandates must be adhered to whenever we tell local government, State government that it is going to take some of your money to comply with the laws as passed by the Federal Government.

He, like me, had come out of local government. He knew the stresses and the pains of city councilmen and mayors and county commissioners every time they struggle with their budget in order to provide the services for their people, when it comes to schools and roads and public safety—all the demands that we enjoy down to our neighborhoods.

We shall miss him in this body.

To my friend, JOHN GLENN of Ohio, who has already made his mark in history that shall live forever, he has left his tracks in this body. And not many know—and maybe not even him—but I was a lowly corporal in the U.S. Marine Corps when he was flying in the Marine Corps. So my memory of JOHN GLENN goes back more than 40 years to El Toro Marine Corps Air Station in Santa Anna, CA.

As he goes into space again at the end of this month, we wish him Godspeed. He gave this country pride as he lifted off and became the first American to orbit the Earth. And he carried with him all of the wishes of the American people.

To DAN COATS of Indiana, a classmate, we came to this body together in 1989. Our routes were a little different, but yet almost the same—he coming from the House of Representatives and me coming from local government.

He is a living example of a person dedicated to public service. But it

never affected his solid core values. He has not changed one iota since I first met him back in 1989.

The other principal is on the floor today. It is WENDELL FORD of Kentucky. I was fortunate to serve on two of the most fascinating and hard-working committees in the U.S. Senate with Senator FORD: The Commerce Committee and the Energy Committee. Those committees, folks, touch every life in America every day.

We flip on our lights at home or in our businesses. We pick up the telephone, listen to our radio, watch our televisions, move ourselves from point A to point B, no matter what the mode—whether it is auto, train or plane. Yes, all of the great scientific advances this country has made, and research and the improvement of everyday life and, yes, even our venture into space comes under the auspices of the Commerce, Science and Transportation Committee and the Energy Committee. Those two committees play such a major role in the everyday workings of America.

WENDELL FORD was one great champion and one of the true principals in formulating policies that we enjoy today. He played a major role in each and every one of them.

Again, it was my good fortune to work with Senator BUMPERS on two committees: The Small Business Committee and the Energy Committee. There is no one in this body that has been more true to his deeply held beliefs than Senator BUMPERS. Our views did not always mesh—and that is true with Senator FORD. It was their wisdom and the way they dealt with their fellow Senators that we worked our way through difficult issues and hard times with a sense of humor. I always say if you come from Arkansas you have to have a pretty good sense of humor. My roots go back to Missouri; I know we had to develop humor very early. Nonetheless, it was the integrity and the honesty that allowed us to settle our differences, even though we were 180 degrees off plumb.

I think I have taken from them much more than I have given back to them. This body has gained more than it can repay. This Nation is a better Nation for all of them serving in the U.S. Senate.

In our country we don't say goodbye, we just say so long. But we say so long to these Senators from our everyday activities on the floor of the U.S. Senate. I am sure our trails will cross many times in the future. Should they not, I will be the most disappointed of all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me thank my distinguished friend from Montana for his kind remarks. I understand Montana a little bit. My mother's brother married a lady from Montana and she persuaded him to move there. So I have been to Montana on many occasions and have enjoyed the friendship, the rugged mountains, the pristine areas and the big blue sky. I have enjoyed it very much—and the trout are not bad when you catch them and have a shore dinner. I understand Montana and I can understand why you love it. I can understand why anything we might copy from you would make our State a little bit better.

I say to my friend from Montana, I thank him for his kind remarks. I thank him for his friendship. I thank him for his ability to sit down and talk things through where we might move forward and help the country and talk about those things we couldn't agree upon at a later date. I thank him for his friendship.

SENATE BUSINESS

Mr. FORD. Mr. President, a few moments ago the distinguished assistant Republican leader was on the floor chastising the President, chastising Democrats, chastising people that were trying to be helpful or influential, and I heard him say more than once, "Get on with our business."

Mr. President, this is October 10th and the budget for next year should have been completed April 15 of this year. April, May, June, July, August, September, October—we still don't have a budget. We are running on last year's budget. Somehow or another, this train hasn't been running as efficiently and as effectively as some think it should.

If you haven't had a budget, it makes it difficult to set the levels for next year's spending. We are already into the next fiscal year by 10 days and we only had one appropriations bill on the President's desk.

The distinguished Senator from Oklahoma says let's get on with our business; then he says that the President should not be involved in negotiations. Mr. President, I have been around here 24 years. I have never gone through any negotiations involved with the White House that they didn't call me. I have gone to the White House to talk with President Reagan; I have gone to the White House to talk with President Bush in order to try to find a way to be helpful, and they were trying to find a way to persuade me to be helpful. I don't see anything wrong with that. And I don't believe the President wants to veto bills. That is one reason that everybody agreed to the group—if that is a good term, or the Members of the group—so they might be able to work out bills that can be signed. I don't see anything wrong with the administration playing a part in what they believe is the proper course.

We talk about a budget. Going back to 1993, there wasn't a Republican that voted for President Clinton's budget at that time. I wonder how those now who are saying we have a great surplus can be breaking their arm patting themselves on the back for that great vote that they didn't cast in 1993.

The President has every right to be part of the negotiations. I wanted to say to my colleague who had to leave, what is wrong with wanting more for education? What is wrong with wanting to improve our school system? What is wrong with having smaller classes? What is wrong with having more teachers? I don't see anything wrong.

What is wrong with seeing that every child that leaves the third grade can read? What is wrong with that? The 21st century will be full of technology and we have to have educated children. So what is wrong with trying to improve education in this country? Public education teaches 90 percent of all of our children. It has to be the best educational system we can give them. We need to be able to improve education all across this country.

How in the world can the Senator from Oklahoma say that the Federal Government will appoint their teachers? We give money to the States. The States, then, make the selection. The States, then, set the criteria. The States, then, have the vacancy. The States do that. I have never known a Federal Government to hire a teacher in my State. I have been Governor. I understand writing a budget. I understand what we do. I still understand it. But I don't believe the Federal Education Department hires teachers in my State or any State. So we are not telling them who to hire and who not to hire.

That is just a straw man, or whatever, to try to say we don't want Big Brother involved. We sure want Big Brother's money, we sure want Big Brother to pay it, but we don't want them to have anything to do with any kind of guidelines.

So, when we come out on the floor and chastise the President and the administration for wanting to work out pieces of legislation, you talk to the farmers in the Midwest, talk to farmers in my State; they have had a tough several years. Sure, it may have been less a year ago than it is now and times have changed. We have had a bad summer. We have had real problems. So why not help our farmers?

So, Mr. President, I suggest to those who want to come to the floor and have press conferences saying that the administration ought to stay out of our business and we will pass the legislation, well, where is it? Where is the legislation? What have we passed? The Patients' Bill of Rights? No; that was killed yesterday. Education? No. Where are the bills they were supposed to pass? "Let us get on with our business," the Senator from Oklahoma said. Well, let's get on with our business.

Here we are on Saturday, and we are lucky we are not in on Sunday afternoon. We will be here Monday. That is a holiday. They set a sine die date of October 9, and we don't even have the appropriations bills done. So let's not be too harsh on the administration for wanting to try to get it done.

I regret that I am here. I wish all 13 appropriations bills had been on the President's desk and signed before October 1, which begins the fiscal year. I remember how hard Senator ROBERT BYRD, when he was chairman of the Appropriations Committee, worked to be sure that all 13 of the appropriations bills were on the President's desk by September 30. And they were. That is what we are supposed to do. Those are the rules.

So, Mr. President, I hope that over the weekend we can find some way that those who are responsible for the appropriations bills can bring them together, that they will find a way that we can say we have worked together, that we have used Henry Clay's advice and we have compromised. Henry Clay said, "Compromise is negotiated hurt." Negotiated hurt. Clay said, "You have to give up something and it hurts, and I have to give up something and it hurts. Once we agree, then I am willing to sign a social contract."

Clay was saying he was willing to support legislation to move the country forward and on another day we will argue the things we had to give up. So that is what we are all about here —the Henry Clay era of compromise, and the ability to sign a social contract and move forward in the best interest of this country. I hope that we can see the light at the end of the tunnel by the end of the week. I hope to be here to cast a vote in favor of a compromise and agreement that will make this country a better country. It is my last one, Mr. President. I would like to see as good a piece of legislation in all areas passed, so that when we look back on this session, we will have said we did a good job.

I yield the floor.

A GOOD SENATOR RETURNS TO THE HILLS OF HOME

Mr. BYRD. Mr. President, over the next few days, as the Senate concludes its legislative business, one of the finest individuals it has been my privilege to know will bring to a close yet another chapter in what has been, by any measure, an extraordinary public service career. When that time comes—when the senior Senator from the Commonwealth of Kentucky walks out of this chamber for the last time as a United States Senator—this institution, and all who serve in it, will feel a great and lasting loss.

When WENDELL FORD came to this body on December 28, 1974, thus becoming the 1,685th individual to have served in the Senate, he did so not as a political neophyte but as an accomplished entrepreneur and a dedicated and seasoned public servant. Following service in World War II, our friend from Kentucky returned to his home state and launched a successful insurance business. But it was the call of public service, the chance to reach out and help all of his fellow Kentuckians, that meant the most to this young executive.

And, so, in 1964, WENDELL FORD began what was to become a successful political career by winning election to the Kentucky State Senate. Two years later, in 1966, he successfully ran for the position of Lieutenant Governor, and, in 1970, against all odds, he became Kentucky's Governor, a position from which he served with distinction as the chairman of the National Democratic Governors Caucus.

Mr. President, despite his selfless service within his state, it is, of course, the near quarter-century he has spent here in the United States Senate that has earned WENDELL FORD the admiration, the respect, and the undying affection of his colleagues. And, having been elected to four terms in the Senate, it is obvious that the good people of Kentucky also understand and appreciate the skill, the dedication, and the flawless integrity that WENDELL FORD brings to his work. He serves Kentucky and the Nation with a wit and candor that are as timely and as refreshing as a cool Kentucky breeze on a hot summer day.

In fact, in 1992, he began a string of historical achievements when he received the largest number of votes ever recorded by a candidate for elected office in the state of Kentucky. On November 14, 1996, WENDELL FORD broke Alben Barlkey's record for the longest consecutive service in the United States Senate as a Senator from the Commonwealth, while becoming the overall longest serving Senator from Kentucky in March of this year.

Mr. President, such milestones are not just proud, personal moments, although they are that. Rather, they speak to the immense respect, and the tremendous trust that the citizens of Kentucky have for their distinguished senior Senator. Of course, to those of us who know WENDELL FORD, such respect and trust are not unfounded.

As a Member of this body, Senator FORD has become a recognized leader in such diverse areas as aviation, federal campaign finance reform, and energy. He has, through dedication and hard work, shaped such important legislation as the National Voter Registration Act, the Federal Aviation Administration Authorization Act of 1994, the Family and Medical Leave Act, the National Energy Security Act of 1992, and the Energy Security Act of 1977.

The commitment shown by our colleague from Kentucky in working on these and other profound and troubling problems that face this Nation is emblematic of the devoted public servant that WENDELL FORD has shown himself to be. There will be few who will match the accomplishments of our friend; few who will bring to this body a deeper passion; and few who will legislate with greater skill.

Mr. President, as he prepares to leave the Senate, I offer my sincere gratitude to Senator WENDELL FORD for his professionalism, for his friendship, for his leadership, for his candor, and for his many years of dedicated service to our Nation. I would also like to express my admiration, and that of my wife, Erma, to WENDELL's gracious and dedicated wife, Jean. Few know, of course, of the tremendous sacrifices made by our spouses. But those of us who serve in this body understand the price paid by these selfless, silent partners. None has done so with greater dignity, or with more grace, than has Jean Ford.

And, so, I say to my friend from the Commonwealth of Kentucky, I have treasured the time we have worked together, and I wish him good luck and God's speed. He is coming home.

Weep no more, my lady,
Oh! weep no more to-day!
We will sing one song for the Old Kentucky Home,
For the old Kentucky Home far away.

"My Old Kentucky Home," Stephen Collins Foster, 1826–1864.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

TRIBUTE TO DEPARTING SENATORS AND SENATOR KEMPTHORNE'S STAFF

Mr. KEMPTHORNE. Mr. President, I appreciate you presiding as you do in such a class fashion. I would like to make a few comments here. I have been touched and impressed by the fact of colleagues coming to the floor and paying tribute to those Members who are departing. I have listened because, as one of those Members who are departing, I know personally how much it means to hear those kind comments that are made.

Senator FORD, who just spoke, is leaving after a very illustrious career. I remember when the Republican Party took over the majority 4 years ago and I was new to the position of Presiding Officer, it was not unusual for WENDELL FORD, who knows many of the ropes around here, to come and pull me aside and give me a few of the tips of how I could be effective as a Presiding Officer. I think probably one of the highest tributes you can pay to an individual is the fact that you see their family and the success they have had. I remember when WENDELL FORD's grandson, Clay, was a page here. I think Clay is probably one of the greatest tributes paid to a grandfather.

DALE BUMPERS, often mentioned here on the floor about his great sense of humor, is an outstanding gentlemen. He is someone whom I remember before I ever became involved in politics. I watched him as a Governor of Arkansas and thought, there is a man who has great integrity, someone you can look up to. And then to have the opportunity to serve with him has been a great honor.

JOHN GLENN. Whenever any of the astronauts—the original seven—would blast off into space, my mother would get all the boys up so we could watch them. I remember when JOHN GLENN blasted off into space. Again, the idea that somehow a kid would end up here and would serve with JOHN GLENN is just something I never could dream of at the time. In fact, JOHN GLENN became a partner in our efforts to stop unfunded Federal mandates. You could not ask for a better partner.

Speaking of partners, he could not have a better partner than Annie. I had the great joy of traveling with them approximately a year ago when we went to Asia. That is when you get to know these people as couples. I remember that we happened to be flying over an ocean when it was the Marine Corps' birthday. On the airplane we had a cake and brought it out, to the surprise of JOHN GLENN. But you could see the emotion in his eyes. I know the Presiding Officer is a former U.S. Marine, so he knows what we are talking about.

DAN COATS. There is no more genuine a person than DAN—not only in the Senate but on the face of the Earth. He is a man of great sincerity, a man who can articulate his position so extremely well. He is a man who, when you look into his eyes, you know he is listening to you and he is going to do right by you and by the people of his State of Indiana, and he has done right by the people of the United States. He is a man who has great faith, a man to whom I think a number of us have looked for guidance.

When you look at the Senate through the eyes of a camera, you see just one dimension. But on the floor of the Senate we are just people. A lot of times we don't get home to our wives and kids and sometimes to the ball games or back-to-school nights. There are times when some of the issues don't go as we would like, and it gets tough. At these times, we hurt. There are people like DAN COATS to whom you can turn, who has said, "Buddy, I have been there and I am with you now." So, again, he is an outstanding individual.

Also, Mr. President, I have been really fortunate with the quality of the staff I have had here in the U.S. Senate during the 6 years I have been here. As I have listened so many times to the Senate clerk call the roll of those Senators, they have answered that roll. I would like to just acknowledge this roll of those staff members whom I have had. This is probably the first and only time their names will be called in this august Chamber:

Cindy Agidius, Marcia Bain, Jeremy Chou, Camy Mills Cox, Laurette Davies, Michelle Dunn, Becky English, Gretchen Estess, Ryan Fitzgerald, Lance Giles.

Charles Grant, Ernie Guerra, Julie Harwood, Laura Hyneman, Meg Hunt, Catherine Josling, Ann Klee, Amy Manwaring, John McGee, Liz Mitchell.

Heather Muchow, Jay Parkinson, Phil Reberger, Rachel Riggs, Shawna Seiber Ward, Orrie Sinclair, Mark Snider, Glen Tait, Jim Tate, Kelly Teske.

Salle Uberuaga, Jennifer Wallace, Brian Whitlock, Suzanne Bacon, Becky Bale, Stan Clark, Tom Dayley, Tyler Dougherty, Carolyn Durant, George Enneking.

Buzz Fawcett, Margo Gaetz, Erin Givens, Jim Grant, Wendy Guisto, Jennifer Hayes, Al Henderson, Heather Irby, Steve Judy, Jeff Loveng.

Brian McCormack, Darrell McRoberts, Peter Moloney, Scott Muchow, Dan Ramirez, Dixie Richardson, Stephanie Schisler, Carrie Stach, Gary Smith, Michael Stinson, Sally Taniguchi, Julie Tensen, Mitchell Toryanski, Brian Waidmann, Vaughn Ward.

That is a lot of staff. But over 6 years, some of those have come and gone.

I have also received valuable assistance from interns who have worked in my state and Washington offices. I ask unanimous consent that the following list of interns for the past six years be printed in the RECORD.

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

INTERNS

Angie Adams, Tara Anderson, Jennifer Beck, Matthew Blackburn, Emily Burton, Emilie Caron, Michelle Crapo, Matt Freeman, Amy Hall, Rick Hansen.

Michelle Hyde, Paul Jackson, Beth Ann Kerrick, Heather Lauer, Jennifer Ludders, Karen Marchant, Kendal McDevitt, Jan Nielsen, Bryan James Palmer, Tracy Pellechi.

Tyler Prout, James Rolig, Dallas Scholes, Robin Staker, Meghan Sullivan, Omar Valverde, Franciose Whitlock, James Williams, Curt Wozniak, Tim Young.

Kim Albers, Chris Bailey, Kevin Belew, David Booth, Matt Campbell, Stephen Cataldo, Pandi Ellison, Andrew Grutkowski, Chad Hansen, Sarah Heckel.

Laura Hyneman, Michael Jordan, Lisa Lance, Keith Lonergan, Lori Manzaneres, Wade Miller, Kate Montgomery, Rocky Owens, Kurt Pipal, Alan Poff.

Nichole Reinke, Don Schanz, Nathan Sierra, Jacob Steele, David Thomas, Curtis Wheeler, Brian Williams, Angie Willie, Darryl Wrights.

Mr. KEMPTHORNE. Mr. President, this will probably be the last time officially on this floor as a U.S. Senator that I look at the faces of these people that you and I have worked with—the clerks, and Parliamentarians, the staff. It is family. The young pages that we see here with that sparkle in their eye and the enthusiasm that they have for this process—it is fun to talk to you and to see your sense of enthusiasm for this. As I said, you are going to have a sense of the U.S. Senate like few citizens, because you have been here, you have experienced it, and you have been up close in person.

But to those of you that I see now as I look to the desk, those who have sat in your places that I have worked with through these years, I thank you. America is well served by you, by your professionalism and your dedication.

So I thank you. I thank the Cloakroom again; all of the family; the staff, from the police officers and the waiters and waitresses, and the folks who make this place work; the Senate Chaplain; and, Mr. President, again I thank you for your courtesy, and I bid you farewell.

I yield the floor.

The PRESIDING OFFICER. Thank you, Senator. The people of Idaho and the people of the country are very proud of your service. We wish you well.

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that pursuant to the provisions of section 703 of the Social Security Act (42 U.S.C. 903) as amended by section 103 of Public Law 103–296, the Speaker reappoints Ms. Jo Anne Barnhart of Virginia as a member from private life on the part of the House to the Security Advisory Board to fill the existing vacancy thereon.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 214. Concurrent resolution recognizing the contributions of the cities of Bristol, Tennessee, and Bristol, Virginia, and their people on the origins and development of Country Music, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2560. An act to authorize the President to award gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to collectively as the "Little Rock Nine," and for other purposes.

H.R. 4516. An act to designate the United States Postal Service building located at 11550 Livingston Road, in Oxon Hill, Maryland, as the "Jacob Joseph Chestnut Post Office Building."

The message also announced that the House has passed the following bills, without amendment:

S. 2094. An act 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.

S. 2193. An act to implement the provisions of the Trademark Law Treaty.

S. 2235. An act to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

S. 2505. An act to direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 191. An act to throttle criminal use of guns.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2375. An act 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.

ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, delivered by one of its reading clerks announced that the Speaker has signed the following enrolled Joint Resolution:

H.J. Res. 131. Joint resolution waiving certain enrolling requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

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

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–7407. A communication from the Assistant Secretary for Employment and Training, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "General Administration Letter No. 8–98" received on October 6, 1998; to the Committee on Finance.

EC–7408. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a notice of additions and deletions to the Committee's Procurement List dated September 28, 1998; to the Committee on Governmental Affairs.

EC–7409. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Performance Ratings" (RIN3206–AH77) received on October 6, 1998; to the Committee on Governmental Affairs.

EC–7410. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Price Competitive Sale of Strategic Petroleum Reserve Petroleum; Standard Sales Provision" (RIN1901–AA81) received on October 8, 1998; to the Committee on Energy and Natural Resources.

EC–7411. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Personnel Assurance Program" (RIN1992–AA14) received on October 8, 1998; to the Committee on Energy and Natural Resources.

EC–7412. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule regarding energy conservation standards for electric cooking products (RIN1904–AA84) received on October 8, 1998; to the Committee on Energy and Natural Resources.

EC–7413. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Republic of Yugoslavia (Serbia and Montenegro) Kosovo Sanctions Regulations" received on October 8, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7414. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Ginnie Mae MBS Program: Book Entry Securities" (Docket FR–4332–I–01) received on October 8, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7415. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Clarification of Reporting Requirements Under the Wassenaar Arrangement" (RIN0694–AB724) received on October 8, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7416. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Request for Comments on Effects of Foreign Policy-Based Export Controls" (Docket 980922243–8243–01) received on October 8, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7417. A communication from the Executive Director of the Air Force Sergeants Association, transmitting, pursuant to law, the Association's annual report and audit for fiscal year 1998; to the Committee on the Judiciary.

EC–7418. A communication from the Chairperson of the United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled "Helping State and Local Governments Comply with the ADA"; to the Committee on the Judiciary.

EC–7419. A communication from the Chairperson of the United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled "Helping Employers Comply with the ADA"; to the Committee on the Judiciary.

EC–7420. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the audit of the Telecommunications Development Fund; to the Committee on Commerce, Science, and Transportation.

EC–7421. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Development of Competition and Diversity in Video Programming Distribution and Carriage" (Docket 97–248) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7422. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "U.S. Coast Guard Vessel Traffic Services (VTS) Systems in New Orleans, Louisiana" (DA 98–1935) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7423. A communication from the Director of Executive Budgeting and Assistance Management, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Audit Requirements for State and Local Governments; Audit Requirements for Institutions of Higher Education and Other Non-Profit Organizations" (RIN0605–AA12) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7424. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Atlantic Bluefin Tuna" (I.D. 092298C) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7425. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of remote sensing satellite technical data to Greece (DTC 69–98); to the Committee on Foreign Relations.

EC–7426. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of circuit card assemblies for the T16–B Monolithic Ring Laser Gyro Inertial Navigation System in Mexico (DTC 96–98); to the Committee on Foreign Relations.

EC–7427. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of FLYER R–12D lightweight military vehicles in Singapore (DTC 104–98); to the Committee on Foreign Relations.

EC–7428. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of certain PATRIOT System components in Japan (DTC 106–98); to the Committee on Foreign Relations.

EC–7429. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of fire control radar accelerometers for end use on United Kingdom AH–64 Apache helicopters (DTC 108–98); to the Committee on Foreign Relations.

EC–7430. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed transfer of technical data and assistance to Spain relative to F100 AEGIS frigates (DTC 115–98); to the Committee on Foreign Relations.

EC–7431. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of F–15 electrohydraulic flight control systems in Japan (DTC 117–98); to the Committee on Foreign Relations.

EC–7432. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the upgrading of Japanese F–15 Aircraft (DTC 120–98); to the Committee on Foreign Relations.

EC–7433. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of air surveillance systems to Algeria (DTC 124–98); to the Committee on Foreign Relations.

EC–7434. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of avionics in support of the U.S. Air Force T–38 Avionics Upgrade Program in Israel (DTC 126–98); to the Committee on Foreign Relations.

EC–7435. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of MK 41 Vertical Launch Systems to Japan (DTC 127–98); to the Committee on Foreign Relations.

EC–7436. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of F100–PW–100 engines for use in Japanese F–15 aircraft (DTC 131–98); to the Committee on Foreign Relations.

EC–7437. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of F100–PW–229/–229A engine parts in Norway (DTC 132–98); to the Committee on Foreign Relations.

EC–7438. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed transfer of three Hercules C–130E aircraft from the United Kingdom to the Government of Sri Lanka (RSAT 4–98); to the Committee on Foreign Relations.

EC–7439. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts of international agreements other than treaties entered into by the United States (98–150 to 98–154); to the Committee on Foreign Relations.

EC–7440. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification for fiscal year 1999 that no United Nations Agency or affiliate promotes or condones the legalization of pedophilia; to the Committee on Foreign Relations.

EC–7441. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of an emergency transfer of AN/ALQ–131 electronic counter-measure pods to the Government of Norway; to the Committee on Foreign Relations.

EC–7442. 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 "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Withdrawal of Final Rule" (FRL6174–3) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7443. 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 "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_X RACT Determinations for Individual Sources" (FRL6166–1) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7444. 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 "Approval and Promulgation of Implementation Plans; Minnesota" (FRL6162–1) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7445. 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 "Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Nashville/Davidson County Portion of the Tennessee SIP Regarding Control of Volatile Organic Compounds" (FRL6169–6) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7446. 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 "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Alabama" (FRL6168–4) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7447. 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 "Cyromazine; Extension of Tolerance for Emergency Exemptions" (FRL6037–1) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7448. 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 "Hexythiazox; Pesticide Tolerances" (FRL6035–2) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7449. 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 "Mancozeb; Pesticide Tolerances for Emergency Exemptions" (FRL6029–5) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7450. 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 "Paraquat; Extension of Tolerance for Emergency Exemptions" (FRL6032–5) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7451. 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 "Tebuconazole; Extension of Tolerances for Emergency Exemptions" (FRL6034–7) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7452. 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 "Maleic Hydrazide; Extension of Tolerances for Emergency Exemptions" (FRL6034–8) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7453. 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 "Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan" (FRL6170–8) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7454. 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 "Approval and Promulgation of Air Quality Implementation Plans; Maine; Source Surveillance Regulation" (FRL6172–8) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7455. 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 "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (FRL6171–2) received on October 5, 1998; to the Committee on Environment and Public Works.

EC–7456. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Department's report on operations of the Glen Canyon Dam for Water Year 1997 and 1998; to the Committee on Energy and Natural Resources.

EC–7457. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department's report entitled "Report on Alternative System for Availability of Funds"; to the Committee on Energy and Natural Resources.

EC–7458. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report on completed projects funded under the Community Services Block Grant Act for fiscal years 1991 through 1994; to the Committee on Labor and Human Resources.

EC–7459. A communication from the Assistant Secretary for Mine Safety and Health, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Experienced Miner and Supervisor Training" (RIN1219–AB13) received on October 9, 1998; to the Committee on Labor and Human Resources.

EC–7460. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding a clarification of reporting requirements under the Potato Research and Promotion Plan (Docket FV–96–703FR) received on October 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7461. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska" (I.D. 092598A) received on October 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7462. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Sea Scallop Fishery; Extension of Interim Final Rule Implementing Area Closure" (RIN0648–AK68) received on October 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7463. 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 pesticide tolerances for residues of a certain potatoe fungicide (FRL6036–7) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7464. 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 "Hexythiazox; Pesticide Tolerances for Emergency Exemptions" (FRL6030–3) received on October 8, 1998; to the Committee on Environment and Public Works.

EC–7465. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a prospectus proposing the lease of space to house the Uniformed Division of the U.S. Secret Service; to the Committee on Environment and Public Works.

EC–7466. A communication from the Inspector General of the Department of Defense, transmitting, pursuant to law, the Department's report on Superfund Financial Transactions for fiscal year 1997; to the Committee on Environment and Public Works.

EC–7467. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report on the effectiveness of providing disease prevention and health promotion services to Medicare beneficiaries; to the Committee on Finance.

EC–7468. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, a draft of proposed legislation entitled "The Fugitive Apprehension Act"; to the Committee on the Judiciary.

EC–7469. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the production of Air-to-Air Stinger launchers and related equipment in Turkey (DTC 88-98) received on October 9, 1998; to the Committee on Foreign Relations.

EC–7470. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of M582A1 artillery shell fuses for export to Greece (DTC 91-98) received on October 9, 1998; to the Committee on Foreign Relations.

EC–7471. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of certain military computer systems in Canada (DTC 103-98) received on October 9, 1998; to the Committee on Foreign Relations.

EC–7472. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of technical data to Japan for the design and manufacture of a cryogenic upper stage launch vehicle engine (DTC 116-98) received on October 9, 1998; to the Committee on Foreign Relations.

EC–7473. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of technical assistance to Singapore for maintanece of the T-55-L-714A engine on certain CH-47 Chinook helicopters (DTC 129-98) received on October 9, 1998; to the Committee on Foreign Relations.

EC–7474. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of the Longbow Hellfire Missile Control Interface Group for use in the United Kingdom AH-64D Apache Program (DTC 137-98) received on October 9, 1998; to the Committee on Foreign Relations.

EC–7475. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of transmissions for the K95 Howitzer and the K1A1 Main Battle Tank in South Korea (DTC 138-98) received on October 9, 1998; to the Committee on Foreign Relations.

EC–7476. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of TOW 2 missile warheads in Switzerland (DTC 142-98) received on October 9, 1998; to the Committee on Foreign Relations.

EC–7477. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export Model 139A Verticle Launch ASROC Missiles to Japan (DTC 143-98) received on October 9, 1998; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

Report to accompany the bill (S. 2086) to revise the boundaries of the George Washington Birthplace National Monument (Rept. No. 105–403).

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

Report to accompany the bill (S. 2240) to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes (Rept. No. 105–404).

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

Report to accompany the bill (S. 2246) to amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary and for other purposes (Rept. No. 105–405).

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

Report to accompany the bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–406).

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

Report to accompany the bill (S. 2468) to designate the Biscayne National Park visitor center as the Dante Fascell Visitor Center at Biscayne National Park (Rept. No. 105–407).

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

Report to accompany the bill (S. 2500) to protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas (Rept. No. 105–408).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs:

D. Bambi Kraus, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2004.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Treaty Doc. 105–1(A) Amended Mines Protocol (Exec. Rept. 105–21).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO A RESERVATION, UNDERSTANDINGS, AND CONDITIONS.

The Senate advises and consents to the ratification of the Amended Mines Protocol (as defined in section 5 of this resolution), subject to the reservation in section 2, the understandings in section 3, and the conditions in section 4.

SEC. 2. RESERVATION.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the reservation, which shall be included in the United States instrument of ratification and shall be binding upon the President, that the United States reserves the right to use other devices (as defined in Article 2(5) of the Amended Mines Protocol) to destroy any stock of food or drink that is judged likely to be used by an enemy military force, if due precautions are taken for the safety of the civilian population.

SEC. 3. UNDERSTANDINGS.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the following understandings, which shall be included in the United States instrument of ratification and shall be binding upon the President:

(1) UNITED STATES COMPLIANCE.—The United States understands that—

(A) any decision by any military commander, military personnel, or any other person responsible for planning, authorizing, or executing military action shall only be judged on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken; and

(B) Article 14 of the Amended Mines Protocol (insofar as it relates to penal sanctions) shall apply only in a situation in which an individual—

(i) knew, or should have known, that his action was prohibited under the Amended Mines Protocol;

(ii) intended to kill or cause serious injury to a civilian; and

(iii) knew or should have known, that the person he intended to kill or cause serious injury was a civilian.

(2) EFFECTIVE EXCLUSION.—The United States understands that, for the purposes of Article 5(6)(b) of the Amended Mines Protocol, the maintenance of observation over avenues of approach where mines subject to this paragraph are deployed constitutes one acceptable form of monitoring to ensure the effective exclusion of civilians.

(3) HISTORIC MONUMENTS.—The United States understands that Article 7(1)(i) of the Amended Mines Protocol refers only to a limited class of objects that, because of their clearly recognizable characteristics and because of their widely recognized importance, constitute a part of the cultural or spiritual heritage of peoples.

(4) LEGITIMATE MILITARY OBJECTIVES.—The United States understands that an area of land itself can be a legitimate military objective for the purpose of the use of landmines, if its neutralization or denial, in the circumstances applicable at the time, offers a military advantage.

(5) PEACE TREATIES.—The United States understands that the allocation of responsibilities for landmines in Article 5(2)(b) of the Amended Mines Protocol does not preclude agreement, in connection with peace treaties or similar arrangements, to allocate responsibilities under that Article in a manner that respects the essential spirit and purpose of the Article.

(6) BOOBY-TRAPS AND OTHER DEVICES.—For the purposes of the Amended Mines Protocol, the United States understands that—

(A) the prohibition contained in Article 7(2) of the Amended Mines Protocol does not preclude the expedient adaptation or adaptation in advance of other objects for use as booby-traps or other devices;

(B) a trip-wired hand grenade shall be considered a "booby-trap" under Article 2(4) of the Amended Mines Protocol and shall not be considered a "mine" or an "anti-personnel mine" under Article 2(1) or Article 2(3), respectively; and

(C) none of the provisions of the Amended Mines Protocol, including Article 2(5), applies to hand grenades other than trip-wired hand grenades.

(7) NON-LETHAL CAPABILITIES.—The United States understands that nothing in the Amended Mines Protocol may be construed as restricting or affecting in any way non-lethal weapon technology that is designed to temporarily disable, stun, signal the presence of a person, or operate in any other fashion, but not to cause permanent incapacity.

(8) INTERNATIONAL TRIBUNAL JURISDICTION.—The United States understands that the provisions of Article 14 of the Amended Mines Protocol relating to penal sanctions refer to measures by the authorities of States Parties to the Protocol and do not authorize the trial of any person before an international criminal tribunal. The United States shall not recognize the jurisdiction of any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons.

(9) TECHNICAL COOPERATION AND ASSISTANCE.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological information for any reason; and

(B) the Amended Mines Protocol may not be used as a pretext for the transfer of weapons technology or the provision of assistance to the military mining or military countermining capabilities of a State Party to the Protocol.

SEC. 4. CONDITIONS.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the following conditions, which shall be binding upon the President:

(1) PURSUIT DETERRENT MUNITION.—

(A) UNDERSTANDING.—The Senate understands that nothing in the Amended Mines Protocol restricts the possession or use of the Pursuit Deterrent Munition, which is in compliance with the provisions in the Technical Annex and which constitutes an essential military capability for the United States Armed Forces.

(B) CERTIFICATION.—Prior to deposit of the United States instrument of ratification, the President shall certify to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives that the Pursuit Deterrent Munition shall continue to remain available for use by the United States Armed Forces at least until January 1, 2003, unless an effective alternative to the munition becomes available.

(C) EFFECTIVE ALTERNATIVE DEFINED.—For purposes of subparagraph (B), the term "effective alternative" does not mean a tactic or operational concept in and of itself.

(2) EXPORT MORATORIUM.—The Senate—

(A) recognizes the expressed intention of the President to negotiate a moratorium on the export of anti-personnel mines; and

(B) urges the President to negotiate a universal ban on the transfer of those mines that does not include any restriction on any mine that is primarily designed to be exploded by the presence, proximity, or contact of a vehicle, as opposed to a person and that is equipped with an anti-handling device, as defined in the Amended Mines Protocol, or a tilt rod or magnetic influence sensor, such mine not being considered an anti-personnel mine despite being so equipped.

(3) HUMANITARIAN DEMINING ASSISTANCE.—

(A) FINDINGS.—The Senate makes the following findings:

(i) UNITED STATES EFFORTS.—The United States contributes more than any other country to the worldwide humanitarian demining effort, having expended more than $153,000,000 on such efforts since 1993.

(ii) DEVELOPMENT OF DETECTION AND CLEARING TECHNOLOGY.—The Department of Defense has undertaken a substantial program to develop improved mine detection and clearing technology and has shared this improved technology with the international community.

(iii) EXPANSION OF UNITED STATES HUMANITARIAN DEMINING PROGRAMS.—The Department of Defense and the Department of State have significantly expanded their humanitarian demining programs to train and assist the personnel of other countries in developing effective demining programs.

(B) INTERNATIONAL SUPPORT FOR DEMINING INITIATIVES.—The Senate urges the international community to join the United States in providing significant financial and technical assistance to humanitarian demining programs, thereby making a concrete and effective contribution to the effort to reduce the grave problem posed by the indiscriminate use of non-self-destructing landmines.

(4) LIMITATION ON THE SCALE OF ASSESSMENT.—

(A) LIMITATION ON ASSESSMENT FOR COST OF IMPLEMENTATION.—Notwithstanding any provision of the Amended Mines Protocol, and subject to the requirements of subparagraphs (B) and (C), the portion of the United States annual assessed contribution for activities associated with any conference held pursuant to Article 13 of the Amended Mines Protocol may not exceed $1,000,000.

(B) RECALCULATION OF LIMITATION.—

(i) IN GENERAL.—On January 1, 2000, and at 3-year intervals thereafter, the Administrator of General Services shall prescribe an amount that shall apply in lieu of the amount specified in subparagraph (A) and that shall be determined by adjusting the last amount applicable under that subparagraph to reflect the percentage increase by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the calendar year three years previously.

(ii) CONSUMER PRICE INDEX DEFINED.—In this subparagraph, the term "Consumer Price Index" means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ADDITIONAL CONTRIBUTIONS REQUIRING CONGRESSIONAL APPROVAL.—

(i) AUTHORITY.—Notwithstanding subparagraph (A), the President may furnish additional contributions for activities associated with any conference held pursuant to Article 13 of the Amended Mines Protocol which would otherwise be prohibited under subparagraph (A) if—

(I) the President determines and certifies in writing to the appropriate committees of Congress that the failure to make such contributions would seriously affect the national interest of the United States; and

(II) Congress enacts a joint resolution approving the certification of the President under subclause (I).

(ii) STATEMENT OF REASONS.—Any certification made under clause (i) shall be accompanied by a detailed statement setting forth the specific reasons therefor and the specific activities associated with any conference held pursuant to Article 13 of the Amended Mines Protocol to which the additional contributions would be applied.

(5) UNITED STATES AUTHORITY FOR TECHNICAL COOPERATION AND ASSISTANCE.—Notwithstanding any provision of the Amended Mines Protocol, no funds may be drawn from the Treasury of the United States for any payment or assistance (including the transfer of in-kind items) under Article 11 or Article 13(3)(d) of the Amended Mines Protocol without statutory authorization and appropriation by United States law.

(6) FUTURE NEGOTIATION OF WITHDRAWAL CLAUSE.—It is the sense of the Senate that, in negotiations on any treaty containing an arms control provision, United States negotiators should not agree to any provision that would have the effect of inhibiting the United States from withdrawing from the arms control provisions of that treaty in a timely fashion in the event that the supreme national interests of the United States have been jeopardized.

(7) PROHIBITION ON DE FACTO IMPLEMENTATION OF THE OTTAWA CONVENTION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the President will not limit the consideration of alternatives to United States anti-personnel mines or mixed anti-tank systems solely to those that comply with with the Ottawa Convention; and

(B) in pursuit of alternatives to United States anti-personnel mines, or mixed anti-

tank systems, the United States shall seek to identify, adapt, modify, or otherwise develop only those technologies that—

(i) are intended to provide military effectiveness equivalent to that provided by the relevant anti-personnel mine, or mixed anti-tank system; and

(ii) would be affordable.

(8) CERTIFICATION WITH REGARD TO INTERNATIONAL TRIBUNALS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that with respect to the Amended Mines Protocol, the Convention on Conventional Weapons, or any future protocol or amendment thereto, that the United States shall not recognize the jurisdiction of any international tribunal over the United States or any of its citizens.

(9) TACTICS AND OPERATIONAL CONCEPTS.—It is the sense of the Senate that development, adaptation, or modification of an existing or new tactic or operational concept, in and of itself, is unlikely to constitute an acceptable alternative to anti-personnel mines or mixed anti-tank systems.

(10) FINDING REGARDING THE INTERNATIONAL HUMANITARIAN CRISIS.—The Senate finds that—

(A) the grave international humanitarian crisis associated with anti-personnel mines has been created by the indiscriminate use of mines that do not meet or exceed the specifications on detectability, self-destruction, and self-deactivation contained in the Technical Annex to the Amended Mines Protocol; and

(B) United States mines that do meet such specifications have not contributed to this problem.

(11) APPROVAL OF MODIFICATIONS.—The Senate reaffirms the principle that any amendment or modification to the Amended Mines Protocol other than an amendment or modification solely of a minor technical or administrative nature shall enter into force with respect to the United States only pursuant to the treaty-making power of the President, by and with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(12) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval an international agreement that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty-making power as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(13) 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 CFE Flank Document, approved by the Senate on May 14, 1997.

(14) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Amended Mines Protocol requires or authorizes the enactment of legislation, or the taking of any other action, by the United States that is prohibited by the Constitution of the United States, as interpreted by the United States.

SEC. 5. DEFINITIONS.

As used in this resolution:

(1) AMENDED MINES PROTOCOL OR PROTOCOL.—The terms "Amended Mines Protocol" and "Protocol" mean the Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, together with its Technical Annex, as adopted at Geneva on May 3, 1996 (contained in Senate Treaty Document 105-1).

(2) CFE FLANK DOCUMENT.—The term "CFE Flank Document" means the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, done at Vienna on May 31, 1996 (Treaty Document 105-5).

(3) CONVENTION ON CONVENTIONAL WEAPONS.—The term "Convention on Conventional Weapons" means the Convention on Prohibitions or Restriction on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, done at Geneva on October 10, 1980 (Senate Treaty Document 103-25).

(4) OTTAWA CONVENTION.—The term "Ottawa Convention" means the Convention on the Prohibition of the Use, Production, Stockpiling, and Transfer of Anti-Personnel Mines and on Their Destruction, opened for signature at Ottawa December 3-4, 1997 and at the United Nations Headquarters beginning December 5, 1997.

(5) UNITED STATES INSTRUMENT OF RATIFICATION.—The term "United States instrument of ratification" means the instrument of ratification of the United States of the Amended Mines Protocol.

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. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions; to the Committee on Environment and Public Works.

By Mr. MCCAIN:

S. 2618. A bill to require certain multilateral development banks and other lending institutions to implement independent third-party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

By Mr. DASCHLE:

S. 2619. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans Affairs.

By Mr. ROBB:

S. 2620. A bill to amend the Federal Water Pollution Control Act to establish a National Clean Water Trust Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2621. A bill to authorize the acquisition of the Valles Caldera currently managed by the Baca Land and Cattle Company, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture through the private sector, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. BREAUX, Mr. D'AMATO, Mr. CONRAD, Mr. MURKOWSKI, Mr. GRAHAM, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, Mr. MACK, Mr. BRYAN, and Mr. KERREY):

S. 2622. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. ROTH, and Mr. STEVENS):

S. 2623. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 2624. A bill to establish a program for training residents of low-income rural areas for, and employing the residents in, new telecommunications industry jobs located in the rural areas, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions; to the Committee on Environment and Public Works.

CREDIT FOR EARLY ACTION ACT OF 1998

Mr. CHAFEE. Mr. President, I am proud to join with Senators MACK and LIEBERMAN today to introduce the Credit for Early Action Act of 1998. This bipartisan legislation is designed to encourage voluntary, meaningful, and early efforts by industry to reduce their emissions of greenhouse gases. This is a bill to address the threat of global climate change.

Before I get into the details of this legislative proposal, let me spend a few moments discussing the science of climate change.

Human influence on the global climate in an extraordinarily complex matter that has undergone more than a century of research. Indeed, in an 1896 lecture delivered to the Stockholm Physics Society by the Nobel Prize-winning chemist, Svante Arrhenius, it was predicted that large increases in carbon dioxide (CO_2) would result in a corresponding warming of the globe.

Professor Arrhenius was the first to predict that large increases in CO_2 would result in a warming of the globe. What have the world's scientists told us at different intervals over the last one hundred years, since Mr. Arrhenius identified the warming effects of CO_2?

In 1924, a U.S. physicist speculated that industrial activity would double atmospheric CO_2 in five hundred years, around the year 2424. Current projections, however, call for a doubling sometime before 2050—some four hundred years earlier than predicted just seventy years ago!

In 1957, scientists from the Scripps Institute of Oceanography reported for the first time that much of the CO_2 emitted into the atmosphere is not absorbed by the oceans as some had argued, leaving significant amounts in the atmosphere. They are said to have called carbon dioxide emissions "a large-scale geophysical experiment" with the Earth's climate.

In 1967, the first reliable computer simulation calculated that global average temperatures may increase by more than four degrees Fahrenheit when atmospheric CO_2 levels are double that of preindustrial times. In 1985, a conference sponsored by the United Nations Environment Program (UNEP), the World Meteorological Organization (WMO), and the International Council of Scientific Unions forged a consensus of the international scientific community on the issue of climate change. The conference report warned that some future warming appears inevitable due to past emissions, regardless of future actions, and recommended consideration of a global treaty to address climate change.

In 1987, an ice core from Antarctica, analyzed by French and Russian scientists, revealed an extremely close correlation between CO_2 and temperature going back more than one hundred thousand years. In 1990, an appeal signed by forty-nine Novel prize winners and seven hundred members of the National Academy of Science stated, "There is broad agreement within the scientific community that amplification of the Earth's natural greenhouse effect by the buildup of various gases introduced by human activity has the potential to produce dramatic changes in climate . . . only by taking action now can be ensure that future generations will not be put at risk."

Also in 1990, seven hundred and forty-seven participants from one hundred sixteen countries took part in the Second world Climate Conference. The conference statement reported that, ". . . if the increase of greenhouse gas concentrations is not limited, the predicted climate change would place stresses on natural and social systems unprecedented in the past ten thousand years."

Finally, Mr. President, in 1995, the Intergovernmental Panel on Climate Change, representing the consensus of climate scientists worldwide, concluded that ". . . the balance of evidence suggests that there is a discernible human influence on global climate."

This last development is significant, because the overwhelming majority of climate scientists concluded, for the first time, that man is influencing the global climate system. That conclusion, while controversial in some quarters, was endorsed unanimously by the governments of the ninety-six countries involved in the panel's efforts.

Are these forecasted outcomes a certainty? They are not. The predictions of climate change are indeed based on numerous variables. Although scientists are improving the state of their knowledge at a rapid pace, we still have a lot to learn about the role of the sun, clouds and oceans, for example.

The question is, will we ever have absolute certainty? Will we ever be able to eliminate all of the variables? The overwhelming majority of independent, peer-reviewed scientific studies indicate that we do not have such a luxury. By the time we finally attain absolute certainty, it would likely take centuries to reverse atmospheric damage and oceanic warming.

Mr. President, I am not alone in this thinking. There are an increasing number of business leaders in our country who have arrived at the same conclusion that we need to act swiftly.

In a "dear colleague" letter sent out this week under my signature, I repeated a remarkable statement issued by an impressive group of companies that have joined with the newly established Pew Center on Climate Change. American Electric Power, Boeing, BP America, Enron, Lockheed Martin, 3M, Sun, United Technologies, Toyota, Weyerhaeuser, and several others said that, "we accept the views of most scientists that enough is known about the science and environmental impacts of climate change for us to take actions to address its consequences."

The legislation to be introduced today by Senator MACK, Senator LIEBERMAN and I proposes an exciting framework that would appropriately recognize real and immediate action to combat climate change. While the climate debate will indeed continue over the next few years, we strongly believe that there is a voluntary, incentive-based approach which can be implemented now. Congressional approval of this approach, which the three of us and others will work for early next year, will provide the certainty necessary to encourage companies to move forward with practical, near-term emission reductions.

Specifically, this legislation would provide a mechanism by which the President can enter into binding greenhouse gas reduction agreements with entities operating in the United States. Once executed, these agreements will provide credits for voluntary greenhouse gas reductions effected by those entities before 2008, or whenever we might have an imposition of any domestic or international emission reduction requirements.

Importantly, this program is designed to work within the framework of whatever greenhouse gas control requirement may eventually become applicable within the United States. The credits would be usable beginning in the first five-year budget period (2008–2012) under the Kyoto Protocol, if the Kyoto Protocol is ratified. If the Protocol is not ratified, and we end up with a domestic program to regulate or otherwise control greenhouse gas emissions, the credits would be usable in that program.

This sort of approach makes sense for a wide variety of reasons. Encouraging early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the potential environmental risks of continued warming. Given the longevity of many climate gases, which continue to trap heat in the atmosphere for a century or more, it just makes sense to encourage practical actions now.

By guaranteeing companies credit for voluntary early reductions, the bill would allow companies to protect themselves against the potential for steep reduction requirements or excessive costs in the future. For companies that want to reduce their greenhouse gas emissions, providing credit for action now adds years to any potential compliance schedule, allowing companies to spread costs over broader time periods. A focus on early reductions can help stimulate the American search for strategies an technologies that are needed worldwide. Development of such strategies and technologies can improve American competitiveness in the $300 billion dollar global environmental marketplace.

This "credit" program may also make the greenhouse gas reductions achieved before regulations are in place financially valuable to the companies who make such reductions. Given the likely inclusion of market based approaches to any eventual domestic regulatory requirements, similar to the successful acid rain program of the 1990 Clean Air Act, credit earned could be traded or sold to help other companies manage their own reduction efforts.

Under a "no credit" approach, the status quo, it is more likely that early reduction companies will be penalized if greenhouse gas reductions are ultimately required, because their competitors who wait to reduce will get credit for later reductions. Such a "no credit" approach could even create perverse incentives to delay investments until emissions reductions would be credited.

In anticipation of a potential global emissions market, decisions re being made now by entrepreneurial companies and countries. For example, Russia and Japan have already concluded a trade of greenhouse gas emission credits. Private companies such as Niagara-Mohawk and Canada-based Suncor are moving forward with cross-boundary trades. Aggressive global energy companies, such as British Petroleum, AEP, and PacifiCorp are already implementing agreements in Central and South America—sequestering carbon

and developing credits against emissions—by protecting rain forests.

Mr. President, America can and should reward companies that take such positive steps to position themselves, and the U.S. for the environmental and economic future.

On the international side, passage by the U.S. Congress of a program to help stimulate early action will be a clear example of American leadership and responsibility. Developing countries currently argue that nations such as the United States, with huge advantages in quality of life and dramatically higher per capita emissions of greenhouse gases, should take a leadership role in the reduction of greenhouse gas emissions. And they argue that developing countries should not be asked to take steps until the U.S. begins to move forward. This bill can work directly to change that situation, therefore removing a barrier to essential developing country progress.

There it is, Mr. President. We are here today because we believe that climate change presents a serious threat. We believe it makes sense to get started now. And, as many leading American companies do, we believe that there are sensible, fair and voluntary methods to get on the right track.

We encourage our colleagues to use the time between now and next January to review this legislation carefully. We are open to suggestions. Most importantly, we are looking for others to join us in this effort.

• Mr. MACK. Mr. President, as an original cosponsor of the Credit for Early Action Act, I rise to congratulate Senator CHAFEE on its introduction, as well as the other original cosponsor, Senator LIEBERMAN, and to make several points about the bill.

The purpose of the act is simple. It is to encourage and reward voluntary actions which businesses may take to reduce emissions of "greenhouse gases" such as carbon dioxide. It would not require actions, but it would provide encouragement in the form of credit, credit that could be used by companies to manage future regulatory requirements, or in a market-based approach, traded or sold to other companies as they worked to meet their own obligations.

Given the uncertainty that surrounds the discussion of greenhouse gases and global warming, I can understand why some may question the need for such a bill. As one who is not convinced that we understand this issue well enough, I can understand that question. In fact, it is precisely because of the uncertainty that I think such a bill makes sense.

Of course there is a great deal of uncertainty surrounding such possible results, and frankly, as I said, I am not convinced that we know enough yet. The complexities and uncertainties associated with trying to understand the vast interactions of our climate, our atmosphere and our human impact on both, are enormous. And the consequences of actions targeted at changing our patterns of energy use can be dramatic.

But uncertainty cuts two ways, and the possibility always exists that some of these projections about impacts could be more right than wrong. Perhaps then it makes sense to provide some appropriate encouragement, so that those who want to invest in improved efficiency, those who want to find ways to make cars and factories and power production cleaner, those companies can receive some encouragement, not based on government fiat or handout, but based on getting credit for their own initiative and actions. The environmental result will likely be some lessening of the potential problems associated with possible global warming, and that just makes sense.

There is, of course, another uncertainty that gives me pause as well, and that serves as another strong reason for my interest in this bill. It is clear to me today that there is no desire on the part of this Congress to legislate requirements on carbon dioxide or any of the other "greenhouse gases." I think that is the correct position.

But we cannot know today what some future Congress, perhaps a decade away, might decide to do. Perhaps the science will become more compelling. Perhaps the majority will shift back to a more regulatory minded party. Perhaps a future Senate will decide to ratify the Kyoto Protocol. Perhaps a future administration and a future majority will combine to put a regulatory structure in place that will require substantial reductions of these gases. And while we may oppose such action today, we cannot know the outcome of this future debate.

Given this regulatory uncertainty, I think a compelling argument can be made to provide protection for companies today, so that they are protected against the possibility of future requirements. What this bill will do is just that. By allowing companies to earn credit for actions that they take over the next few years, the bill will make sure that if a regulator comes to see them in the future, they can say, "I already did my part." Companies can make decisions based on their own best interest, they can work to improve efficiency and reduce waste. And if this bill becomes law, they can get credit for those actions against any future regulatory controls on greenhouse gases. That seems like a good idea to me.

In closing Mr. President, I again want to congratulate Senator CHAFEE, along with our other original cosponsor Senator LIEBERMAN, for this thoughtful, balanced approach to the uncertainty presented by the climate change issue. I am proud to be an original cosponsor of this bill, and I want to urge my colleagues to take a good look at this approach so that we can begin to move forward in earnest in the next Congress.•

• Mr. LIEBERMAN. Mr. President, I am delighted to join today with my colleagues Senator CHAFEE, the chairman of the Environment and Public Works Committee, and Senator MACK in introducing this legislation. It will provide credit, under any future greenhouse gas reduction systems we may adopt, to companies who act now to reduce their emissions of greenhouse gases. This is a voluntary, market-based approach which is a win-win situation for both American businesses and the environment. Enactment of this legislation will provide the certainty necessary to encourage companies to move forward with emission reductions now. I'm particularly pleased that the legislation grows out of principles developed in a dialog between the Environmental Defense Fund and a number of major industries.

The point of this legislation is simple. Many companies want to move forward now to reduce their greenhouse gas emissions. They don't want to wait until legislation requires them to make these reductions. For some companies reducing greenhouse gases makes good economic sense because adopting cost-effective solutions can actually save them money by improving the efficiency of their operations. Companies recognize if they reduce their greenhouse gas emissions now they will be able to add years to any potential compliance schedule, allowing companies to spread their costs over broader time periods. Acting now can help U.S. companies protect themselves against the potential for significant reductions that may be required in the future. This bill ensures they will be credited in future reduction proposals for action now.

Early action by U.S. companies will also have an enormous benefit for the environment. Early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the environmental risks of continued global warming. Given that once emitted, many climate change gases continue to trap head for a century or more in the atmosphere, it just makes sense to encourage practical action now.

Climate change is neither an abstraction nor the object of a science fiction writer's imagination. It is real and affects us all. More than 2,500 of the world's best scientific and technical experts have linked the increase of greenhouse gases to at least some of the increase in sea level, temperature and rainfall experienced worldwide in this century. Last year was the warmest year on record, and 9 of the last 11 years were among the warmest ever recorded.

The point of this legislation is to provide an incentive for companies that want to make voluntary early reduction in emissions of greenhouse gases by guaranteeing that these companies will receive credit, once binding requirements begin, for voluntary reductions they have made before 2008. These credits will enable US companies to add years to any potential compliance schedule for reductions, allowing them to spread costs over broader time periods. These credits may also be financially valuable to companies who make the reductions. Credits earned likely could be traded or sold to help other companies manage their own reduction requirements. A focus on early reductions can also help stimulate the search for and use of new, innovative strategies and technologies that are needed to help companies both in this country and worldwide meet their reduction requirements in a cost-effective manner. Development of such strategies and technologies can improve American competitiveness in the more than $300 billion global environmental marketplace.

I'm pleased that this legislation builds on section 1605(b) of the Energy Policy Act which allowed companies to voluntarily record their emissions in greenhouse gas emissions, which I worked hard to include in the Energy Policy Act.

Mr. President, the debate about climate change is too often vested—and I believe wrongly so—in false choices between scientific findings, common sense, business investments and environmental awareness. The approach of this bill again demonstrates that these are not mutually exclusive choices, but highly compatible goals.●

By Mr. McCAIN.

S. 2618. a bill to require certain multilateral development banks and other leading institutions to implement independent third-party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

THE FAIR COMPETITION IN FOREIGN COMMERCE ACT OF 1998

● Mr. McCAIN. Mr. President, I am proud to introduce the Fair Competition in Foreign Commerce Act of 1998, to address the serious problem of waste, fraud and abuse, resulting from bribery and corruption in international development projects. This legislation will set conditions for U.S. funding through multilateral development banks. These conditions will require the country receiving aid to adopt substantive procurement reforms, and independent third-party procurement monitoring of their international development projects.

During the cold war, banks and governments often looked the other way as pro-western leaders in developing countries treated national treasuries as their personal treasure troves. Information technologies and the resulting global economy have transformed the world in which we live into a smaller and smaller community. For example, economic turmoil in Indonesia hits home on Wall Street. Allegations of misconduct in the White House negatively impact Wall Street, which causes capital flight to other nation's stock exchanges. In today's increasingly interdependent global economy, nations are ill-advised to ignore corruption and wrongdoing in neighboring countries.

The U.S. is a vital part of the global economy. We cannot afford to look the other way when we see bribery and corruption running rampant in other countries. Bribery and corruption abroad undermine the U.S. goals of promoting democracy and accountability, fostering economic development and trade liberalization, and achieving a level playing field throughout the world for American businesses. Developing nations desperately need foreign economic assistance to break the devastating cycle of poverty and dependence.

The United States is increasingly called upon to lead multilateral assistance efforts through its participation in various lending institutions. However, it is critical that we take steps to ensure that the American taxpayer dollars are being used appropriately. The Fair Competition in Foreign Commerce Act of 1998 is designed to decrease the stifling effects of bribery and corruption in international development contracts. The Act will achieve this objective by mandating that multilateral lending institutions require that nations receiving U.S. economic assistance subject their international development projects to independent third-party procurement monitoring, and other substantive procurement reforms.

By decreasing bribery and corruption in international development procurements, this legislation will (1) enable U.S. businesses to become more competitive when bidding against foreign firms which secure government contracts through bribery and corruption; (2) encourage additional direct investment to developing nations, thus increasing their economic growth, and (3) increase opportunities for U.S. businesses to export to these nations as their economies expand and mature.

Multilateral lending efforts are only effective in spurring economic development if the funds are used to further the intended development projects. The American taxpayers make substantial contributions to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund. These contributions provide significant funding for major international development projects. Unfortunately, these international development projects are often plagued by fraud and corruption, waste and inefficiency, and other misuse of funding.

This inefficient use of valuable taxpayer dollars is bad for the U.S. and the nation receiving the economic assistance. When used for its intended purpose, foreign economic aid yields short and long term benefits to U.S. businesses. Direct foreign aid assists developing nations to develop their infrastructure. A developed infrastructure is vital to creating and sustaining a modern dynamic economy. Robust new economies create new markets for U.S. businesses to export their goods and services. Exports are key to the U.S. role in the constantly expanding and increasingly competitive global economy. Emerging economies of today become our trading partners of tomorrow. However, foreign economic assistance will only promote economic development if it is used for its intended purpose, and not to line the pockets of foreign bureaucrats and their well-connected political allies.

The current laws and procedures designed to detect and deter corruption after the fact are inadequate and meaningless. This bill seeks to ensure that U.S. taxpayers' hard-earned dollars contributed to international projects are used appropriately, by detecting and eliminating bribery and corruption before they can taint the integrity of these vital international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect the abuses before they occur.

The Fair Competition in Foreign Commerce Act of 1998 requires the United States Government, through its participation in the multilateral lending institutions and in its disbursement of non-humanitarian foreign assistance funds, to: (1) require the recipient international financial institution to adopt an anti-corruption plan that requires the aid recipient to use independent third-party procurement monitoring services, at each stage of the procurement process, to ensure openness and transparency in government procurements, and (2) to require the recipient nation to institute specific strategies for minimizing corruption and maximizing transparency in procurements at each stage of the procurement process.

If these criteria are not met, the legislation directs the Secretary of the Treasury to instruct the United States Executive Directors of the various International Development Banks to

use the voice and vote of the United States to oppose the lending institution from providing the funds to the nations requesting economic aid which do not satisfy the procurement reforms criteria. This Act has two important exceptions. First, it does not apply to assistance to meet urgent humanitarian needs such as providing food, medicine, disaster, and refugee relief. Second, it also permits the President to waive the funding restrictions with respect to a particular country if making such funds available is important to the national security interest of the United States.

Independent third-party procurement monitoring is a system where an independent third-party conducts a program to eliminate bias, to promote transparency and open competition, and to minimize fraud and corruption, waste and inefficiency and other misuse of funds in international procurements. The system does this through an independent evaluation of the technical, financial, economic and legal aspects of each stage of a procurement, from the development and issuance of technical specifications, bidding documents, evaluation reports and contract preparation, to the delivery of goods and services. This monitoring will take place throughout the entire term of the international development project.

Mr. President, this system has worked for other governments. Procurement reforms and third-party procurement monitoring resulted in the governments of Kenya, Uganda, Colombia, and Guatemala experiencing significant cost savings in recent procurements. For instance, the Government of Guatemala experienced an overall savings of 48% when it adopted a third-party procurement monitoring system, and other procurement reform measures, in a recent procurement of pharmaceuticals.

Independent third-party procurement monitoring is effective because it monitors each stage of the procurement process during and prior to each stage's completion, as opposed to following completion of a particular stage of the procurement process. Independent third-party procurement monitoring also improves transparency and openness in the procurement process. Increased transparency helps to minimize fraud and corruption, waste and inefficiency, and other misuse of funding, and promotes competition, thereby strengthening international trade and foreign commerce.

Mr. President, bribery and corruption have many victims. Bribery and corruption hamper vital U.S. interests. Both harm consumers, taxpayers, and honest traders who lose contracts, production, and profits because they refuse to offer bribes to secure foreign contracts. Bribery and corruption have become a serious problem. A World Bank survey of 3,600 firms in 69 countries showed 40% of businesses paying bribes. More startling is that Germany still permits its companies to take a tax deduction for bribes. A recent comment by Commerce Secretary Daley sums up the serious impact of bribery and corruption upon American businesses ability to compete for foreign contracts:

> Since mid-1994, foreign firms have used bribery to win approximately 180 commercial contracts valued at nearly $80 billion. We estimate that over the past year, American companies have lost at least 50 of these contracts, valued at $15 billion. And since many of these contracts were for groundbreaking projects—the kind that produces exports for years to come—the ultimate cost could be much higher."

Exports will continue to play an increasing role in our continued economic expansion. We can ill afford to allow any artificial impediments to our ability to export. Bribery and corruption, significantly hinder American businesses' ability to compete for lucrative overseas government contracts. American businesses are simply not competitive when bidding against foreign firms that have bribed government officials to secure overseas government contracts. Greater openness and fairness in government procurement will greatly enhance opportunities to compete in the rapidly expanding global economy. Exports equate to jobs. Jobs equate to more money in hard-working Americans' pockets. More money in Americans' pockets means more money for Americans to save and invest in their futures.

Bribery and corruption also harm the country receiving the aid because bribery and corruption often inflate the cost of international development projects. For example, state sponsorship of massive infrastructure projects that are deliberately beyond the required specification needed to meet the objective is a common example of waste, fraud, and abuse inherent in corrupt procurement practices. Here, the cost of corruption is not the amount of the bribe itself, but the inefficient use of resources the bribes encourage.

Bribery and corruption have short and long term negative effects upon the nation receiving aid. The short term effect is that bribery and corruption drive up the cost of the infrastructure project. Companies are forced to increase prices to cover the cost of bribes they are forced to pay. A 2% bribe on a contract is said to raise costs by 15%. The aggregate or long term effect of this type of corruption is that, over time, tax revenues will have to be raised or diverted from other more deserving projects to fund the excesses in these projects. Higher taxes and the inefficient use of resources both hinder growth.

The World Bank and the IMF both recognize the link between bribery and corruption, and decreased economic growth. Recent studies also indicate that high levels of corruption are associated with low levels of investment and growth. These studies illustrate that corruption discourages direct investment, which results in decreased economic growth. Furthermore, corruption lessens the effectiveness of industrial policies and encourages businesses to operate in the unofficial sector in violation of tax and regulatory laws. Most important, corruption begins a cycle where corruption breeds more corruption and discourages legitimate investment. In short, bribery and corruption create "lose lose" situation for the U.S. and developing nations.

The U.S. recognizes the damaging effects bribery and corruption have at home and abroad. The U.S. continues to combat foreign corruption, waste, and abuse on many fronts: from prohibiting U.S. firms from bribing foreign officials, to leading the anti-corruption efforts in the United Nations, the Organization of American States, and the Organization for Economic Cooperation and Development ("OECD"). The U.S. was the first country to enact legislation (the Foreign Corrupt Practices Act) to prohibit its nationals and corporations from bribing foreign public officials in international and business transactions.

However, we must do more. Our current efforts must expand. The FCPA prevents U.S. nationals and corporations from bribing foreign officials. It does nothing to prevent foreign nationals and corporations from bribing foreign officials to obtain foreign contracts. Valuable taxpayer resources are often diverted or squandered because of corrupt officials or the use of non-transparent specifications, contract requirements and the like in international procurements for goods and services. Such corrupt practices also minimize competition and prevent the recipient nation or agency from receiving the full value of the goods and services for which it bargained. In addition, despite the importance of international markets to U.S. goods and services providers, many U.S. companies refuse to participate in international procurements that may be corrupt.

This legislation is designed to provide a mechanism to ensure, to the extent possible, the integrity of the U.S. contribution to the multilateral lending institutions and other non-humanitarian U.S. foreign aid. Corrupt international procurements, often funded by these multilateral banks, weaken democratic institutions and undermine the very opportunities that multilateral lending institutions were founded to promote. This bill will encourage and support the development of transparent government procurement capacity, which is vital for emerging democracies constructing a government procurement infrastructure that can sustain market economies in the developing world.

Mr. President, I am committed to combating the waste, fraud and abuse resulting from bribery and corruption in international development projects. Procurement reforms and independent procurement monitoring are key to policing complicated international procurements, which are often plagued by corruption, inefficiency and other problems. These problems thwart the economic development purpose of multilateral assistance and make it more difficult for U.S. companies to compete for valuable large-scale international development projects.

Mr. President, on behalf of the millions of Americans who will benefit from increased opportunities for U.S. businesses to participate in the global economy, and the billions of people in developing nations throughout the world who are desperate for economic assistance, I urge my colleagues to support this legislation and demonstrate their continued commitment to the orderly evolution of the global economy and the efficient use of American economic assistance.

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. 2618

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 "Fair Competition in Foreign Commerce Act".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) The United States makes substantial contributions and provides significant funding for major international development projects through the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the African Development Fund, and other multilateral lending institutions.

(2) These international development projects are often plagued with fraud, corruption, waste, inefficiency, and misuse of funding.

(3) Fraud, corruption, waste, inefficiency, misuse, and abuse are major impediments to competition in foreign commerce throughout the world.

(4) Identifying these impediments after they occur is inadequate and meaningless.

(5) Detection of impediments before they occur helps to ensure that valuable United States resources contributed to important international development projects are used appropriately.

(6) Independent third-party procurement monitoring is an important tool for detecting and preventing such impediments.

(7) Third-party procurement monitoring includes evaluations of each stage of the procurement process and assures the openness and transparency of the process.

(8) Improving transparency and openness in the procurement process helps to minimize fraud, corruption, waste, inefficiency, and other misuse of funding, and promotes competition, thereby strengthening international trade and foreign commerce.

(b) PURPOSE.—The purpose of this Act is to build on the excellent progress associated with the Organization on Economic Development and Cooperation Agreement on Bribery and Corruption, by requiring the use of independent third-party procurement monitoring as part of the United States participation in multilateral development banks and other lending institutions and in the disbursement of nonhumanitarian foreign assistance funds.

SEC. 3. DEFINITIONS.

(a) DEFINITIONS.—In this Act:

(1) APPROPRIATE COMMITTEES.—The term "appropriate committees" means the Committee on Commerce, Science, and Technology of the Senate and the Committee on Commerce of the House of Representatives.

(2) INDEPENDENT THIRD-PARTY PROCUREMENT MONITORING.—The term "independent third-party procurement monitoring" means a program to—

(A) eliminate bias,

(B) promote transparency and open competition, and

(C) minimize fraud, corruption, waste, inefficiency, and other misuse of funds,

in international procurement through independent evaluation of the technical, financial, economic, and legal aspects of the procurement process.

(3) INDEPENDENT.—The term "independent" means that the person monitoring the procurement process does not render any paid services to private industry and is neither owned or controlled by any government or government agency.

(4) EACH STAGE OF PROCUREMENT.—The term "each stage of procurement" means the development and issuance of technical specifications, bidding documents, evaluation reports, contract preparation, and the delivery of goods and services.

(5) MULTILATERAL DEVELOPMENT BANKS AND OTHER LENDING INSTITUTIONS.—The term "multilateral development banks and other lending institutions" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund.

SEC. 4. REQUIREMENTS FOR FAIR COMPETITION IN FOREIGN COMMERCE.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall transmit to the President and to appropriate committees of Congress a strategic plan for requiring the use of independent third-party procurement monitoring and other international procurement reforms relating to the United States participation in multilateral development banks and other lending institutions.

(b) STRATEGIC PLAN.—The strategic plan shall include an instruction by the Secretary of the Treasury to the United States Executive Director of each multilateral development bank and lending institution to use the voice and vote of the United States to oppose the use of funds appropriated or made available by the United States for any non-humanitarian assistance, until—

(1) the recipient international financial institution has adopted an anticorruption plan that requires the use of independent third-party procurement monitoring services and ensures openness and transparency in government procurement; and

(2) the recipient country institutes specific strategies for minimizing corruption and maximizing transparency in each stage of the procurement process.

(c) ANNUAL REPORTS.—Not later than June 29th of each year, the Secretary of the Treasury shall report to Congress on the progress in implementing procurement reforms made by each multilateral development bank and lending institution and each country that received assistance from a multilateral development bank or lending institution during the preceding year.

(d) RESTRICTIONS ON ASSISTANCE.—Notwithstanding any other provision of law, no funds appropriated or made available for nonhumanitarian foreign assistance programs, including the activities of the Agency for International Development, may be expended for those programs unless the recipient country, multilateral development bank or lending institution has demonstrated that—

(1) procurement practices are open, transparent, and free of corruption, fraud, inefficiency, and other misuse, and

(2) independent third-party procurement monitoring has been adopted and is being used by the recipient.

SEC. 5. EXCEPTIONS.

(a) NATIONAL SECURITY INTEREST.—Section 4 shall not apply with respect to a country if the President determines with such respect to such country that making funds available is important to the national security interest of the United States. Any such determination shall cease to be effective 6 months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(b) OTHER EXCEPTIONS.—Section 4 shall not apply with respect to assistance to—

(1) meet urgent humanitarian needs (including providing food, medicine, disaster, and refugee relief);

(2) facilitate democratic political reform and rule of law activities;

(3) create private sector and nongovernmental organizations that are independent of government control; and

(4) facilitate development of a free market economic system.●

By Mr. DASCHLE:

S. 2619. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans' Affairs.

THE VETERANS' ACCESS TO EMERGENCY HEALTH CARE ACT OF 1998

Mr. DASCHLE. Mr. President, as we near the end of the 105th Congress, I would again like to voice my frustration about the fact that the United States Senate failed to consider and pass important legislation this year that could have greatly benefited the American people. Unfortunately, the highway leading to adjournment is littered with legislation that should have been considered, passed and enacted long ago, including efforts to prevent teen smoking, modernize our public schools, and increase the minimum wage.

I am particularly disappointed that my colleagues on the other side of the aisle prevented the United States Senate from considering managed care reform legislation. Yesterday, Senate Republicans even prevented us from proceeding to their own HMO reform bill. Time and again, the American people have said they want a comprehensive, enforceable Patients' Bill of Rights. Toward that goal, several of my Democratic colleagues and I introduced the Patients' Bill of Rights Act of 1998. That legislation addressed a growing concern among the American people about the quality of care delivered by health maintenance organizations. Despite enormous public support for HMO reform, Democratic efforts to consider the Patients' Bill of Rights were stymied at every turn.

For months, it has been my intention to offer an amendment to the HMO reform legislation regarding a serious deficiency in veterans' access to emergency health care. I was prepared to do so yesterday. Since the Senate was again precluded from debating managed care reform, however, I would like to call attention to this matter before the 105th Congress adjourns by introducing the Veterans' Access to Emergency Health Care Act of 1998 as a separate bill. I hope my colleagues will support this legislation when I introduce it again in the 106th Congress, when I am confident the United States Senate will finally have the opportunity to consider meaningful HMO reform legislation.

The problem addressed in this bill stems from the fact that veterans who rely on the Department of Veterans Affairs (VA) for health care often do not receive reimbursement for emergency medical care they receive at non-VA facilities. According to the VA, veterans may only be reimbursed by the VA for emergency care at a non-VA facility that was not pre-authorized if all of the following criteria are met:

First, care must have been rendered for a medical emergency of such nature that any delay would have been life-threatening; second, the VA or other federal facilities must not have been feasibly available; and, third, the treatment must have been rendered for a service-connected disability, a condition associated with a service-connected disability, or for any disability of a veteran who has a 100-percent service-connected disability.

Many veterans who receive emergency health care at non-VA facilities are able to meet the first two criteria. Unless they are 100-percent disabled, however, they generally fail to meet the third criterion because they have suffered heart attacks or other medical emergencies that were unrelated to their service-connected disabilities. Considering the enormous costs associated with emergency health care, current law has been financially and emotionally devastating to countless veterans with limited income and no other health insurance. The bottom line is that veterans are forced to pay for emergency care out of their own pockets until they can be stabilized and transferred to VA facilities.

During medical emergencies, veterans often do not have a say about whether they should be taken to a VA or non-VA medical center. Even when they specifically ask to be taken to a VA facility, emergency medical personnel often transport them to a nearby hospital instead because it is the closest facility. In many emergencies, that is the only sound medical decision to make. It is simply unfair to penalize veterans for receiving emergency medical care at non-VA facilities. Veterans were asked to make enormous sacrifices for this county, and we should not turn our backs on them during their time of need.

There should be no misunderstanding. This is a widespread problem that affects countless veterans in South Dakota and throughout the country. I would like to cite just three examples of veterans being denied reimbursement for emergency care at non-VA facilities in western South Dakota.

The first involves Edward Sanders, who is a World War II veteran from Custer, South Dakota. On March 6, 1994, Edward was taken to the hospital in Custer because he was suffering chest pains. He was monitored for several hours before a doctor at the hospital called the VA Medical Center in Hot Springs and indicated that Edward was in need of emergency services. Although Edward asked repeatedly to be taken to a VA facility, he was transported by ambulance to Rapid City Regional Hospital, where he underwent a cardiac catheterization and coronary artery bypass grafting. Because the emergency did not meet the criteria I mentioned previously, the VA did not reimburse Edward for the care he received at Rapid City Regional. His medical bills totaled more than $50,000.

On May 17, 1997, John Lind suffered a heart attack while he was at work. John is a Vietnam veteran exposed to Agent Orange who served his country for 14 years until he was discharged in 1981. John lives in Rapid City, South Dakota, and he points out that he would have asked to be taken to the VA Medical Center in Fort Meade for care, but he was semi-unconscious, and emergency medical personnel transported him to Rapid City Regional. After 4 days in the non-VA facility, John incurred nearly $20,000 in medical bills. Although he filed a claim with the VA for reimbursement, he was turned down because the emergency was not related to his service-connected disability.

Just over one month later, Delmer Paulson, a veteran from Quinn, South Dakota, suffered a heart attack on June 26, 1997. Since he had no other health care insurance, he asked to be taken to the VA Medical Center in Fort Meade. Again, despite his request, the emergency medical personnel transported him to Rapid City Regional. Even though Delmer was there for just over a day before being transferred to Fort Meade, he was charged with almost a $20,000 medical bill. Again, the VA refused to reimburse Delmer for the unauthorized medical care because the emergency did not meet VA criteria.

The Veterans' Access to Emergency Health Care Act of 1998, which I am introducing today, would address this serious problem. It would authorize the VA to reimburse veterans enrolled in the VA health care system for the cost of emergency care or services received in non-VA facilities when there is "a serious threat to the life or health of a veteran." Rep. LANE EVANS has introduced identical legislation in House of Representatives.

Although I am extremely disappointed that the United States Senate did not debate meaningful managed care reform legislation this year, I am hopeful the American people will continue to urge their elected representatives to pass a comprehensive, enforceable Patients' Bill of Rights early next year. I am equally hopeful that any meaningful HMO reform legislation will address this serious deficiency in veterans' access to emergency health care. I look forward to continuing to work with my colleagues on both sides of the aisle to ensure that veterans receive the health care they deserve.

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. 2619

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 "Veterans' Access to Emergency Care Act of 1998".

SEC. 2. DEPARTMENT OF VETERANS AFFAIRS ENROLLMENT SYSTEM DECLARED TO BE A HEALTH CARE PLAN.

Section 1705 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) The enrollment system under subsection (a) is a health care plan, and the veterans enrolled in that system are enrollees and participants in a health care plan.".

SEC. 3. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.

(a) CONTRACT CARE.—Section 1703(a)(3) of title 38, United States Code, is amended by inserting "who is enrolled under section 1705 of this title or who is" after "health of a veteran".

(b) DEFINITION OF MEDICAL SERVICES.—Section 1701(6) of such title is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.".

(c) REIMBURSEMENT OF EXPENSES FOR EMERGENCY CARE.—Section 1728(a)(2) of such title is amended—

(1) by striking out "or" before "(D)"; and

(2) by inserting before the semicolon at the end the following: ", or (E) for any medical emergency which poses a serious threat to the life or health of a veteran enrolled under section 1705 of this title".

(d) PAYMENT PRIORITY.—Section 1705 of such title, as amended by section 2, is further amended by adding at the end the following new subsection:

"(e) The Secretary shall require in a contract under section 1703(a)(3) of this title, and as a condition of payment under section 1728(a)(2) of this title, that payment by the Secretary for treatment under such contract, or under such section, of a veteran enrolled under this section shall be made only after any payment that may be made with respect to such treatment under part A or part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care or services provided on or after the date of the enactment of this Act.

By Mr. ROBB:

S. 2620. A bill to amend the Federal Water Pollution Control Act to establish a National Clean Water Trust Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that act, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL CLEAN WATER TRUST FUND ACT OF 1998

• Mr. ROBB. Mr. President, today I introduce a bill that will help clean up and restore our nation's waters. This bill, the National Clean Water Trust Fund Act of 1998, creates a trust fund from fines, penalties and other monies collected through enforcement of the Clean Water Act. The money deposited into the National Clean Water Trust Fund would be used to address the pollution problems that initiated those enforcement actions.

Last year, a highly publicized case in Virginia illustrated the need for this legislation. On August 8, 1997, U.S. District Court Judge Rebecca Smith issued a $12.6 million judgement, the largest fine ever levied for violations of the Clean Water Act, against Smithfield Foods, Isle of Wright County, Virginia, for polluting the James River. The Judge wrote in her opinion that the civil penalty imposed on Smithfield should be directed toward the restoration of the Pagan and James Rivers, tributaries of the Chesapeake Bay. Unfortunately, due to current federal budget laws, the court had no discretion over the damages, and the fine was deposited into the Treasury's general fund, defeating the very spirit of the Clean Water Act.

Today, there is no guarantee that fines or other money levied against parties who violate provisions in the Clean Water Act will be used to correct water problems. Instead, some, if not all, of the money is directed into the general fund of the U.S. Treasury with no provision that it be used to improve the quality of our water. While the Environmental Protection Agency's enforcement activities are extracting large sums of money from industry and others through enforcement of the Clean Water Act, we ignore the fundamental issue of how to pay for clean up and restoration of pollution problems for which the penalties were levied. To ensure the successful implementation of the Clean Water Act, we should put these enforcement funds to work and actually clean up our nation's waters.

This legislation will establish a National Clean Water Trust Fund within the U.S. Treasury to earmark fines, penalties, and other funds, including consent decrees, obtained through enforcement of the Clean Water Act that would otherwise be placed into the Treasury's general fund. Within the provisions of the bill, the EPA Administrator would be authorized, with direct consultation from the states, to prioritize and carry out projects to restore and recover waters of the United States using the funds collected from violations of the Clean Water Act. This legislation, however, would not preempt citizen suits or in any way preclude EPA's authority to undertake and complete supplemental environmental projects as part of settlements related to violations of the Clean Water Act and/or other legislation. The bill also provides court discretion over civil penalties from Clean Water Act violations to be used to carry out mitigation and restoration projects. With this legislation, we can avoid another predicament like the one faced in Virginia.

Mr. President, it only makes sense that fines occurring from violations of the Clean Water Act be used to clean up and restore the waters that were damaged. This bill provides a real opportunity to improve the quality of our nation's waters.

I recognize that no action can be taken on this legislation this session. I introduce it today in order to give my colleagues, the Administration and others an opportunity to examine the ideas contained in the legislation. I will introduce this legislation early in the next Congress and hope we can include it in the reauthorization of the Clean Water Act when it is taken up next year.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2620

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Clean Water Trust Fund Act of 1998".

SEC. 2. NATIONAL CLEAN WATER TRUST FUND.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) NATIONAL CLEAN WATER TRUST FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (referred to in this subsection as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

"(2) TRANSFER OF AMOUNTS.—For fiscal year 1998, and each fiscal year thereafter, the Secretary of the Treasury shall transfer to the Fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including any amounts obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a).

"(3) INVESTMENT OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals.

"(B) ADMINISTRATION.—The obligations shall be acquired and sold and interest on, and the proceeds from the sale or redemption of, the obligations shall be credited to the Fund in accordance with section 9602 of the Internal Revenue Code of 1986.

"(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United States from damage resulting from violations of this Act that are subject to enforcement actions under this section and similar damage resulting from the discharge of pollutants into the waters of the United States.

"(5) SELECTION OF PROJECTS.—

"(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to promote the recovery of waters of the United States from damage described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) with respect to the violation, or another violation of this Act in the same administrative region of the Environmental Protection Agency as the violation, resulted in amounts being deposited in the general fund of the Treasury.

"(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

"(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a

project to restore and recover waters of the United States from damage described in paragraph (4), the Administrator shall, in the case of a priority project described in subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to the violation pursuant to this section or section 505(a)(1).

"(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection directly or by making grants to, or entering into contracts with, another Federal agency, a State agency, a political subdivision of a State, or any other public or private entity.

"(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall submit to Congress a report on implementation of this subsection.".

SEC. 3. USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.

(a) IN GENERAL.—Section 309(d) of the Federal Water Pollution Control Act (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: "The court may order that a civil penalty be used for carrying out mitigation, restoration, or other projects that are consistent with the purposes of this Act and that enhance public health or the environment.".

(b) CONFORMING AMENDMENT.—Section 505(a) of the Federal Water Pollution Control Act (33 U.S.C. 1365(a)) is amended in the last sentence by inserting before the period at the end of the following: ", including ordering the use of a civil penalty for carrying out mitigation, restoration, or other projects in accordance with section 309(d)".●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2621. A bill to authorize the acquisition of the Valles Caldera currently managed by the Baca Land and Cattle Company, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture through the private sector, and for purposes; to the Committee on Energy and Natural Resources.

THE VALLES CALDERA PRESERVATION ACT

Mr. DOMENICI. Mr. President, the Valles Caldera in Northern New Mexico is a place you visit for a day, and long to return to for a life time. It is nature at its most extraordinary—an almost perfectly round bowl formed by a collapsed volcano. It is a place with rolling meadows, crystal-clear streams, roaming elk, Ponderosa pines and quaking Aspen trees, and Golden eagles. This legislation guarantees that this very special place will be there for future generations to visit and remember.

I am very proud to be introducing legislation that will authorize the Secretary of the Interior to acquire a truly unique 95,000 acre "working ranch" in New Mexico, known alternatively as the Baca Ranch, the Valle Grande, and the Valles Caldera. Independently, but as importantly, this legislation also addresses longstanding problems encountered by Federal land managers in disposing of surplus federal property and the acquisition of private inholdings within federal management areas.

The former provides a unique solution to the management of a unique property, while the latter builds on existing laws and provides resources dedicated to the consolidation of federal agency land holdings.

In north-central New Mexico there is a truly unique working ranch on an historic Mexican land grant known as Baca Location No. 1. The Ranch is currently owned and managed by the Baca Land and Cattle Company, and it comprises most of a collapsed, extinct volcano known as the Valles Caldera. This ranch also contains innumerable significant cultural, historic, recreational, ecological, and productive resources.

The bill I introduce today is the result of months of negotiation with the Administration, Senator BINGAMAN, and Congressman REDMOND. We have incorporated ideas from groups interested in the acquisition of the truly unique Baca Ranch. Many Americans, especially New Mexicans have expressed a desire for the federal government to purchase the Ranch. After months of research and consideration, I met with President Clinton on Air Force One while we were both returning to Washington from New Mexico to discuss the possibility of this land acquisition. Because the nature of the property requires a unique operational program for appropriate development and preservation, I approached him with an innovative trust structure for the management of the Baca Ranch. This trust would manage the ranch with appropriate public input and governmental oversight. I indicated that I was not interested in having the ranch managed under current federal agency practices. The President expressed enthusiasm for making this concept a reality, and we agreed on a Statement of Principles to govern the acquisition of the Baca Ranch at the end of July.

This unique working ranch has been well maintained and preserved by the current owners. In fact, if ever there was an example of sterling stewardship of a piece of property, this is it.

The legislation introduced today certainly cannot pass this year: unfortunately, time has run out for the 105th Congress, but many concerns and ideas about federal purchase of the property will be discussed at hearings upon reintroduction in the 106th Congress. While there is consenus that this property should be acquired, we do not yet know the cost of the property. The Baca Ranch is estimated to be worth approximately $100 to $125 million, but the appraisal has not yet been given to the Forest Service or made public. Therefore, the exact cost of acquisition has yet to be determined.

This is the largest purchase of public land by the Forest Service in at least 25 years, therefore, it is imperative that careful consideration is given to not only the purchase, but to the management of the property as well.

In past years, federal land management agencies have been criticized for their stewardship of public lands. I find it ironic that many of the groups who wish to bring this ranch into government ownership are the same groups who, in recent years, have initiated relentless litigation against the Forest Service and BLM alleging poor management of federal lands. However, diverse interests have come together to reach agreement on the trust management of the Ranch, and Congressman REDMOND and I have worked hard in both Houses of Congress to obtain funding for purchase. Any funding at this point should be viewed as earnest money, and will be subject to this authorization and agreement on the fair market value for the property.

The parties have really worked hard in framing this legislation, and there are still a few issues we would like to work out. Not the least of which includes the interest expressed by the Santa Clara Pueblo in purchasing land outside the Caldera, but contains the headwaters of the Santa Clara Creek. Negotiations between the Pueblo, the Administration, the current owners of the property, and the congressional delegation on how to resolve this issue was not completed prior to today's introduction. However, all parties are interested in continuing discussion regarding a potential Santa Clara purchase of property adjacent to their pueblo. I also note that Congressman REDMOND has expressed specific interest in addressing other Native American issues regarding the Ranch acquisition.

I have visited the Baca Ranch, and I can tell you that it is one beautiful piece of property. The Valles Caldera is one of the world's largest resurgent lava domes with potential geothermal activity. The depression from a hugh volcanic eruption over a million years ago is more than a half-mile deep and fifteen miles across at its widest point. The land was originally granted to the heirs of Don Luis Maria Cabeza de Vaca under a settlement enacted by Congress in 1860. Since that time, the property has remained virtually intact as a single, large, tract of land.

Historical evidence in the form of old logging camps and other artifacts, and a review of the history of territorial New Mexico clearly show the importance of this land over many generations for the rearing of domesticated livestock, and as a timber supply for local inhabitants. Several film sets have been left standing on the property, representing a significant part of the history of the American film industry and its depiction of the American West.

The careful husbandry of the Ranch by the Dunigan family, the current

owners, including selective harvesting of timber, limited grazing and hunting, and the use of proscribed fire, have preserved a mix of healthy range and timber land with significant species diversity providing a model for sustainable land development and use. The Ranch's natural beauty and abundant resources, and its proximity to large municipal populations could provide numerous recreational opportunities for hiking, fishing, camping, cross-country skiing, and hunting.

Mr. President, the Baca Location is a unique working ranch. It is not a wilderness area, as in the words of the Wilderness Act, "untrammeled by man, where man is a visitor who does not remain." Man has been there for many generations, and will remain for many to come. Similarly, it is not a resource that could be run well as a national park. This ranch can best be protected for future generations by continuing its operation as a working asset through a unique management structure. This legislation provides unique management under a trust that may allow for its eventual operation to become financially self-sustaining.

Mr. President, recent indication by the current owners of the Baca Location that they wish to sell the ranch has created an opportunity for us to acquire it into public ownership and allow for appropriate public access and enjoyment of these lands for the first time since 1860. Because of the ranch's unique character, however, I am not interested in having it managed under the usual federal authorities, as is typical of the Forest Service, Bureau of Land Management, or the National Park Service. Under the current state of affairs on our public lands, Forest Service and BLM management is constantly hounded by litigation initiated by some of the same groups that wish to bring this ranch into government ownership. I do not want to take this property, put it in that situation, and then claim we have done a great thing.

This legislation represents an opportunity to experiment with a different kind of public land management scheme. Burdensome regulations, and litigation resulting therefrom, have brought Federal land management practices rapidly towards gridlock. The Valles Caldera National Preserve will serve as a model to explore alternative means of federal management and will provide the American people with opportunities to enjoy the Valles Caldera and its many resources for generations to come.

This trust idea, based on similar legislation for federal management of the Presidio in San Francisco, sets in motion a truly unique management scheme befitting this truly unique place. I am willing to take a chance on an innovative approach because I believe that the current quagmire of Federal land management simply does not do justice to this very special place. The unique nature of the Valles Caldera, and its resources, requires a unique management program, dedicated to appropriate development and preservation under the principle of the highest and best use of the ranch in the interest of the public.

Mr. President, title I of this legislation provides the framework necessary to fulfil that objective. It authorizes the acquisition of the Baca ranch by the appropriate Federal agency. At the same time, it establishes a government-owned corporation, called the Valles Caldera Trust, whose sole responsibility is to ensure that the ranch is managed in a manner that will preserve its current unique character, and provide enumerable opportunities for the American people to enjoy its splendor. Most importantly to me, however, the legislation will allow for the ranch's continued operation as a working asset for the people of north-central New Mexico, without further drawing on the thinly-stretched resources of the Federal land management agencies.

I am looking forward to hearings on this legislation next year, and know that the legislative process shall enlighten us further as to the complex nature of the Ranch. I, personally, am greatly looking forward to seeing an value estimate of the land prior to authorization. While valued between $37 and $55 million in 1980, I have heard that the Baca ranch is currently estimated to be worth approximately $100 to $125 million. I do not know how such inflation will affect the likelihood of the location's federal acquisition. I do know that we have waited patiently for many months for a promised appraisal from the current owners, but an appraisal has not yet been complete nor have any other offers to purchase the land been made. Therefore, the exact cost of acquisition has yet to be determined. Before we commit large sums of Federal taxpayer dollars to purchase new property, it seems prudent to provide a solution for the orderly disposal of surplus federal property and to meet our current obligations to those who hold lands within Federal properties.

I would like to emphasize that while both portions of this bill are important to Federal land management, both in New Mexico and nationwide, my intention is not to tie Federal acquisition of the Baca upon disposition of surplus Federal land. Instead, I feel this legislation independently addresses the acquisition of this unique property for public use and enjoyment, while solving current land management problems.

Currently, New Mexico has approximately one-third of its land in public ownership or management. I agree that these public lands are an important natural resource that require our most thoughtful management.

In order to conserve our existing National treasures for future use and enjoyment, we must devise, with the concurrence of other members of Congress and the President, a definite plan and timetable to dispose of surplus land through sale or exchange into private ownership.

Title II of this legislation addresses the orderly disposition of surplus Federal property on a state by state basis. It also addresses the problem of what is known as "inholdings" within federally managed areas. There are currently more than 45 million acres of privately owned lands trapped within the boundaries of Federal land management units, including national parks, national forests, national monuments, national wildlife refuges, and wilderness areas. The location of these tracts, referred to as inholdings, makes the exercise of private property rights difficult for the land owner. In addition, management of the public lands is made more cumbersome for the Federal land managers.

In many cases, inholders have been waiting generations for the Federal government to set aside funding and prioritize the acquisition of their property. With rapidly growing public demand for the use of public lands, it is increasingly difficult for federal managers to address problems created by the existence of inholdings in many areas.

This legislation directs the Department of the Interior and the Department of Agriculture to survey inholdings existing within Federal land management units, and to establish a priority for their acquisition, on a willing seller basis, in the order of those which have existed as inholdings for the longest time to those most recently being incorporated into the Federal unit.

Closely related to the problem created by inholdings within Federal land management units, is the abundance of public domain land which the Bureau of Land Management (BLM) has determined it no longer needs to fulfil its mission. Under the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM has identified an estimated four to six million acres of public domain lands for disposal, and the agency anticipates that additional public land will be similarly identified, with public input and consultation with State and local governments as required by law.

Mr. President, let me simply clarify that point—the BLM already has authority under an existing law, FLPMA, to exchange or sell lands out of Federal ownership. Through its public process for land use planning, when the agency has determined that certain lands would be more useful to the public under private or local governmental control, it is already authorized to dispose of these lands, either by sale or exchange.

The sale or exchange of this land which I have often referred to as "surplus," would be beneficial to local communities, adjoining land owners, and BLM land mangers, alike. First, it would allow for the reconfiguration of land ownership patterns to better facilitate resource management. Second, it would contribute to administrative efficiency within Federal land management units, by allowing for better allocation of fiscal and human resources within the agency. Finally, in certain locations, the sale of public land which has been identified for disposal is the best way for the public to realize a fair value for this land.

The problem, Mr. President, is that an orderly process for the efficient disposition of lands identified for disposal does not currently exist. This legislation addresses that problem by directing the BLM to fulfil all legal requirements for the transfer of these lands out of Federal ownership, and providing a dedicated source of funding generated from the sale of these lands to continue this process.

Additionally, this legislation authorizes the use of the proceeds generated from these lands to purchase inholdings from willing sellers. This will enhance the ability of the Federal land management agencies to work cooperatively with private land owners, and with State and local governments, to consolidate the ownership of public and private land in a manner that would allow for better overall resource management.

Mr. President, I want to make it clear that this program will in no way detract from other programs with similar purposes. The bill clearly states that proceeds generated from the disposal of public land, and dedicated to the acquisition of inholdings, will supplement, and not replace, funds appropriated for that purpose through the Land and Water Conservation Fund. In addition, the bill states that the Bureau of Land Management should rely on non-Federal entities to conduct appraisals and other research required for the sale or exchange of these lands, allowing for the least disruption of existing land and resource management programs.

Mr. President, this bill has been a long time in the making. For over a year, now, I have been working with and talking to knowledgeable people, both inside and outside of the current administration, to develop many of the ideas embodied in this bill. In recent weeks, my staff and I have worked closely with the administration on this legislation. I feel comfortable in stating that by working together, we have reached agreement in principle on the best way to proceed with these very important issues involving the management of public land resources, namely; the acquisition and unique management plan for the Baca ranch in New Mexico, and just as importantly, the disposition of surplus public lands in combination with a program to address problems associated with inholdings within our Federal land management units.

Mr. President, I have committed to the administration to continue to work with them on three or four areas of this bill, where concerns remain. I have full confidence, however, that we can address these issues through the legislative process in the next Congress. For example, the need for additional roads, parking, visitor facilities, and water and mineral rights are also important issues that must be resolved. However, we are very luck to have the pleasure of a bipartisan, administration approved, legislative concept from which to work.

The Senate Energy and Natural Resources Committee will schedule hearings to address the many issues regarding Federal purchase of the Baca Ranch early in the 106th Congress. Hopefully, by that time, an appraisal will be available for review. Congress has tried to resolve the difficult challenges in acquiring this property before, and failed; cooperation among the parties may bring success this time around. I believe that in the end, we will be able to stand together and tell the American people that we truly have accomplished two great and innovative things with this legislation.

Mr. President, I ask unanimous consent that the text of the bill and Statement of Principles be printed in the RECORD.

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

S. 2621

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

TITLE I—VALLES CALDERA NATIONAL PRESERVE AND TRUST

SECTION 101. SHORT TITLE.

This title may be cited as the "Valles Caldera Preservation Act".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Baca ranch, owned and managed by the Baca Land and Cattle Company, comprises most of the Valles Caldera in central New Mexico, and constitutes a unique land mass, with significant scientific, cultural, historic, recreational, ecological, wildlife, fisheries, and productive values;

(2) the Valles Caldera is a large resurgent lava dome with potential geothermal activity;

(3) the land comprising the Baca ranch was originally granted to the heirs of Don Luis Maria Cabeza de Vaca in 1860;

(4) historical evidence in the form of old logging camps, and other artifacts, and the history of territorial New Mexico indicate the importance of this land over many generations for domesticated livestock production and timber supply;

(5) the careful husbandry of the Baca ranch by the Dunigan family, the current owners, including selective timbering, limited grazing and hunting, and the use of prescribed fire, have preserved a mix of healthy range and timber land with significant species diversity, thereby serving as a model for sustainable land development and use;

(6) the Baca ranch's natural beauty and abundant resources, and its proximity to large municipal populations, could provide numerous recreational opportunities for hiking, fishing, camping, cross-country skiing, and hunting;

(7) the Forest Service documented the scenic and natural values of the Baca ranch in its 1993 study entitled "Report on the Study of the Baca Location No. 1, Santa Fe National Forest, New Mexico," as directed by Public Law 101-556;

(8) the Baca ranch can be protected for current and future generations by continued operation as a working ranch under a unique management regime which would protect the land and resource values of the property and surrounding ecosystem while allowing and providing for the ranch to eventually become financially self-sustaining;

(9) the current owners have indicated that they wish to sell the Baca ranch, creating an opportunity for Federal acquisition and public access and enjoyment of these lands;

(10) certain features on the Baca ranch have historical and religious significance to Native Americans which can be preserved and protected through federal acquisition of the property;

(11) the unique nature of the Valles Caldera and the potential uses of its resources with different resulting impacts warrants a management regime uniquely capable of developing an operational program for appropriate preservation and development of the land and resources of the Baca ranch in the interest of the public;

(12) an experimental management regime should be provided by the establishment of a Trust capable of using new methods of public land management that may prove to be cost-effective and environmentally sensitive; and

(13) the Secretary may promote more efficient management of the Valles Caldera and the watershed of the Santa Clara Creek through the assignment of purchase rights of such watershed to the Pueblo of Santa Clara.

(b) PURPOSES.—The purposes of this title are—

(1) to authorize Federal acquisition of the Baca ranch;

(2) to protect and preserve for future generations the scenic and natural values of the Baca ranch, associated rivers and ecosystems, and archaeological and cultural resources;

(3) to provide opportunities for public recreation;

(4) to establish a demonstration area for an experimental management regime adapted to this unique property which incorporates elements of public and private administration in order to promote long term financial sustainability consistent with the other purposes enumerated in this subsection; and

(5) to provide for sustained yield management of Baca ranch for timber production and domesticated livestock grazing insofar as is consistent with the other purposes stated herein.

SEC. 103. DEFINITIONS.

In this title:

(1) BACA RANCH.—The term "Baca ranch" means the lands and facilities described in section 104(a).

(2) BOARD OF TRUSTEES.—The terms "Board of Trustees" and "Board" mean the Board of Trustees as described in section 107.

(3) COMMITTEES OF CONGRESS.—The term "Committees of Congress" means the Committee on Energy and Natural Resources of

the United States Senate and the Committee on Resources of the House of Representatives.

(4) FINANCIALLY SELF-SUSTAINING.—The term "financially self-sustaining" means management and operating expenditures equal to or less than proceeds derived from fees and other receipts for resource use and development and interest on invested funds. Management and operating expenditures shall include Trustee expenses, salaries and benefits of staff, administrative and operating expenses, improvements to and maintenance of lands and facilities of the Preserve, and other similar expenses. Funds appropriated to the Trust by Congress, either directly or through the Secretary, for the purposes of this title shall not be considered.

(5) PRESERVE.—The term "Preserve" means the Valles Caldera National Preserve established under section 105.

(6) SECRETARY.—Except where otherwise provided, the term "Secretary" means the Secretary of Agriculture.

(7) TRUST.—The term "Trust" means the Valles Caldera Trust established under section 106(a).

SEC. 104. ACQUISITION OF LANDS.

(a) ACQUISITION OF BACA RANCH.—

(1) IN GENERAL.—In accordance with the Act of June 15, 1926 (16 U.S.C. 471a), the Secretary is authorized to acquire all or part of the rights, title and interests in and to approximately 94,812 acres of the Baca ranch, comprising the lands, facilities, and structures referred to as the Baca Location No. 1, and generally depicted on a plat entitled "Independent Resurvey of the Baca Location No. 1," made by L.A. Osterhoudt, W.V. Hall and Charles W. Devendorf, U.S. Cadastral Engineers, June 30, 1920—August 24, 1921, under special instructions for Group No. 107 dated February 12, 1920, in New Mexico.

(2) SOURCE OF FUNDS.—The acquisition pursuant to paragraph (1) may be made by purchase through appropriated or donated funds, by exchange, by contribution, or by donation of land. Funds appropriated to the Secretary and the Secretary of the Interior from the Land and Water Conservation Fund shall be available for this purpose.

(3) BASIS OF SALE.—The acquisition pursuant to paragraph (1) shall be based on appraisal done in conformity with the *Uniform Appraisal Standards for Federal Land Acquisitions* and—

(A) in the case of purchase, such purchase shall be on a willing seller basis for no more than the fair market value of the land or interests therein acquired; and

(B) in the case of exchange, such exchange shall be for lands, or interests therein, of equal value, in conformity with the existing exchange authorities of the Secretary.

(4) DEED.—The conveyance of the offered lands to the United States under this subsection shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General.

(b) ADDITION OF LAND TO BANDELIER NATIONAL MONUMENT.—

(1) IN GENERAL.—Upon acquisition of the Baca ranch pursuant to subsection (a), the Secretary of the Interior shall assume administrative jurisdiction over the approximately 845 acres of the land acquired within the Upper Alamo watershed as depicted on the Forest Service map entitled "Proposed Boundary Expansion Map Bandelier National Monument" dated October, 1998.

(2) MANAGEMENT.—Upon assumption of administrative jurisdiction pursuant to paragraph (1), the Secretary of the Interior shall manage the added land as a part of Bandelier National Monument, the boundaries of which are hereby adjusted to encompass such addition. The Secretary of the Interior is authorized to utilize funds appropriated for the National Park Service to acquire on a willing seller basis, the Elk Meadows subdivision within such boundary adjustment.

(c) PLAT AND MAPS.—

(1) PLAT AND MAPS PREVAILS.—In case of any conflict between the plat referred to in subsection (a)(1) and the map referred to in subsection (b)(1) and the acreages provided in such subsections, the plat or map shall prevail.

(2) MINOR CORRECTIONS.—The Secretary and the Secretary of the Interior may make minor corrections in the boundaries of the Upper Alamo watershed as depicted on the map referred to in subsection (b)(1).

(3) BOUNDARY MODIFICATION.—Upon the conveyance of any lands to any entity other than the Secretary, the boundary of the Preserve shall be modified to exclude such lands.

(4) FINAL MAPS.—Within 180 days of the date of acquisition of the Baca ranch pursuant to subsection (a), the Secretary and the Secretary of the Interior shall prepare and submit to the Committees of Congress a final map to the Valles Caldera National Preserve and a final map of Bandelier National Monument, respectively.

(5) PUBLIC AVAILABILITY.—The plat and maps referred to in the subsection shall be kept and made available for public inspection in the offices of the Chief, Forest Service, and Director, National Park Service, in Washington, D.C., and Supervisor, Santa Fe National Forest, and Superintendent, Bandelier National Monument, in the State of New Mexico.

(d) WATERSHED MANAGEMENT STUDY.—The Secretary, acting through the Forest Service, in cooperation with the Secretary of the Interior, acting through the National Park Service, shall—

(1) develop a study of management alternatives which may—

(A) provide more coordinated land management within the area known as the Lower Alamo watershed;

(B) allow for improved management of elk and other wildlife populations ranging between the Santa Fe National Forest and the Bandelier National Monument; and

(C) include a proposed boundary adjustment between the Santa Fe National Forest and the Bandelier National Monument to facilitate the objectives under subparagraphs (A) and (B); and

(2) submit the study to the Committees of Congress within 120 days of the boundary adjustment pursuant to subsection (b)(2).

(e) OUTSTANDING MINERAL INTERESTS.—The acquisition of the Baca ranch by the Secretary shall be subject to all outstanding valid existing mineral interests. The Secretary is authorized and directed to negotiate with the owners of any fractional interest in the subsurface estate for the acquisition of such fractional interest on a willing seller basis for their appraised fair market value. Any such interests acquired within the boundaries of the Upper Alamo watershed, as referred to in subsection (b)(1), shall be administered by the Secretary of the Interior as part of Bandelier National Monument.

(f) BOUNDARIES OF THE BACA RANCH.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Baca ranch shall be treated as if they were National Forest boundaries existing as of January 1, 1965.

SEC. 105. THE VALLES CALDERA NATIONAL PRESERVE.

(a) ESTABLISHMENT.—Upon the date of acquisition of the Baca ranch pursuant to section 104(a) there is hereby established the Valles Caldera National Preserve as a unit of the National Forest System which shall include all Federal lands and interest in land acquired pursuant to subsection 104(a), except those lands and interests in land administered by the Secretary of the Interior pursuant to section 104(b)(1), and shall be managed in accordance with the purposes and requirements of this title.

(b) PURPOSES.—The purposes for which the Preserve is established are to protect and preserve the scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Preserve, and to provide for multiple use and sustained yield of renewable resources within the Preserve, consistent with this title.

(c) MANAGEMENT AUTHORITY.—Except for the powers of the Secretary enumerated in this title, the Preserve shall be managed by the Valles Caldera Trust established by section 106.

(d) ELIGIBILITY FOR PAYMENT IN LIEU OF TAXES.—Lands acquired by the United States pursuant to section 104(a) shall constitute entitlement lands for purposes of the Payment in Lieu of Taxes Act (31 U.S.C. 6901-6904).

(e) WITHDRAWALS.—

(1) IN GENERAL.—Upon acquisition of all interests in minerals within the boundaries of the Baca ranch pursuant to section 104(e), subject to valid existing rights, the lands comprising the Preserve shall be withdrawn from disposition under all laws pertaining to mineral leasing, including geothermal leasing.

(2) MATERIALS FOR ROADS AND FACILITIES.—Nothing in this title shall preclude the Secretary, prior to assumption of management authority by the Trust, and the Trust thereafter, from allowing the utilization of common varieties of mineral materials such as sand, stone and gravel as necessary for construction and maintenance of roads and facilities within the Preserve.

(f) FISH AND GAME.—Nothing in this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing and trapping within the Preserve, except that the Trust may, in consultation with the Secretary and the State of New Mexico, designate zones where, and establish periods when no hunting, fishing or trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or public use and enjoyment.

SEC. 106. THE VALLES CALDERA TRUST.

(a) ESTABLISHMENT.—There is hereby established a wholly owned government corporation known as the Valles Caldera Trust which is empowered to conduct business in the State of New Mexico and elsewhere in the United States in furtherance of its corporate purposes.

(b) CORPORATE PURPOSES.—The purposes of the Trust are—

(1) to provide management and administrative services for the Preserve;

(2) to establish and implement management policies which will best achieve the purposes and requirements of this title;

(3) to receive and collect funds from private and public sources and to make dispositions in support of the management and administration of the Preserve; and

(4) to cooperate with Federal, State, and local governmental units, and with Indian

tribes and Pueblos, to further the purposes for which the Preserve was established.

(c) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(d) STAFF.—

(1) IN GENERAL.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates. No employee of the Trust shall be paid at a rate in excess of that paid the Supervisor of the Santa Fe National Forest or the Superintendent of the Bandelier National Monument, whichever is greater.

(2) FEDERAL EMPLOYEES.—

(A) IN GENERAL.—Except as provided in this title, employees of the Trust shall be Federal employees as defined by title 5, United States Code, and shall be subject to all rights and obligations applicable thereto.

(B) USE OF FOREST SERVICE EMPLOYEES UPON ESTABLISHMENT OF THE TRUST.—For the two year period from the date of the establishment of the Trust, and upon the request of the Trust, the Secretary may provide, on a nonreimbursable basis, Forest Service personnel and technical expertise as necessary or desirable to assist in the implementation of this title. Thereafter, Forest Service employees may be provided to the Trust as provided in paragraph (C).

(C) USE OF OTHER FEDERAL EMPLOYEES.—At the request of the Trust, the employees of any Federal agency may be provided for implementation of this title. Such employees detailed to the Trust for more than 30 days shall be provided on a reimbursable basis.

(e) GOVERNMENT CORPORATION.—

(1) IN GENERAL.—The Trust shall be a Government Corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(2) REPORTS.—The Trust shall submit, but not later than January 15 of each year, to the Secretary and the Committees of Congress a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year. The report shall also include a section that describes the Trust's goals for the current year.

(f) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of New Mexico, and its political subdivisions including the Counties of Sandoval and Rio Arriba.

(g) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations and other private or public entities for the purposes of carrying out its duties. The Secretary, prior to assumption of management authority by the Trust, and the Trust thereafter, may accept donations from such entities notwithstanding that such donors may conduct business with the Department of Agriculture or any other Department or agency of the United States.

(h) PROCEEDS.—

(1) IN GENERAL.—Notwithstanding section 1341 of title 31 of the United States Code, all monies received by the Trust shall be retained by the Trust, and such monies shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to properties under its management jurisdiction.

(2) FUND.—There is hereby established in the Treasury of the United States a special interest bearing fund entitled "Valles Caldera Fund" which shall be available, without further appropriation, to the Trust for any purpose consistent with the purposes of this title. At the option of the Trust, the Secretary of the Treasury shall invest excess monies of the Trust in such account, which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

(i) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. For purposes of such suits, the residence of the Trust shall be the State of New Mexico. The Trust shall be represented by the Attorney General in any litigation arising out of the activities of the Trust, except that the Trust may retain private attorneys to provide advice and counsel.

(j) BYLAWS.—The Trust shall adopt necessary bylaws to govern its activities.

(k) INSURANCE AND BOND.—The Trust shall require that all holders of leases from, or parties in contract with, the Trust that are authorized to occupy, use, or develop properties under the management jurisdiction of the Trust procure proper insurance against any loss in connection with such properties, or activities authorized in such lease or contract, as is reasonable and customary.

SEC. 107. BOARD OF TRUSTEES.

(a) IN GENERAL.—The Trust shall be governed by a 7 member Board of trustees consisting of the following:

(1) VOTING TRUSTEES.—The voting Trustees shall be—

(A) the Supervisor of the Santa Fe National Forest, United States Forest Service;

(B) the Superintendent of the Bandelier National Monument, National Park Service; and

(C) 7 individuals, appointed by the President, in consultation with the Congressional delegation from the State of New Mexico. The 7 individuals shall have specific expertise or represent an organization or government entity as follows—

(i) one trustee shall have expertise in all aspects of domesticated livestock management, production and marketing, including range management and livestock business management;

(ii) one trustee shall have expertise in the management of game and non-game wildlife and fish populations, including hunting, fishing and other recreational activities;

(iii) one trustee shall have expertise in the sustainable management of forest lands for commodity and non-commodity purposes;

(iv) one trustee shall be active in a nonprofit conservation organization concerned with the activities of the Forest Service;

(v) one trustee shall have expertise in financial management, budgeting and programing;

(vi) one trustee shall have expertise in the cultural and natural history of the region; and

(vii) one trustee shall be active in State or local government in New Mexico, with expertise in the customs of the local area.

(2) QUALIFICATIONS.—Of the trustees appointed by the President—

(A) none shall be employees of the Federal Government; and

(B) at least five shall be residents of the State of New Mexico.

(b) INITIAL APPOINTMENTS.—The President shall make the initial appointments to the Board of Trustees within 90 days after acquisition of the Baca ranch pursuant to section 104(a).

(c) TERMS.—

(1) IN GENERAL.—Appointed trustees shall each serve a term of 4 years, except that of the trustees first appointed, 4 shall serve for a term of 4 years, and 3 shall serve for a term of 2 years.

(2) VACANCIES.—Any vacancy among the appointed trustees shall be filled in the same manner in which the original appointment was made, and any trustee appointed to fill a vacancy shall serve for the remainder of that term for which his or her predecessor was appointed.

(3) LIMITATIONS.—No appointed trustee may serve more than 8 years in consecutive terms.

(d) QUORUM.—A majority of trustees shall constitute a quorum of the Board for the conduct of business.

(e) ORGANIZATION AND COMPENSATION.—

(1) IN GENERAL.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the activities of the Trust.

(2) COMPENSATION OF TRUSTEES.—Trustees shall serve without pay, but may be reimbursed from the funds of the Trust for the actual and necessary travel and subsistence expenses incurred by them in the performance of their duties.

(3) CHAIR.—Trustees shall select a chair from the membership of the Board.

(f) LIABILITY OF TRUSTEES.—Appointed trustees shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act, the Ethics in Government Act, and the provisions of Chapter 11 of title 18, United States Code.

(g) MEETINGS.—

(1) LOCATION AND TIMING OF MEETINGS.—The Board shall meet in sessions open to the public at least three times per year in New Mexico. Upon a majority vote made in open session, and a public statement of the reasons therefore, the Board may close any other meetings to the public: *Provided*, That any final decision of the Board to adopt or amend the comprehensive management program pursuant to section 108(d) or to approve any activity related to the management of the land or resources of the Preserve shall be made in open public session.

(2) PUBLIC INFORMATION—In addition to other requirements of applicable law, the Board shall establish procedures for providing appropriate public information and opportunities for public comment regarding the management of the Preserve.

SEC. 108. RESOURCE MANAGEMENT.

(a) ASSUMPTION OF MANAGEMENT.—The Trust shall assume all authority provided by the title to manage the Preserve upon a determination by the Secretary, which to the maximum extent practicable shall be made within 60 days after the appointment of the Board, that—

(1) the Board is duly appointed, and able to conduct business; and

(2) provision has been made for essential management services.

(b) MANAGEMENT RESPONSIBILITIES.—Upon assumption of management of the Preserve pursuant to subsection (a), the Trust shall manage the land and resources of the Preserve and the use thereof including, but not limited to such activities as—

(1) administration of the operations of the Preserve;

(2) preservation and development of the land and resources of the Preserve;

(3) interpretation of the Preserve and its history for the public;

(4) management of public use and occupancy of the Preserve; and

(5) maintenance, rehabilitation, repair and improvement of property within the Preserve.

(c) AUTHORITIES.—

(1) IN GENERAL.—The Trust shall develop programs and activities at the Preserve, and shall have the authority to negotiate directly and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation on governmental entity, including without limitation, entities of Federal, State and local governments, and consultation with Indian tribes and pueblos, as are necessary and appropriate to carry out its authorized activities or fulfill the purposes of this title. Any such agreements may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(2) PROCEDURES.—The trust shall establish procedures for entering into lease agreements and other agreements for the use and occupancy of facilities of the Preserve. The procedures shall ensure reasonable competition, and set guidelines for determining reasonable fees, terms, and conditions for such agreements.

(3) LIMITATIONS.—The Trust may not dispose of to any real property in, or convey any water rights appurtenant to the Preserve. The Trust may not convey any easement, or enter into any contract, lease or other agreement related to use and occupancy of property within the Preserve for a period greater than 10 years. Any such easement, contract, or lease or other agreement shall provide that, upon termination of the Trust, such easement, contract, lease or agreement is terminate.

(4) APPLICATION OF PROCUREMENT LAWS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations relate to Federal government contracts governing health and safety requirements, wage rates, and civil rights.

(B) PROCEDURES.—The Trust, in consultation with the Administrator of Federal Procurement Policy, Office of Management and Budget, shall establish and adopt procedures applicable to the Trust's procurement of goods and services, including the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(d) MANAGEMENT PROGRAM.—Within two years after assumption of management responsibilities for the Preserve, the Trust shall develop a comprehensive program for the management of lands, resources, and facilities within the Preserve. Such program shall provide for—

(1) operation of the Preserve as a working ranch, consistent with paragraphs (2) through (4);

(2) the protection and preservation of the scenic, geologic, watershed, fish, wildlife, historic, cultural and recreational values of the Preserve;

(3) multiple use and sustained yield, as defined under the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 531), of renewable resources within the Preserve;

(4) public use of and access to the Preserve for recreation;

(5) preparation of an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the date of acquisition of the Baca ranch pursuant to section 104(a); and

(6) optimizing the generation of income based on existing market conditions, but without unreasonably diminishing the long-term scenic and natural values of the area, or diminishing the multiple use, sustained yield capability of the land.

(e) PUBLIC USE AND RECREATION.—

(1) IN GENERAL.—The Trust shall give thorough consideration to the provision of provide appropriate opportunities for public use and recreation that are consistent with the other purposes under section 105(b). The Trust is expressly authorized to construct and upgrade roads and bridges, and provide other facilities for activities including, but not limited to camping and picnicking, hiking, cross country skiing, and snowmobiling. Roads, trails, bridges, and recreational facilities constructed within the Preserve shall meet public safety standards applicable to units of the National Forest System and the State of New Mexico.

(2) FEES.—Notwithstanding any other provision of law, the Trust is authorized to assess reasonable fees for admission to, and the use and occupancy of, the Preserve: *Provided*, That admission fees and any fees assessed for recreational activities shall be implemented only after public notice and a period of not less than 60 days for public comment.

(3) PUBLIC ACCESS.—Upon the acquisition of the Baca ranch pursuant to section 104(a), and after an interim planning period of no more than two years, the public shall have reasonable access to the Preserve for recreation purposes. The Secretary, prior to assumption of management of the Preserve by the Trust, and the Trust thereafter, may reasonably limit the number and types of recreational admissions to the Preserve, or any part thereof, based on the capability of the land, resources, and facilities. The use of reservation or lottery systems is expressly authorized to implement this paragraph.

(f) APPLICABLE LAWS.—

(1) IN GENERAL.—The Trust shall administer the Preserve in conformity with this title and all laws pertaining to the National Forest System, except the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.).

(2) ENVIRONMENTAL LAWS.—The Trust shall be deemed a federal agency for the purposes of compliance with federal environmental laws.

(3) CRIMINAL LAWS.—All criminal laws relating to Federal property shall apply to the same extent as on adjacent units of the National Forest System.

(4) REPORTS ON APPLICABLE RULES AND REGULATIONS.—The Trust may submit to the Secretary and the Committees of Congress a compilation of applicable rules and regulations which in the view of the Trust are inappropriate, incompatible with this title, or unduly burdensome.

(5) CONSULTATION WITH TRIBES AND PUEBLOS.—The Trust is authorized and directed to cooperate and consult with Indian tribes and pueblos on management policies and practices for the Preserve which may affect them. The Trust is authorized to make lands available within the Preserve for religious and cultural uses by Native Americans and, in so doing, may set aside places and times of exclusive use consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996 (note)) and other applicable statutes.

(6) NO ADMINISTRATIVE APPEAL.—The administrative appeals regulations of the Secretary shall not apply to activities of the Trust and decisions of the Board.

(g) LAW ENFORCEMENT AND FIRE SUPPRESSION.—The Secretary shall provide law enforcement services under a cooperative agreement with the Trust to the extent generally authorized in other units of the National Forest System. At the request of the Trust, the Secretary may provide fire suppression services: *Provided*, That the Trust shall reimburse the Secretary for salaries and expenses of fire suppression personnel, commensurate with services provided.

SEC. 109. AUTHORITIES OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the assumption by the Trust of management authority, the Secretary is authorized to—

(1) issue any rights-of-way, as defined in the Federal Land Policy and Management Act of 1976, of over 5–10 years duration, in cooperation with the Trust, including, but not limited to, road and utility rights-of-way, and communication sites;

(2) issue orders pursuant to and enforce prohibitions generally applicable on other units of the National Forest System, in cooperation with the Trust;

(3) exercise the authorities of the Secretary under the Wild and Scenic Rivers Act (16 U.S.C. 1278, et seq.) and the Federal Power Act (16 U..S.C. 797, et seq.), in cooperation with the Trust;

(4) acquire the mineral rights referred to in section 104(e);

(5) provide law enforcement and fire suppression services pursuant to section 108(h);

(6) at the request of the Trust, exchange or otherwise dispose of land or interests in land within the Preserve;

(7) in consultation with the Trust, refer civil and criminal cases pertaining to the Preserve to the Department of Justice for prosecution;

(8) retain title to and control over fossils and archaeological artifacts found with the Preserve;

(9) at the request of the Trust, construct and operate a visitors' center in or near the Preserve, subject to the availability of appropriated funds;

(10) conduct the assessment of the Trust's performance, and, if the Secretary determines it necessary, recommend to Congress the termination of the Trust, pursuant to section 110(b)(2); and

(11) conduct such other activities for which express authorization is provided to the Secretary by this title.

(b) SECRETARIAL AUTHORITY.—the Secretary retains the authority to suspend any decision of the Board with respect to the management of the Preserve if he finds that the decision is clearly inconsistent with this title. Such authority shall only be exercised personally by the Secretary, and may not be delegated. Any exercise of this authority shall be in writing to the Board, and notification of the decision shall be given to the Committees of Congress. Any suspended decision shall be referred back to the Board for reconsideration.

(c) ACCESS.—The Secretary shall at all times have access to the Preserve for administrative purposes.

SEC. 110. TERMINATION OF THE TRUST.

(a) IN GENERAL.—The Valles Caldera Trust shall terminate at the end of the twentieth full fiscal year following acquisition of the Baca ranch pursuant to section 104(a).

(b) RECOMMENDATIONS.—

(1) BOARD.—

(A) If after the fourteenth full fiscal years from the date of acquisition of the Baca

ranch pursuant to section 104(a), the Board believes the Trust has met the goals and objectives of the comprehensive management program under section 108(d), but has not become financially self-sufficent, the Board may submit to the Committees of Congress, a recommendation for authorization of appropriations beyond that provided under this title.

(B) During the eighteenth full fiscal year from the date of acquisition of the Baca ranch pursuant to section 104(a), the Board shall submit to the Secretary its recommendation that the Trust be either extended or terminated including the reasons for such recommendation.

(2) SECRETARY.—Within 120 days after receipt of the recommendation of the Board under paragraph (1)(B), the Secretary shall submit to the Committees of Congress the Board's recommendation on extension or termination along with the recommendation of the Secretary with respect to the same and stating the reasons for such recommendation.

(c) EFFECT OF TERMINATION.—In the event of termination of the Trust, the Secretary shall assume all management and administrative functions over the Preserve, and it shall thereafter be managed as a part of the Santa Fe National Forest, subject to all laws applicable to the National Forest System.

(d) ASSETS.—In the event of termination of the Trust, all assets of the Trust shall be used to satisfy any outstanding liabilities, and any funds remaining shall be transferred to the Secretary for use, without further appropriation, for the management of the Preserve.

(e) VALLES CALDERA FUND.—In the event of termination, the Secretary shall assume the powers of the Trust over funds pursuant to section 106(h), and the Valles Caldera Fund shall not terminate. Any balances remaining in the fund shall be available to the Secretary, without further appropriation, for any purpose consistent with the purposes of this title.

SEC. 111. LIMITATIONS ON FUNDING.

(a) AUTHORZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary and the Trust such funds as are necessary for them to carry out the purposes of this title for each of the 15 full fiscal years after the date of acquisition of the Baca ranch pursuant to section 104(a).

(b) SCHEDULE OF APPROPRIATIONS.—Within two years after the first meeting of the Board, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funds that will achieve, at a minimum, the financially self-sustained operation of the Trust within 15 full fiscal years after the date of acquisition of the Baca ranch pursuant to section 104(a).

(c) ANNUAL BUDGET REQUEST.—The Secretary shall provide necessary assistance, including detailees as necessary, to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Preserve.

SEC. 112. GENERAL ACCOUNTING OFFICE STUDY.

(a) INITIAL STUDY.—Three years after the assumption of management by the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall include, but shall not be limited to, details of programs and activities operated by the Trust and whether it met its obligations under this title.

(b) SECOND STUDY.—Seven years after the assumption of management by the Trust, the General Accounting Office shall conduct a study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall provide an assessment of any failure to meet obligations that may be identified under subsection (a), and further evaluation on the ability of the Trust to meet its obligations under this title.

TITLE II—ACQUISITION OF INHOLDINGS AND DISPOSAL OF SURPLUS LAND

SEC. 201. SHORT TITLE.

This title may be cited as the "Acquisition of Inholdings and Disposal of Surplus Lands Facilitation Act".

SEC. 202. FINDINGS.

Congress finds that—

(1) many private individuals own land within the boundaries of Federal land management units and wish to sell this land to the Federal government;

(2) these lands lie within national parks, national forests, national monuments, Bureau of Land Management special areas, and national wildlife refuges;

(3) in many cases, inholders on these lands and the Federal government would mutually benefit by acquiring on a priority basis these lands;

(4) Federal land management agencies are facing increased workloads from rapidly growing public demand for the use of public lands, making it difficult for federal managers to address problems created by the existence of inholdings in many areas;

(5) through land use planning under the Federal Land Policy and Management Act of 1976 the Bureau of Land Management has identified certain public lands for disposal;

(6) the Bureau of Land Management has authority under the Federal Land Policy and Management Act of 1976 to exchange or sell lands identified for disposal under its land use planning;

(7) a more expeditious process for disposition of public lands identified for disposal would benefit the public interest;

(8) the sale or exchange of land identified for disposal would—

(A) allow for the reconfiguration of land ownership patterns to better facilitate resource management;

(B) contribute to administrative efficiency within the federal land management unit; and

(C) allow for increased effectiveness of the allocation of fiscal and human resources within the agency;

(9) in certain locations, the sale of public land which has been identified for disposal is the best way for the public to receive a fair market value for the land;

(10) using proceeds generated from the disposal of public land to purchase inholdings from willing sellers would enhance the ability of the Federal land management agencies to work cooperatively with private land owners, and State and local governments and promote consolidation of the ownership of public and private land in a manner that would allow for better overall resource management;

(11) proceeds generated from the disposal of public land may be properly dedicated to the acquisition of inholdings; and

(12) to allow for the least disruption of existing land and resource management programs, the Bureau of Land Management may use non-Federal entities to prepare appraisal documents for agency review and approval in accordance with the applicable appraisal standards.

SEC. 203. DEFINITIONS.

In this title:

(1) FEDERALLY DESIGNATED AREAS.—The term "Federally designated areas" means land in Alaska and the eleven contiguous Western States as defined in section 103(o) of the Federal Land Policy and Management Act (43 U.S.C. 1702(o)) that on the date of enactment of this title was within the boundary of—

(A) a unit of the National Park System;

(B) National Monuments, Areas of Critical Environmental Concern, National Conservation Areas, National Riparian Conservation Areas, Research Natural Areas, Outstanding Natural Areas, and National Natural Landmarks managed by the Bureau of Land Management.

(C) National Recreation Areas, National Scenic Areas, National Monuments, National Volcanic Areas, and other areas within the National Forest System designated for special management by an Act of Congress;

(D) a unit of the National Wildlife Refuge System; and

(E) a wilderness area designated under the Wilderness Act of 1964, as amended (16 U.S.C. 1131 et seq.); an area designated under the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271 et seq.); and an area designated under the National Trails System Act, as amended (16 U.S.C. 1241 et seq.).

(2) INHOLDING.—The term "inholding" means any right, title, or interest, held by a non-Federal entity, in or to a tract of land which lies within the boundary of a Federally designated area; the term "inholding" does not include lands or interests in lands for which clear title has not been established (except where waved by the Federal government), rights-of-way (including railroad rights-of-way), and existing easements; and

(3) PUBLIC LAND.—The term "public land" means public lands as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

SEC. 204. IDENTIFICATION OF INHOLDINGS WITHIN FEDERALLY DESIGNATED AREAS.

(a) MULTI-AGENCY EVALUATION TEAM.—

(1) IN GENERAL.—Jointly, the Secretary of the Interior and the Secretary of Agriculture (the Secretaries) shall establish a multi-agency evaluation team composed of agency personnel to conduct a program to identify, by state, inholdings within Federally designated areas and establish the dates upon which the lands or interests therein became inholdings. Inholdings shall be identified using the means set forth under subsection (d). Inholdings shall be deemed established as of the latter of—

(A) the date the Federal land was withdrawn from the public domain, or established or designated for special management, whichever is earlier; or

(B) the date on which the inholding was acquired by the current owner.

(2) PUBLIC NOTICE.—The Secretaries shall provide notice to the public in the Federal Register (and through other such means as the Secretaries may determine to be appropriate) of a program of identification of inholdings within Federally designated areas by which any owner who wants to sell such an inholding to the United States shall provide to the Secretaries such information regarding that inholding as is required by the notice.

(b) COMPOSITION OF THE EVALUATION TEAM.—The team shall be composed of employees of the National Park Service, the Fish and Wildlife Service, the Bureau of Land Management, the Department of Agriculture, Forest Service, and other agencies as appropriate.

(c) TIMING.—The Secretaries shall establish the Evaluation Team within 90 days after the enactment of this title.

(d) DUTIES OF THE EVALUATION TEAM.—The team shall be charged with the identification of inholdings within Federally designated areas, by state, and by the date upon which the lands or interests therein became inholdings. Inholdings will be identified using—

(1) the list of inholdings identified by owners pursuant to subsection (a)(2); and

(2) tracts of land identified through existing agency planning processes.

(e) REPORT.—The Secretaries shall submit a report to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, and the Committee on Resources and the Committee on Appropriations of the House of Representatives on the status of their evaluations within one year after the enactment of this title, and at the end of each 180 days increment thereafter until such time as reasonable efforts to identify inholdings have been made or the program established in section 205 terminates.

(f) FUNDING.—Funding to carry out this section shall be taken from operating funds of the agencies involved and shall be reimbursed from the account established under section 206.

SEC. 205. DISPOSAL OF SURPLUS PUBLIC LAND.

(a) IN GENERAL.—The Secretary of the Interior (in this section, the "Secretary") shall establish a program, utilizing funds available under section 207, to complete appraisals and other legal requirements for the sale or exchange of land identified for disposal under approved land use plans maintained under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and in effect on the date of enactment of this title.

(b) SALE OF PUBLIC LAND.—The sale of public land so identified shall be conducted in accordance with section 203 and section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713, 1719). It is the intent of Congress that the exceptions to competitive bidding requirements under section 203(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713(f) apply under this title, where the Secretary of the Interior determines it necessary and proper.

(c) REPORT IN PUBLIC LAND STATISTICS.—The Secretary shall provide in the annual publication of Public Land Statistics, a report of activities related to the program established under this section.

(d) TERMINATION OF PROGRAM.—The program established by this section shall terminate ten years from the date of enactment of this title.

SEC. 206. DISTRIBUTION OF RECEIPTS.

Notwithstanding any other Act, except that specifically providing for a proportion of the proceeds to be distributed to any trust funds of any States, gross proceeds generated by the sale or exchange of public land under this title shall be deposited in a separate account in the Treasury of the United States to be known as the "Federal Land Disposal Account", for use as provided under section 207.

SEC. 207. FEDERAL LAND DISPOSAL ACCOUNT.

(a) IN GENERAL.—Amounts in the Federal Land Disposal Account shall be available to the Secretary of the Interior and the Secretary of Agriculture, without further act of appropriation, to carry out this title.

(b) USE OF THE FEDERAL LAND DISPOSAL ACCOUNT.—Funds deposited in the Federal Land Disposal Account may be expended as follows—

(1) except as authorized under paragraph (7), proceeds from the disposal of lands under this title shall be used to purchase inholdings contained within Federal designated areas;

(2) acquisition priority shall be given to those lands which have existed as inholdings for the longest period of time, except that the Secretaries may develop criteria for priority of acquisition considering the following additional factors—

(A) limits in size or cost in order to maximize the utilization of funds among eligible inholdings; and

(B) other relevant factors including, but not limited to, the condition of title and the existence of hazardous substances;

(3) acquisition of any inholding under this section shall be on a willing seller basis contingent upon the conveyance of title acceptable to the appropriate Secretary utilizing title standards of the Attorney General;

(4) all proceeds, including interest, from the disposal of lands under section 205 shall be expended within the state in which they were generated until a reasonable effort has been made to acquire all inholdings identified by the evaluation team pursuant to section 204 within that state;

(5) upon the acquisition of all inholdings under paragraph (4), proceeds may be expended in other states, and a priority shall be established in order of those states having the greatest inventory of unacquired inholdings as of the beginning of the fiscal year in which the excess proceeds become available;

(6) the acquisition of inholdings under this section shall be at fair market value;

(7) an amount not to exceed 20 percent of the funds in the Federal Land Disposal Account shall be used for administrative and other expenses necessary to carry out the land disposal program under section 205;

(c) CONTAMINATED SITES AND SITES DIFFICULT AND UNECONOMIC TO MANAGE.—Funds in the account established by section 206 shall not be used to purchase or lands or interests in lands which, as determined by the agency, contain hazardous substances or are otherwise contaminated, or which, because of their location or other characteristics, would be difficult or uneconomic to manage as Federal land.

(d) INVESTMENT OF PRINCIPAL.—Funds deposited as principal in the Federal Land Disposal Account shall earn interest in the amount determined by the Secretary of the Treasury based on the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(e) LAND AND WATER CONSERVATION FUND ACT.—Funds made available under this section shall be supplemental to any funds appropriated under the Land and Water Conservation Fund Act (16 U.S.C. 460*l*-4 through 460*l*-6a, 460*l*-7 through 460*l*-10, 460*l*-10a–d, 460*l*-11).

(f) TERMINATION.—On termination of the program under section 205—

(1) the Federal Land Disposal Account shall be terminated; and

(2) any remaining balance in such account shall become available for appropriation under section 3 of the Land and Water Conservation Fund Act (16 U.S.C. 460*l*-6).

SEC. 208. SPECIAL PROVISIONS.

(a) IN GENERAL.—Nothing in this title shall be construed as an exemption from any existing limitation on the acquisition of lands of interests therein under any Federal law.

(b) SANTINI-BURTON ACT.—The provisions of this title shall not apply to lands eligible for sale pursuant to the Santini-Burton Act (94 Stat. 3381).

(c) EXCHANGES.—Nothing in this title shall be construed as precluding, pre-empting, or limiting the authority to exchange lands under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), or the Federal Land Exchange Facilitation Act of 1988 (site).

(d) RIGHT OR BENEFIT.—This title is intended to provide direction regarding Federal land management. Nothing herein is intended to, or shall create a right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person.

STATEMENT OF PRINCIPLES

I. BACA RANCH

The Baca ranch in New Mexico is a unique land area, with significant scientific, cultural, historic, recreational, ecological, and production values. Management of this working ranch by the current owners has included limited grazing, hunting, and timber harvesting, and it depicts a model for sustainable land development and use. It is our intention to continue to follow this model. The unique nature of the Baca ranch requires a unique program for appropriate preservation, operation and maintenance of the ranch.

Legislation to authorize the Federal acquisition and establish a unique management framework will:

(1) Provide for federal acquisition of the Baca Ranch property by the U.S. Forest Service, assuming agreement with the current owners on a fair price based on an objective appraisal;

(2) Provide for innovative management by a Trust, being a wholly owned government corporation comprised of individuals, (appointed by the President with New Mexican input), with appropriate and varied expertise relevant to the unique management issues. These individuals will administer the operation, maintenance, management, and use of the ranch, based on appropriate public input and with governmental oversight;

(3) Provide management principles including protection of the unique values of the property in all of the areas listed above, and demonstration of sustainable land use including recreational opportunities, selective timbering, limited grazing and hunting, and the use of appropriate range and silvicultural management with significant species diversity. Management shall be in furtherance of these goals and provide for the eventual financial self-sufficiency of the operation without violating other management goals;

(4) Provide an opportunity for the Trust, should it not achieve financial self-sufficiency by its ninth year of operation, to continue operating upon agreement between Congress and the President, after showing rationale for not attaining a financially self-sufficient operation; and

(5) Provide for an initial appropriation in an amount necessary for management of the property.

The parties further agree to work together to make available the $20 million appropriated in the 1998 Land and Water Conservation Fund, the $20 million in FY99 requested by the President for use to purchase the Baca ranch, and additional funds necessary to complete the purchase following an acceptable and reasonable appraisal and agreement on price between buyer and seller.

II. INHOLDER RELIEF AND SURPLUS LAND DISPOSAL

Millions of acres of private land lie within the boundaries of Federal land management

units. BLM currently has authority to exchange or sell lands identified for disposal in its planning process. Using proceeds generated from the disposal of these public lands to purchase inholdings in federally designated areas from willing sellers would supplement funds appropriated under the Land and Water Conservation Fund. Legislation to address these interrelated land management problems will—

(1) Establish a program to conduct appraisals and other legal requirements for the disposal of public land identified in existing BLM management plans as surplus;

(2) Establish a special account for the receipts generated from the disposal of these lands, available to the Secretaries to acquire inholdings without further appropriation, provided—

The acquisition will be from willing sellers, with priority given to lands existing as inholdings for the longest time;

Proceeds from the sale of surplus lands must be spent within the state in which they were generated until all available inholdings are purchased;

The proceeds in the special account are to supplement, not supplant, appropriations to the Land and Water Conservation Fund; and

An appropriate amount of the proceeds will be used to conduct appraisal and other administrative steps necessary to complete the sale of surplus lands; and

(3) Terminates the land disposal program and account after ten years.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. BREAUX, Mr. D'AMATO, Mr. CONRAD, Mr. MURKOWSKI, Mr. GRAHAM, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, Mr. MACK, Mr. BRYAN, and Mr. KERREY):

S. 2622. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

THE TAX RELIEF EXTENSION ACT OF 1998

Mr. ROTH. Mr. President, I rise to introduce the "Tax Relief Extension Act of 1998". I am pleased to have as my principal cosponsor my distinguished friend and Ranking Member of the Finance Committee, DANIEL PATRICK MOYNIHAN. Fifteen Finance Committee Members have joined Senator MOYNIHAN and myself on this bill.

Before I discuss the Finance Committee bill, I'd like to comment on the House bill.

Chairman ARCHER and I attempted to negotiate a bill that would address expiring tax and trade provisions.

Chairman ARCHER and I had many discussions and made a lot of progress in trying to resolve differences on extenders, but we were unable to reach agreement. Let me say the House bill has many worthwhile proposals that we in the Senate should support.

Mr. President, we find ourselves in a difficult situation. Although the House bill has many good proposals, it is unlikely the House bill will move by unanimous consent in the Senate in its present form. We will not be able to obtain unanimous consent because the House resisted negotiations on expiring provisions important to Members of the Senate.

I remain hopeful that the House and Senate can reach agreement on an extenders bill. I believe the Finance Committee is taking a step today that can lead us to that agreement.

Mr. President, this bill is the product of a Finance Committee meeting yesterday. At that meeting, a bi-partisan majority of the committee agreed on a package to address expiring tax and trade provisions—the so-called extenders. This bill is meant to be offered as a substitute to H.R. 4738, the House extender bill.

We expect to consider the House bill together with the Finance Committee bill shortly.

This Finance Committee bill follows three principles:

All non-controversial expiring provisions are covered;

No policy changes are made to the extenders—only date changes; and

The package is fully offset.

The purpose of this bill is to leave tax policy on the expiring provisions settled until the next Congress. At that time, hopefully, we will be considering a major tax cut bill. When we are considering that tax cut bill next year, we will be able to address the policy and long-term period of the various provisions.

This bill is necessarily narrow. There are no Member provisions in this bill, including some I am interested in. In order to expedite this bill, the Finance Committee Members on this bill agreed to forego Member issues.

This bill extends several important provisions in the tax and trade areas, including:

The research and development tax credit;

The work opportunity tax credit;

The welfare to work tax credit;

The full deductibility of contributions of appreciated stock to private foundations;

The active financing exception to Subpart F for financial services operations overseas;

The tax information reporting access for the Department of Education for the Federal student aid programs;

The Generalized System of Preferences ("GSP"); and

The trade adjustment assistance ("TAA") program.

In addition to extenders, the Finance Committee bill speeds up the full deductibility of health insurance deduction for self-employed persons. This bill also addresses time sensitive farm-related issues.

The final provision in this bill would correct an upcoming problem for millions of middle income taxpayers. The Taxpayer Relief Act of 1997 included tax relief for America's working families in the form of the $500 per child tax credit and the Hope Scholarship tax credit, and other benefits. Taxpayers will expect to see these benefits when they file their returns on April 15th.

What some of these families will find is that the tax relief they expected will not materialize because of the alternative minimum tax ("AMT"). That is, these tax credits do not count against the alternative minimum tax. The final provision in the Finance Committee bill would provide that benefits such as the $500 per child tax credit would count against the alternative minimum tax.

This point deserves emphasis. We can correct this problem for millions of taxpayers in this bill. As Chairman of the Finance Committee, I consider it my responsibility to simplify the tax code whenever possible. This last provision provides us with that opportunity. I am pleased the Members of the Finance Committee back me in this effort.

Finally, I'd like return to the Senate's procedures, schedule, and the prospects for extender legislation.

It is important to recognize that the House and Senate are very different bodies governed by starkly different rules and traditions. Unlike the House, the Senate Rules and schedule do not allow us to move this bill at this point in any other way than by unanimous consent. If we are to address these tax and trade provisions, we will need the cooperation of every Senator.

If we can get every Senator's cooperation, and resolve our differences with the House, I believe we can deliver an extenders bill the President will sign.

I urge my colleagues to support this Finance Committee bill.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and revenue table of the legislation, be printed in the RECORD.

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

S. 2622

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Relief Extension Act of 1998".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Tax Provisions

Sec. 101. Research credit.
Sec. 102. Work opportunity credit.
Sec. 103. Welfare-to-work credit.
Sec. 104. Contributions of stock to private foundations.
Sec. 105. Subpart F exemption for active financing income.
Sec. 106. Credit for producing fuel from a nonconventional source.

Sec. 107. Disclosure of return information on income contingent student loans.
Subtitle B—Trade Provisions
Sec. 111. Extension of duty-free treatment under General System of Preferences.
Sec. 112. Trade adjustment assistance.
TITLE II—OTHER TAX PROVISIONS
Sec. 201. 100-percent deduction for health insurance costs of self-employed individuals.
Sec. 202. Production flexibility contract payments.
Sec. 203. Income averaging for farmers made permanent.
Sec. 204. Nonrefundable personal credits fully allowed against regular tax liability during 1998.
TITLE III—REVENUE OFFSET
Sec. 301. Treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts.
TITLE IV—TECHNICAL CORRECTIONS
Sec. 401. Definitions; coordination with other titles.
Sec. 402. Amendments related to Internal Revenue Service Restructuring and Reform Act of 1998.
Sec. 403. Amendments related to Taxpayer Relief Act of 1997.
Sec. 404. Amendments related to Tax Reform Act of 1984.
Sec. 405. Other amendments.
Sec. 406. Amendments related to Uruguay Round Agreements Act.

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Tax Provisions

SEC. 101. RESEARCH CREDIT.

(a) TEMPORARY EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(A) by striking "June 30, 1998" and inserting "June 30, 1999",

(B) by striking "24-month" and inserting "36-month", and

(C) by striking "24 months" and inserting "36 months".

(2) TECHNICAL AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking "June 30, 1998" and inserting "June 30, 1999".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1998.

SEC. 102. WORK OPPORTUNITY CREDIT.

(a) TEMPORARY EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking "June 30, 1998" and inserting "June 30, 1999".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1998.

SEC. 103. WELFARE-TO-WORK CREDIT.

Subsection (f) of section 51A (relating to termination) is amended by striking "April 30, 1999" and inserting "June 30, 1999".

SEC. 104. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D)(ii) of section 170(e)(5) is amended by striking "June 30, 1998" and inserting "June 30, 1999".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after June 30, 1998.

SEC. 105. SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Paragraph (9) of section 954(h) (relating to application) is amended to read as follows:

"(9) APPLICATION.—This subsection shall apply to—

"(A)(i) the first full taxable year of a foreign corporation beginning after December 31, 1997, and before January 1, 1999, and the taxable year of such corporation immediately following such taxable year, or

"(ii) if a foreign corporation has no such first full taxable year, the first taxable year of such corporation beginning after December 31, 1998, and before January 1, 2000, and

"(B) taxable years of United States shareholders of a foreign corporation with or within which the corporation's taxable years described in subparagraph (A) end."

(b) CONFORMING AMENDMENT.—Section 1175(c) of the Taxpayer Relief Act of 1997 is repealed.

SEC. 106. CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29(g)(1)(A) is amended by striking "July 1, 1998" and inserting "July 1, 1999".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after June 30, 1998.

SEC. 107. DISCLOSURE OF RETURN INFORMATION ON INCOME CONTINGENT STUDENT LOANS.

Subparagraph (D) of section 6103(l)(13) (relating to disclosure of return information to carry out income contingent repayment of student loans) is amended by striking "September 30, 1998" and inserting "September 30, 2004".

Subtitle B—Extension of Expired Trade Provisions

SEC. 111. EXTENSION OF DUTY-FREE TREATMENT UNDER GENERAL SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking "June 30, 1998" and inserting "December 31, 1999".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to articles entered on or after October 1, 1998.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (3), any article that was entered—

(i) after June 30, 1998, and

(ii) before October 1, 1998, and

to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on June 30, 1998, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) LIMITATIONS ON REFUNDS.—No refund shall be made pursuant to this paragraph before October 1, 1998.

(C) ENTRY.—As used in this paragraph, the term "entry" includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 112. TRADE ADJUSTMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended—

(A) in subsection (a), by striking "1993, 1994, 1995, 1996, 1997, and 1998," and inserting "1998 and 1999,"; and

(B) in subsection (b), by striking "1994, 1995, 1996, 1997, and 1998," and inserting "1998 and 1999,".

(2) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "1993, 1994, 1995, 1996, 1997, and" and inserting ", and 1999," after "1998".

(b) TERMINATION.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 note preceding) is amended—

(1) in paragraph (1), by striking "September 30, 1998" and inserting "June 30, 1999"; and

(2) in paragraph (2)(A), by striking "the day that is" and all that follows through "effective" and inserting "June 30, 1999".

TITLE II—OTHER TAX PROVISIONS

SEC. 201. 100-PERCENT DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Subparagraph (B) of section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be—

"(i) 45 percent for taxable years beginning in 1999 and 2000,

"(ii) 70 percent for taxable years beginning in 2001, and

"(iii) 100 percent for taxable years beginning after December 31, 2001."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 202. PRODUCTION FLEXIBILITY CONTRACT PAYMENTS.

(a) IN GENERAL.—The options under paragraphs (2) and (3) of section 112(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212(d) (2) and (3)), as in effect on the date of the enactment of this Act, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under subtitle B of title I of such Act (as so in effect) is properly includible in gross income for purposes of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after December 31, 1995.

SEC. 203. INCOME AVERAGING FOR FARMERS MADE PERMANENT.

Subsection (c) of section 933 of the Taxpayer Relief Act of 1997 is amended by striking ", and before January 1, 2001".

SEC. 204. NONREFUNDABLE PERSONAL CREDITS FULLY ALLOWED AGAINST REGULAR TAX LIABILITY DURING 1998.

(a) IN GENERAL.—Subsection (a) of section 26 is amended by adding at the end the following flush sentence:

"For purposes of paragraph (2), the taxpayer's tentative minimum tax for any taxable year beginning during 1998 shall be treated as being zero."

(b) CONFORMING AMENDMENT.—Section 24(d)(2) is amended by striking "The credit" and "For taxable years beginning after December 31, 1998, the credit".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE III—REVENUE OFFSET

SEC. 301. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution."

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) is amended by striking "subsection (a)" and inserting "this section".

(2) Paragraph (1) of section 334(b) is amended by striking "section 332(a)" and inserting "section 332".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. DEFINITIONS; COORDINATION WITH OTHER TITLES.

(a) DEFINITIONS.—For purposes of this title—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) 1998 ACT.—The term "1998 Act" means the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206).

(3) 1997 ACT.—The term "1997 Act" means the Taxpayer Relief Act of 1997 (Public Law 105–34).

(b) COORDINATION WITH OTHER TITLES.—For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

SEC. 402. AMENDMENTS RELATED TO INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.

(a) AMENDMENT RELATED TO SECTION 1101 OF 1998 ACT.—Paragraph (5) of section 6103(h) of the 1986 Code, as added by section 1101(b) of the 1998 Act, is redesignated as paragraph (6).

(b) AMENDMENT RELATED TO SECTION 3001 OF 1998 ACT.—Paragraph (2) of section 7491(a) of the 1986 Code is amended by adding at the end the following flush sentence:

"Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645(b)(2)).".

(c) AMENDMENTS RELATED TO SECTION 3201 OF 1998 ACT.—

(1) Section 7421(a) of the 1986 Code is amended by striking "6015(d)" and inserting "6015(e)".

(2) Subparagraph (A) of section 6015(e)(3) is amended by striking "of this section" and inserting "of subsection (b) or (f)".

(d) AMENDMENT RELATED TO SECTION 3301 OF 1998 ACT.—Paragraph (2) of section 3301(c) of the 1998 Act is amended by striking "The amendments" and inserting "Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments".

(e) AMENDMENT RELATED TO SECTION 3401 OF 1998 ACT.—Section 3401(c) of the 1998 Act is amended—

(1) in paragraph (1), by striking "7443(b)" and inserting "7443A(b)"; and

(2) in paragraph (2), by striking "7443(c)" and inserting "7443A(c)".

(f) AMENDMENT RELATED TO SECTION 3433 OF 1998 ACT.—Section 7421(a) of the 1986 Code is amended by inserting "6331(i),," after "6246(b),".

(g) AMENDMENT RELATED TO SECTION 3467 OF 1998 ACT.—The subsection (d) of section 6159 of the 1986 Code relating to cross reference is redesignated as subsection (e).

(h) AMENDMENT RELATED TO SECTION 3708 OF 1998 ACT.—Subparagraph (A) of section 6103(p)(3) of the 1986 Code is amended by inserting "(f)(5),," after "(c), (e),".

(i) AMENDMENTS RELATED TO SECTION 5001 OF 1998 ACT.—

(1) Subparagraph (B) of section 1(h)(13) of the 1986 Code is amended by striking "paragraph (7)(A)" and inserting "paragraph (7)(A)(i)".

(2)(A) Subparagraphs (A)(i)(II), (A)(ii)(II), and (B)(ii) of section 1(h)(13) of the 1986 Code shall not apply to any distribution after December 31, 1997, by a regulated investment company or a real estate investment trust with respect to—

(i) gains and losses recognized directly by such company or trust, and

(ii) amounts properly taken into account by such company or trust by reason of holding (directly or indirectly) an interest in another such company or trust to the extent that such subparagraphs did not apply to such other company or trust with respect to such amounts.

(B) Subparagraph (A) shall not apply to any distribution which is treated under section 852(b)(7) or 857(b)(8) of the 1986 Code as received on December 31, 1997.

(C) For purposes of subparagraph (A), any amount which is includible in gross income of its shareholders under section 852(b)(3)(D) or 857(b)(3)(D) of the 1986 Code after December 31, 1997, shall be treated as distributed after such date.

(D)(i) For purposes of subparagraph (A), in the case of a qualified partnership with respect to which a regulated investment company meets the holding requirement of clause (iii)—

(I) the subparagraphs referred to in subparagraph (A) shall not apply to gains and losses recognized directly by such partnership for purposes of determining such company's distributive share of such gains and losses, and

(II) such company's distributive share of such gains and losses (as so determined) shall be treated as recognized directly by such company.

The preceding sentence shall apply only if the qualified partnership provides the company with written documentation of such distributive share as so determined.

(ii) For purposes of clause (i), the term "qualified partnership" means, with respect to a regulated investment company, any partnership if—

(I) the partnership is an investment company registered under the Investment Company Act of 1940,

(II) the regulated investment company is permitted to invest in such partnership by reason of section 12(d)(1)(E) of such Act or an exemptive order of the Securities and Exchange Commission under such section, and

(III) the regulated investment company and the partnership have the same taxable year.

(iii) A regulated investment company meets the holding requirement of this clause with respect to a qualified partnership if (as of January 1, 1998)—

(I) the value of the interests of the regulated investment company in such partnership is 35 percent or more of the value of such company's total assets, or

(II) the value of the interests of the regulated investment company in such partnership and all other qualified partnerships is 90 percent or more of the value of such company's total assets.

(3) Paragraph (13) of section 1(h) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(D) CHARITABLE REMAINDER TRUSTS.—Subparagraphs (A) and (B)(ii) shall not apply to any capital gain distribution made by a trust described in section 664."

(j) AMENDMENT RELATED TO SECTION 7004 OF 1998 ACT.—Clause (i) of section 408A(c)(3)(C) of the 1986 Code, as amended by section 7004 of the 1998 Act, is amended by striking the period at the end of subclause (II) and inserting ", and".

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1998 Act to which they relate.

SEC. 403. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENTS RELATED TO SECTION 202 OF 1997 ACT.—

(1) Paragraph (2) of section 163(h) of the 1986 Code is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end the following new subparagraph:

"(F) any interest allowable as a deduction under section 221 (relating to interest on educational loans)."

(2)(A) Subparagraph (C) of section 221(b)(2) of the 1986 Code is amended—

(i) by striking "135, 137," in clause (i),

(ii) by inserting "135, 137," after "sections 86," in clause (ii), and

(iii) by striking the last sentence.

(B) Sections 86(b)(2)(A), 135(c)(4)(A), and 219(g)(3)(A)(ii) of the 1986 Code are each amended by inserting "221," after "137,".

(C) Subparagraph (A) of section 137(b)(3) of the 1986 Code is amended by inserting "221," before "911,".

(D) Clause (iii) of section 469(i)(3)(E) of the 1986 Code is amended to read as follows:

"(iii) the amounts allowable as a deduction under sections 219 and 221, and".

(3) The last sentence of section 221(e)(1) of the 1986 Code is amended by inserting before the period "or to any person by reason of a loan under any qualified employer plan (as defined in section 72(p)(4)) or under any contract referred to in section 72(p)(5)".

(b) PROVISION RELATED TO SECTION 311 OF 1997 ACT.—In the case of any capital gain distribution made after 1997 by a trust to which section 664 of the 1986 Code applies with respect to amounts properly taken into account by such trust during 1997, paragraphs (5)(A)(i)(I), (5)(A)(ii)(I), and (13)(A) of section 1(h) of the 1986 Code (as in effect for taxable years ending on December 31, 1997) shall not apply.

(c) AMENDMENT RELATED TO SECTION 506 OF 1997 ACT.—Section 2001(f)(2) of the 1986 Code is amended by adding at the end the following:

"For purposes of subparagraph (A), the value of an item shall be treated as shown on a return if the item is disclosed in the return, or

in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.".

(d) AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.—

(1) Paragraph (1) of section 9510(c) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for—

"(A) the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on August 5, 1997) for vaccine-related injury or death with respect to any vaccine—

"(i) which is administered after September 30, 1988, and

"(ii) which is a taxable vaccine (as defined in section 4132(a)(1)) at the time compensation is paid under such subtitle 2, or

"(B) the payment of all expenses of administration (but not in excess of $9,500,000 for any fiscal year) incurred by the Federal Government in administering such subtitle.".

(2) Section 9510(b) of the 1986 Code is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON TRANSFERS TO VACCINE INJURY COMPENSATION TRUST FUND.—No amount may be appropriated to the Vaccine Injury Compensation Trust Fund on and after the date of any expenditure from the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.".

(e) AMENDMENTS RELATED TO SECTION 915 OF 1997 ACT.—

(1) Section 915 of the 1997 Act is amended—

(A) in subsection (b), by inserting "or 1998" after "1997", and

(B) by amending subsection (d) to read as follows:

"(d) EFFECTIVE DATE.—This section shall apply to taxable years ending with or within calendar year 1997.".

(2) Paragraph (2) of section 6404(h) of the 1986 Code is amended by inserting "Robert T. Stafford" before "Disaster".

(f) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (2) of section 351(c) of the 1986 Code, as amended by section 6010(c) of the 1998 Act, is amended by inserting ", or the fact that the corporation whose stock was distributed issues additional stock," after "dispose of part or all of the distributed stock".

(2) Clause (ii) of section 368(a)(2)(H) of the 1986 Code, as amended by section 6010(c) of the 1998 Act, is amended by inserting ", or the fact that the corporation whose stock was distributed issues additional stock," after "dispose of part or all of the distributed stock".

(g) PROVISION RELATED TO SECTION 1042 OF 1997 ACT.—Rules similar to the rules of section 1.1502-75(d)(5) of the Treasury Regulations shall apply with respect to any organization described in section 1042(b) of the 1997 Act.

(h) AMENDMENT RELATED TO SECTION 1082 OF 1997 ACT.—Subparagraph (F) of section 172(b)(1) of the 1986 Code is amended by adding at the end the following new clause:

"(iv) COORDINATION WITH PARAGRAPH (2).—For purposes of applying paragraph (2), an eligible loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated."

(i) AMENDMENT RELATED TO SECTION 1084 OF 1997 ACT.—Paragraph (3) of section 264(f) of the 1986 Code is amended by adding at the end the following flush sentence:

"If the amount described in subparagraph (A) with respect to any policy or contract does not reasonably approximate its actual value, the amount taken into account under subparagraph (A) shall be the greater of the amount of the insurance company liability or the insurance company reserve with respect to such policy or contract (as determined for purposes of the annual statement approved by the National Association of Insurance Commissioners) or shall be such other amount as is determined by the Secretary."

(j) AMENDMENT RELATED TO SECTION 1175 OF 1997 ACT.—Subparagraph (C) of section 954(e)(2) of the 1986 Code is amended by striking "subsection (h)(8)" and inserting "subsection (h)(9)".

(k) AMENDMENT RELATED TO SECTION 1205 OF 1997 ACT.—Paragraph (2) of section 6311(d) of the 1986 Code is amended by striking "under such contracts" in the last sentence and inserting "under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A".

(l) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1997 Act to which they relate.

SEC. 404. AMENDMENTS RELATED TO TAX REFORM ACT OF 1984.

(a) IN GENERAL.—Subparagraph (C) of section 172(d)(4) of the 1986 Code is amended to read as follows:

"(C) any deduction for casualty or theft losses allowable under paragraph (2) or (3) of section 165(c) shall be treated as attributable to the trade or business; and".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 67(b) of the 1986 Code is amended by striking "for losses described in subsection (c)(3) or (d) of section 165" and inserting "for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)".

(2) Paragraph (3) of section 68(c) of the 1986 Code is amended by striking "for losses described in subsection (c)(3) or (d) of section 165" and inserting "for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)".

(3) Paragraph (1) of section 873(b) is amended to read as follows:

"(1) LOSSES.—The deduction allowed by section 165 for casualty or theft losses described in paragraph (2) or (3) of section 165(c), but only if the loss is of property located within the United States."

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b)(3) shall apply to taxable years beginning after December 31, 1983.

(2) The amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1986.

(3) The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1990.

SEC. 405. OTHER AMENDMENTS.

(a) AMENDMENTS RELATED TO SECTION 6103 OF 1986 CODE.—

(1) Subsection (j) of section 6103 of the 1986 Code is amended by adding at the end the following new paragraph:

"(5) DEPARTMENT OF AGRICULTURE.—Upon request in writing by the Secretary of Agriculture, the Secretary shall furnish such returns, or return information reflected thereon, as the Secretary may prescribe by regulation to officers and employees of the Department of Agriculture whose official duties require access to such returns or information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the census of agriculture pursuant to the Census of Agriculture Act of 1997 (Public Law 105–113).".

(2) Paragraph (4) of section 6103(p) of the 1986 Code is amended by striking "(j)(1) or (2)" in the material preceding subparagraph (A) and in subparagraph (F) and inserting "(j)(1), (2), or (5)".

(3) The amendments made by this subsection shall apply to requests made on or after the date of the enactment of this Act.

(b) AMENDMENT RELATED TO SECTION 9004 OF TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—

(1) Paragraph (2) of section 9503(f) of the 1986 Code is amended to read as follows:

"(2) notwithstanding section 9602(b), obligations held by such Fund after September 30, 1998, shall be obligations of the United States which are not interest-bearing."

(2) The amendment made by paragraph (1) shall take effect on October 1, 1998.

(c) AMENDMENT RELATED TO TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999.—

(1) The Treasury and General Government Appropriations Act, 1999 is amended by striking section 804 (relating to technical and clarifying amendments relating to judicial retirement program).

(2) The amendment made by paragraph (1) shall take effect as if such section 804 had never been enacted.

(d) CLERICAL AMENDMENTS.—

(1) Clause (i) of section 51(d)(6)(B) of the 1986 Code is amended by striking "rehabilitation plan" and inserting "plan for employment". The reference to "plan for employment" in such clause shall be treated as including a reference to the rehabilitation plan referred to in such clause as in effect before the amendment made by the preceding sentence.

(2) Paragraph (3) of section 56(a) of the 1986 Code is amended by striking "section 460(b)(2)" and inserting "section 460(b)(1)" and by striking "section 460(b)(4)" and inserting "section 460(b)(3)".

(3) Paragraph (10) of section 2031(c) of the 1986 Code is amended by striking "section 2033A(e)(3)" and inserting "section 2057(e)(3)".

(4) Subparagraphs (C) and (D) of section 6693(a)(2) of the 1986 Code are each amended by striking "Section" and inserting "section".

SEC. 406. AMENDMENTS RELATED TO URUGUAY ROUND AGREEMENTS ACT.

(a) INAPPLICABILITY OF ASSIGNMENT PROHIBITION.—Section 207 of the Social Security Act (42 U.S.C. 407) is amended by adding at the end the following new subsection:

"(c) Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this title, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person's representative payee.".

(b) PROPER ALLOCATION OF COSTS OF WITHHOLDING BETWEEN THE TRUST FUNDS AND THE GENERAL FUND.—Section 201(g) of such Act (42 U.S.C. 401(g)) is amended—

(1) by inserting before the period in paragraph (1)(A)(ii) the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee";

(2) by inserting before the period at the end of paragraph (1)(A) the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee";

(3) in paragraph (1)(B)(i)(I), by striking "subparagraph (A)," and inserting "subparagraph (A)) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee,";

(4) in paragraph (1)(C)(iii), by inserting before the period the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee";

(5) in paragraph (1)(D), by inserting after "section 232" the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits as described in section 207(c)"; and

(6) in paragraph (4), by inserting after the first sentence the following: "The Board of Trustees of such Trust Funds shall prescribe the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to benefits paid on or after the first day of the second month beginning after the month in which this Act is enacted.

DESCRIPTION OF PROVISIONS IN S. 2622, THE TAX RELIEF EXTENSION ACT OF 1998

(Prepared by the Staff of the Joint Committee on Taxation)

INTRODUCTION

S. 2622, the Tax (Relief) Extension Act of 1998 ("the Tax Extension Act"), was introduced by Senator WILLIAM V. ROTH, JR., Senator DANIEL PATRICK MOYNIHAN, and others on October 10, 1998.

This document,[1] prepared by the staff of the Joint Committee on Taxation, describes the proposals contained in the Tax Extension Act. Part I of this document contains the expiring provision proposals, Part II contains other proposals, Part III contains a revenue offset proposal, and Part IV contains tax technical corrections.

TITLE I. EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Tax Provisions

A. EXTENSION OF RESEARCH TAX CREDIT (SEC. 101 OF THE BILL AND SEC. 41 OF THE CODE)

Present Law

General rule

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit expired and generally does not apply to amounts paid or incurred after June 30, 1998.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computations is commonly referred to as the "university basic research credit" (see sec. 41(e)).

Computation of allowable credit

Except for certain university basic research payments made by corporations, the research tax credit applies only to the extent that the taxpayer's qualifed research expenditures for current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (so-called "start-up firms") are assigned a fixed-base percentage of 3 percent.[2]

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Alternative incremental research credit regime

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 1.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1 percent (i.e, the base amount equals 1 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 2.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2 percent. A credit rate of 2.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent. An election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years (in the event that the credit subsequently is extended by Congress) unless revoked with the consent of the Secretary of the Treasury.

Eligible expenditures

Qualified research expenditures eligible for the research tax credit consist of: (1) "in-house" expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid by the taxpayer for qualified conducted on the taxpayer's behalf (so-called "contract research expenses").[3]

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and must involve a process of experimentation related to functional aspects, performance, reliability, or quality of a business component.

Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

Relation to deduction

Deductions allowed to a taxpayer under section 174 (or any other section) are reduced by an amount equal to 100 percent of the taxpayer's research tax credit determined for the taxable year. Taxpayers may alternatively elect to claim a reduced research tax credit amount under section 41 in lieu of reducing deductions otherwise allowed (sec. 280C(c)(3)).

Description of Proposal

The bill extends the research tax credit for 12 months—i.e., generally, for the period July 1, 1998, through June 30, 1999.

In extending the credit, the scope of the term "qualified research" is reaffirmed. Section 41 targets the credit to research which is undertaken for the purpose of discovering information which is technological in nature and the application of which is intended to be useful in the development of a new or improved business component of the taxpayer. However, eligibility for the credit does not require that the research be successful—i.e., the research need not achieve its desired result. Moreover, evolutionary research activities intended to improve functionality, performance, reliability, or quality are eligible for the credit, as are research activities intended to achieve a result that has already been achieved by other persons but is not yet within the common knowledge (e.g., freely available to the general public) of the field (provided that the research otherwise meets the requirements of section 41, including not being excluded by subsection (d)(4)).

Activities constitute a process of experimentation, as required for credit eligibility, if they involve evaluation of more than one alternative to achieve a result where the means of achieving the result are uncertain at the outset, even if the taxpayer knows at the outset that it may be technically possible to achieve the result. Thus, even though a researcher may know of a particular method of achieving an outcome, the use of the process of experimentation to effect a new or better method of achieving that outcome may be eligible for the credit (provided that the research otherwise meets the requirements of section 41, including not being excluded by subsection (d)(4)).

Lastly, the lack of clarity in the interpretation of the distinction between internal-

[1] Footnotes at end of article.

use software, the costs of which may be eligible for the credit if additional tests are met, and other software has been observed. The application of the definition of internal-use software should fully reflect Congressional intent.

Effective Date

The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1998, through June 30, 1999.

B. EXTENSION OF THE WORK OPPORTUNITY TAX CREDIT (SEC. 102 OF THE BILL AND SEC. 51 OF THE CODE)

Present Law

In general

The work opportunity tax credit ("WOTC"), which expired on June 30, 1998, was available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified wages. Qualified wages are wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. For a vocational rehabilitation referral, however, the period begins on the day the individual began work for the employer on or after the beginning of the individual's vocational rehabilitation plan.

The maximum credit per employee if $2,400 (40% of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40% of the first $3,000 of qualified first-year wages).

The employer's deduction for wages is reduced by the amount of the credit

Targeted groups eligible for the credit

The eight targeted groups are: (1) families eligible to receive benefits under the Temporary Assistance for Needy Families (TANF) Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

Minimum employment period

No credit is allowed for wages paid to employees who work less than 120 hours in the first year of employment.

Expiration date

The credit is effective for wages paid or incurred to a qualified individual who began work for an employer before July 1, 1998.

Description of Proposal

The proposal extends the work opportunity tax credit, for 12 months, through June 30, 1999.

Effective Date

The proposal is effective for wages paid or incurred to a qualified individual who begins work for any employer on or after July 1, 1998, and before July 1, 1999.

C. EXTENSION OF THE WELFARE-TO-WORK TAX CREDIT (SEC. 103 OF THE BILL AND SEC. 51A OF THE CODE)

Present Law

The Code provides to employers a tax credit on the first $20,000 of eligible wages paid to qualified long-term family assistance (AFDC) or its successor program) recipients during the first two years of employment. The credit is 35 percent of the first $10,000 of eligible wages in the first year of employment and 50 percent of the first $10,000 of eligible wages in the second year of employment. The maximum credit is $8,500 per qualified employee.

Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received family assistance for a total of at least 18 months (whether or not consecutive) after the date of enactment of this credit if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Eligible wages include cash wages paid to an employee plus amounts paid by the employer for the following: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129.

The welfare to work credit is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 1998, and before May 1, 1999.

Description of Proposal

The proposal extends the welfare-to-work credit effective for wages paid or incurred to a qualified individual who begins work for an employer on or after May 1, 1999, and before July 1, 1999.

Effective Date

The proposal is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after May 1, 1999, and before July 1, 1999.

D. EXTEND THE DEDUCTION PROVIDED FOR CONTRIBUTIONS OF APPRECIATED STOCK TO PRIVATE FOUNDATIONS (SEC. 104 OF THE BILL AND SEC. 170(E)(5) OF THE CODE)

Present Law

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair market value of property contributed to a charitable organization.[4] However, in the case of a charitable contribution of short-term gain, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose.

In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpayer's basis in the property. However, under a special rule contained in section 170(e)(5), taxpayers are allowed a deduction equal to the fair market value of "qualified appreciated stock" contributed to a private foundation prior to July 1, 1998. Qualified appreciated stock is defined as publicly traded stock which is capital gain property. The fair-market-value deduction for qualified appreciated stock donations applies only to the extent that total donations made by the donor to private foundations of stock in a particular corporation did not exceed 10 percent of the outstanding stock of that corporation. For this purpose, an individual is treated as making all contributions that were made by any member of the individual's family.

Description of Proposal

The proposal extends the special rule contained in section 170(e)(5) for one year—for contributions of qualified appreciated stock made to private foundations during the period July 1, 1998, through June 30, 1999.

Effective Date

The proposal is effective for contributions of qualified appreciated stock to private foundations made during the period July 1, 1998, through June 30, 1999.

E. EXCEPTIONS UNDER SUBPART F FOR CERTAIN ACTIVE FINANCING INCOME (SEC. 105 OF THE BILL AND SECS. 953 AND 954 OF THE CODE)

Present Law

In general

Under the subpart F rules, certain U.S. shareholders of a controlled foreign corporation ("CFC") are subject to U.S. tax currently on certain income earned by the CFC, whether or not such income is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, "foreign personal holding company income" and insurance income. The U.S. 10-percent shareholders of a CFC also are subject to current inclusion with respect to their shares of the CFC's foreign base company services income (i.e., income derived from services performed for a related person outside the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following: (1) dividends, interest, royalties, rents and annuities; (2) net gains from the sale or exchange of (a) property that gives rise to the preceding types of income, (b) property that does not give rise to income, and (c) interests in trusts, partnerships, and REMICs; (3) net gains from commodities transactions; (4) net gains from foreign currency transactions; (5) income that is equivalent to interest; (6) income from notional principal contracts; and (7) payments in lieu of dividends.

Insurance income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the CFC's country of organization. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other-country risks. Investment income of a CFC that is allocable to any insurance or annuity contract related to risks located outside the CFC's country of organization is taxable as subpart F insurance income (Prop. Treas. Reg. sec. 1.953–1(a)).

Temporary exceptions from foreign personal holding company income and foreign base company services income apply for subpart F purposes for certain income that is derived in the active conduct of a banking, financing, insurance, or similar business.[5] These exceptions (described below) are applicable only for taxable years beginning in 1998.

Income from the active conduct of a banking, financing, or similar business

A temporary exception from foreign personal holding company income applies to income that is derived in the active conduct of

a banking, financing, or similar business by a CFC that is predominantly engaged in the active conduct of such business. For this purpose, income derived in the active conduct of a banking, financing, or similar business generally is determined under the principles applicable in determining financial services income for foreign tax credit limitation purposes. However, in the case of a corporation that is engaged in the active conduct of a banking or securities business, the income that is eligible for this exception is determined under the principles applicable in determining the income which is treated as nonpassive income for purposes of the passive foreign investment company provisions. In this regard, the income of a corporation engaged in the active conduct of banking or securities business that is eligible for this exception is the income that is treated as nonpassive under the regulations proposed under section 1296(b) (as in effect prior to the enactment of the Taxpayer Relief Act of 1997). See Prop. Treas. Reg. secs. 1.1296–4 and 1.1296–6. The Secretary of the Treasury is directed to prescribe regulations applying look-through treatment in characterizing for this purpose dividends, interest, income equivalent to interest, rents and royalties from related persons.

For purposes of the temporary exception, a corporation is considered to be predominantly engaged in the active conduct of banking, financing, or similar business if it is engaged in the active conduct of a banking or securities business or is a qualified bank affiliate or qualified securities affiliate. In this regard, a corporation is considered to be engaged in the active conduct of a banking or securities business if the corporation would be treated as so engaged under the regulations proposed under prior law section 1296(b) (as in effect prior to the enactment of the Taxpayer Relief Act of 1997); qualified bank affiliates and qualified securities affiliates are as determined under such proposed regulations. See Prop. Treas. Reg. secs. 1.1296–4 and 1.1296–6.

Alternatively, a corporation is considered to be engaged in the active conduct of a banking, financing, or similar business if more than 70 percent of its gross income is derived from such business from transactions with unrelated persons located within the country under the laws of which the corporation is created or organized. For this purpose, income derived by a qualified business unit ("QBU") of a corporation from transactions with unrelated persons located in the country in which the QBU maintains its principal office and conducts substantial business activity is treated as derived by the corporation from transactions with unrelated persons located within the country in which the corporation is created or organized. A person other than a natural person is considered to be located within the country in which it maintains an office through which it engages in a trade or business and by which the transaction is effected. A natural person is treated as located within the country in which such person is physically located when such person enters into the transaction.

Income from the active conduct of an insurance business

A temporary exception from foreign personal holding company income applies for certain investment income of a qualifying insurance company with respect to risks located within the CFC's country of creation or organization. These rules differ from the rules of section 953 of the Code, which determines the subpart F inclusions of a U.S. shareholder relating to insurance income of a CFC. Such insurance income under section 953 generally is computed in accordance with the rules of subchapter L of the Code.

A temporary exception applies for income (received from a person other than a related person) from investments made by a qualifying insurance company of its reserves or 80 percent of its unearned premiums. For this purpose, in the case of contracts regulated in the country in which sold as property, casualty or health insurance contracts, unearned premiums and reserves are defined as unearned premiums and reserves for losses incurred determined using the methods and interest rates that would be used if the qualifying insurance company were subject to tax under subchapter L of the Code. Thus, for this purposed, unearned premiums are determined in accordance with section 832(b)(4), and reserves for losses incurred are determined in accordance with section 832(b)(5) and 846 of the Code (as well as any other rules applicable to a U.S. property and casualty insurance company with respect to such amounts).

In the case of a contract regulated in the country in which sold as a life insurance or annuity contract, the following three alternative rules for determining reserves apply. Any one of the three rules can be elected with respect to a particular line of business.

First, reserves for such contracts can be determined generally under the rules applicable to domestic life insurance companies under subchapter L of the Code, using the methods there specified, but substituting for the interest rates in Code section 807(d)(2)(B) an interest rate determined for the country in which the qualifying insurance company was created or organized, calculated in the same manner as the mid-term applicable Federal interest rate ("AFR") (within the meaning of section 1274(d)).

Second, the reserves for such contracts can be determined using a preliminary term foreign reserve method, except that the interest rate to be used is the interest rate determined for the country in which the qualifying insurance company was created or organized, calculated in the same manner as the mid-term AFR. If a qualifying insurance company uses such a preliminary term method with respect to contracts insuring risks located in the country in which the company is created or organized, then such method is the method that applies for purposes of this election.

Third, reserves for such contracts can be determined to be equal to the net surrender value of the contract (as defined in section 807(e)(1)(A).

In no event can the reserve for any contract at any time exceed the foreign statement reserve for the contract, reduced by any catastrophe or deficiency reserve. This rule applies whether the contract is regulated as a property, casualty, health, life insurance, annuity or any other type of contract.

A temporary exception from foreign personal holding company income also applies for income from investment of assets equal to: (1) one-third of premiums earned during the taxable year on insurance contracts regulated in the country in which sold as property, casualty, or health insurance contracts; and (2) the greater of 10 percent of reserves, or, in the case of qualifying insurance company that is a startup company, $10 million. For this purpose, a startup company is a company (including any predecessor) that has not been engaged in the active conduct of an insurance business for more than 5 years. In general, the 5-year period commences when the foreign company first is engaged in the active conduct of an insurance business. If the foreign company was formed before being acquired by the U.S. shareholder, the 5-year period commences when the acquired company first was engaged in the active conduct of an insurance business. In the event of the acquisition of a book of business from another company through an assumption or indemnity reinsurance transaction, the 5-year period commences when the acquiring company first engaged in the active conduct of an insurance business, except that if more than a substantial part (e.g., 80 percent) of the business of the ceding company is acquired, then the 5-year period commences when the ceding company first engaged in the active conduct of an insurance business. Reinsurance transactions among related persons may not be used to multiply the number of 5-year periods.

Under rules prescribed by the Secretary, income is allocated to contracts as follows. In the case of contracts that are separate account-type contracts (including variable contracts not meeting the requirements of sec. 817), only the income specifically allocable to such contracts are taken into account. In the case of other contracts, income not specifically allocable is allocated ratably among such contracts.

A qualifying insurance company is defined as any entity which: (1) is regulated as an insurance company under the laws of the country in which it is incorporated; (2) derived at least 50 percent of its net written premiums from the insurance or reinsurance of risks situated within its country of incorporation; and (3) is engaged in the active conduct of an insurance business and would be subject to tax under subchapter L if it were a domestic corporation.

The temporary exceptions do not apply to investment income (includable in the income of a U.S. shareholder of a CFC pursuant to sec. 953) allocable to contracts that insure related party risks or risks located in a country other than the country in which the qualifying insurance company is created or organized.

Anti-abuse rule

An anti-abuse rule applies for purposes of these temporary exceptions. For purposes of applying these exceptions, items with respect to a transaction or series of transactions are disregarded if one of the principal purposes of the transaction or transactions is to qualify income or gain for these exceptions, including any change in the method of computing reserves or any other transaction or transactions one of the principal purposes of which is the acceleration or deferral of any item in order to claim the benefits of these exceptions.

Foreign base company services income

A temporary exception from foreign base company services income applies for income derived from services performed in connection with the active conduct of a banking, financing, insurance or similar business by a CFC that is predominantly engaged in the active conduct of such business or is a qualifying insurance company.

Description of Proposal

The proposal extends for one year the present-law temporary exceptions from foreign personal holding company income and foreign base company services income for income that is derived in the active conduct of a banking, financing, insurance or similar business.

Effective Date

The proposal applies only to the first full taxable year of a foreign corporation beginning in 1998 and to the taxable year of such corporation immediately following such first full taxable year, and to taxable years of U.S. shareholders with or within which such taxable years of such foreign corporation end. If a foreign corporation does not have such a first full taxable year beginning in 1998, the proposal applies only to the first taxable year of the foreign corporation beginning in 1999, and to taxable years of U.S. shareholders with or within which such taxable year of such foreign corporation ends.

F. EXTEND PLACED IN SERVICE DATE FOR CERTAIN NONCONVENTIONAL FUELS FACILITIES (SEC. 106 OF THE BILL AND SEC. 29 OF THE CODE)

Present Law

Under present law, certain fuels produced from "nonconventional sources" and sold to unrelated parties are eligible for an inflation-adjusted income tax credit (equal to $6.10 in 1997) per barrel of oil or British Thermal Unit barrel oil equivalent. The credit is available for qualified fuels produced through December 31, 2007, by coal or biomass facilities placed in service before July 1, 1998, pursuant to a binding written contract in effect before January 1, 1997.

Description of Proposal

The proposal extends the placed in service date, but not the binding contract date, for facilities producing nonconventional fuels from coal and biomass through June 30, 1999.

Effective Date

This proposal is effective on the date of enactment (i.e., applies to facilities placed in service after June 30, 1998 and before July 1, 1999).

G. DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF EDUCATION IN CONNECTION WITH INCOME CONTINGENT LOANS (SEC. 107 OF THE BILL AND SEC. 6103(l)(13) OF THE CODE)

Present Law

Under section 6103(l)(13) of the Code, the Secretary of the Treasury was authorized to disclose to the Department of Education certain return information with respect to any taxpayer who has received an "applicable student loan." An "applicable student loan" is any loan made under (1) part D of title IV of the Higher Education Act of 1965 or (2) parts B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education, if the loan repayment amounts are based in whole or in part on the taxpayer's income. The Secretary is permitted to disclose only taxpayer identity information and the adjusted gross income of the taxpayer. The Department of Education may use the information only to establish the appropriate income contingent repayment amount for an applicable student loan.

The disclosure authority under section 6103(l)(13) terminated with respect to requests made after September 30, 1998.

Description of Proposal

The provision reinstates the disclosure authority under section 6103(l)(13) with respect to requests made after the date of enactment and before October 1, 2004.

Effective Date

The disclosure authority under section 6103(l)(13) applies to requests made after the date of enactment and before October 1, 2004.

Subtitle B—Trade Provisions

A. EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES (SEC. 111 OF THE BILL AND SEC. 505 OF THE TRADE ACT OF 1974)

Present Law

Title V of the Trade Act of 1974, as amended, grants authority to the President to provide duty-free treatment on imports of certain articles from beneficiary developing countries subject to certain conditions and limitations. To qualify for GSP privileges, each beneficiary country is subject to various mandatory and discretionary eligible criteria. Import sensitive products are ineligible for GSP. The GSP program, which is designed to promote development through trade rather than traditional aid programs, expired after June 30, 1998.

Description of Proposal

The proposal reauthorizes the GSP program to terminate after December 31, 1999. Refunds are authorized, upon request of the importer, for duties paid between July 1, 1998, and the date of enactment of the bill.

Effective Date

The proposed is effective for duties paid on or after July 1, 1998, and before December 31, 1999.

B. EXTENSION OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM (SEC. 112 OF THE BILL AND SEC. 245 OF THE TRADE ACT OF 1974)

Present Law

Title II of the Trade Act of 1974, as amended, authorizes three trade adjustment assistance (TAA) programs for the purpose of providing assistance to individual workers and firms that are adversely affected by the reduction of barriers to foreign trade. Those programs include—

(1) The general TAA program for workers provides training and income support for workers adversely affected by import competition.

(2) The TAA program for firms provides technical assistance by qualifying firms.

(3) The third program, the North American Free Trade Agreement ("NAFTA") program for workers (established by the North American Free Trade Agreement Implementation Act of 1993) provides training and income support for workers adversely affected by trade with or production shifts to Canada and/or Mexico.

All three TAA programs expired on September 30, 1998. The TAA program for firms is also subject to annual appropriations.

Description of Proposal

The proposal reauthorizes each of the three TAA programs through June 30, 1999.

Effective Date

The proposal is effective on the date of enactment.

TITLE II. OTHER TAX PROVISIONS

A. INCREASE DEDUCTION FOR HEALTH INSURANCE EXPENSES OF SELF-EMPLOYED INDIVIDUALS (SEC. 201 OF THE BILL AND SEC. 162(L) OF THE CODE)

Present Law

Under present law, self-employed individuals are entitled to deduct a portion of the amount paid for health insurance for the self-employed individual and the individual's spouse and dependents. The deduction for health insurance expenses of self-employed individuals is not available for any month in which the taxpayer is eligible to participate in a subsidized health plan maintained by the employer of the taxpayer or the taxpayer's spouse. The deduction is available in the case of self insurance as well as commercial insurance. The self-insured plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement.

The portion of health insurance expenses of self-employed individuals that is deductible is 45 percent for taxable years beginning in 1998 and 1999, 50 percent for taxable years beginning in 2000 and 2001, 60 percent for taxable years beginning in 2002, 80 percent for taxable years beginning in 2003, 2004, and 2005, 90 percent for taxable years beginning in 2006, and 100 percent for taxable years beginning in 2007 and thereafter.

Under present law, employees can exclude from income 100 percent of employer-provided health insurance.

Description of Proposal

The proposal increases the deduction for health insurance of self-employed individuals to 70 percent for taxable years beginning in 2001 and to 100 percent for taxable years beginning in 2002 and thereafter.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2000.

B. FARM PRODUCTION FLEXIBILITY CONTRACT PAYMENTS (SEC. 202 OF THE BILL)

Present Law

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under the taxpayer's method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount whether or not the taxpayer makes the demand and actually receives the payment.

The Federal Agriculture Improvement and Reform Act of 1996 (the "FAIR Act") provides for production flexibility contracts between certain eligible owners and producers and the Secretary of Agriculture. These contracts generally cover crop years from 1996 through 2002. Annual payments are made under such contracts at specific times during the Federal government's fiscal year. Section 112(d)(2) of the FAIR Act provides that one-half of each annual payment is to be made on either December 15 or January 15 of the fiscal year, at the option of the recipient.[6] This option to receive the payment on December 15 potentially results in the constructive receipt (and thus potential inclusion in income) of one-half of the annual payment at that time, even if the option to receive the amount on January 15 is elected.

The remaining one-half of the annual payment must be made no later than September 30 of the fiscal year. The Emergency Farm Financial Relief Act of 1998 added section 112(d)(3) to the FAIR Act which provides that all payments for fiscal year 1999 are to be paid at such time or times during fiscal year 1999 as the recipient may specify. Thus, the one-half of the annual amount that would otherwise be required to be paid no later than September 30, 1999 can be specified for payment in calendar year 1998. This potentially results in the constructive receipt (and thus required inclusion in taxable income) of such amounts in calendar year 1998, whether or not the amounts actually are received or the right to their receipt is fixed.

Description of Proposal

The time a production flexibility contract payment under the FAIR Act properly is includable in income is determined without regard to the options granted by section 112(d)(2) (allowing receipt of one-half of the

annual payment on either December 15 or January 15 of the fiscal year) or section 112(d)(3) (allowing the acceleration of all payments for fiscal year 1999) of that Act.

Effective Date

The proposal is effective for production flexibility contract payments made under the FAIR Act in taxable years ending after December 31, 1995.

C. PERMANENT EXTENSION OF INCOME AVERAGING FOR FARMERS (SEC. 203 OF THE BILL AND SEC. 1301 OF THE CODE)

Present Law

An individual engaged in a farming business may elect to compute his or her current year tax liability by averaging, over the prior three-year period, all or a portion of the taxable income that is attributable to the farming business.

In general, an individual who makes the election (1) designates all or a portion of his or her taxable income attributable to any farming business from the current year as "elected farm income;"[7] (2) allocates one-third of the elected farm income to each of the three prior taxable years; and (3) determines the current year section 1 tax liability by combining (a) his or her current year section 1 tax liability excluding the elected farm income allocated to the three prior taxable years, plus (b) the increases in the section 1 tax liability for each of the three prior taxable years caused by including one-third of the elected farm income in each such year. Any allocation of elected farm income pursuant to the election applies for purposes of any election in a subsequent taxable year.

The provision does not apply for employment tax purposes, or to an estate or a trust. The provision also does not apply for purposes of the alternative minimum tax. The provision is effective for taxable years beginning after December 31, 1997, and before January 1, 2001.

Description of Proposal

The proposal permanently extends the income averaging provision for farmers.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2000.

D. PERSONAL CREDITS FULLY ALLOWED AGAINST REGULAR TAX LIABILITY DURING 1998 (SEC. 204 OF THE BILL AND SEC. 26 OF THE CODE)

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, and the D.C. homebuyer's credit). Generally, these credits are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax (determined without regard to the AMT foreign tax credit).

The tentative minimum tax is an amount equal to (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) $45,000 in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 in the case of other unmarried individuals; and (3) $22,500 in the case of married individuals filing a separate return, estates and trusts. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

For families with three or more qualifying children, an additional child credit is provided which may offset the liability for social security taxes to the extent that tax liability exceeds the amount of the earned income credit. The additional child credit is reduced by the amount of the individual's minimum tax liability (i.e., the amount by which the tentative minimum tax exceeds the regular tax liability).

Description of Proposal

The proposal allows the nonrefundable personal credits to offset the individual's regular tax in full for taxable years beginning in 1998 (as opposed to only the amount by which the regular tax exceeds the tentative minimum tax, as under present law).

The provision of present law that reduces the additional child credit by the amount of an individual's AMT will not apply for taxable years beginning in 1998.

Effective Date

The proposal is effective for taxable years beginning in 1998.

TITLE III. REVENUE OFFSET PROVISION

A. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS (SEC. 301 OF THE BILL AND SECS. 332 AND 334 OF THE CODE)

Present Law

Regulated investment companies ("RICs") and real estate investment trusts ("REITs") are allowed a deduction for dividends paid to their shareholders. The deduction for dividends paid includes amounts distributed in liquidation which are properly chargeable to earnings and profits, as well as, in the case of a complete liquidation occurring within 24 months after the adoption of a plan of complete liquidation, any distribution made pursuant to such plan to the extent of earnings and profits. Rules that govern the receipt of dividends from RICs and REITs generally provide for including the amount of the dividend in the income of the shareholder receiving the dividend that was deducted by the RIC or REIT. Generally, any shareholder realizing gain from a liquidating distribution of a RIC or REIT includes the amount of gain in the shareholder's income. However, in the case of a liquidating distribution to a corporation owning 80-percent of the stock of the distributing corporation, a separate rule generally provides that the distribution is tax-free to the parent corporation. The parent corporation succeeds to the tax attributes, including the adjusted basis of assets, of the distributing corporation. Under these rules, a liquidating RIC or REIT might be allowed a deduction for amounts paid to its parent corporation, without a corresponding inclusion in the income of the parent corporation, resulting in income being subject to no tax.

A RIC or REIT may designate a portion of a dividend as a capital gain dividend to the extent the RIC or REIT itself has a net capital gain, and a RIC may designate a portion of the dividend paid to a corporate shareholder as eligible for the 70-percent dividends-received deduction to the extent the RIC itself received dividends from other corporations. If certain conditions are satisfied, a RIC also is permitted to pass through to its shareholders the tax-exempt character of the RIC's net income from tax-exempt obligations through the payment of "exempt interest dividends," though no deduction is allowed for such dividends.

Description of Proposal

Any amount which a liquidating RIC or REIT may take as a deduction for dividends paid with respect to an otherwise tax-free liquidating distribution to an 80-percent corporate owner is includible in the income of the recipient corporation. The includible amount is treated as a dividend received from the RIC or REIT. The liquidating corporation may designate the amount distributed as a capital gain dividend or, in the case of a RIC, a dividend eligible for the 70-percent dividends received deduction or an exempt interest dividend, to the extent provided by the RIC or REIT provisions of the Code.

The provision does not otherwise change the tax treatment of the distribution to the parent corporation or to the RIC or REIT. Thus, for example, the liquidating corporation will not recognize gain (if any) on the liquidating distribution and the recipient corporation will hold the assets at a carryover basis, even where the amount received is treated as a dividend.

Effective Date

The provision is effective for distributions on or after May 22, 1998, regardless of when the plan of liquidation was adopted.

No inference is intended regarding the treatment of such transactions under present law.

TITLE IV. TAX TECHNICAL CORRECTIONS

Except as otherwise provided, the technical corrections contained in the bill generally are effective as if included in the originally enacted related legislation.

A. TECHNICAL CORRECTIONS TO THE 1998 ACT

1. Burden of proof (sec. 402(b) of the bill, sec. 3001 of the 1998 Act, and sec. 7491(a)(2)(C) of the Code)

Present Law

The Treasury Secretary has the burden of proof in any court proceeding with respect to a factual issue if the taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the taxpayer's tax liability, provided specified conditions are satisfied (sec. 7491). One of these conditions if that corporations, trust, and partnerships must meet certain net worth limitations. These net worth limitations do not apply to individuals or to estates.

Description of Proposal

The proposal removes that net worth limitation from certain revocable trusts for the same period of time that the trust would have been treated as part of the estate had the trust made the election under section 645 to be treated as part of the estate.

2. Relief for innocent spouses (sec. 402(c) of the bill, sec. 3201 of the 1998 Act, and secs. 6015(e) and 7421(a) of the Code)

Present Law

A taxpayer who is no longer married to, is separated from, or has been living apart for at least 12 months from the person with whom he or she originally joined in filing a joint Federal income tax return may elect to limit his or her liability for a deficiency arising from such joint return to the amount

of the deficiency that is attributable to items that are allocable to such electing spouse. The election is limited to deficiency situations and only affects the amount of the deficiency for which the electing spouse is liable. Thus, the election cannot be used to generate a refund, to direct a refund to one spouse or the other, or to allocate responsibility for payment where a balance due is reported on, but not paid with, a joint return.

In addition to the election to limit the liability for deficiencies, a taxpayer may be eligible for innocent spouse relief. Innocent spouse relief allows certain taxpayers who joined in the filing of a joint return to be relieved of liability for an understatement of tax that is attributable to items of the other spouse to the extent that the taxpayer did not know or have reason to know of the understatement. The Secretary is also authorized to provide equitable relief in situations where, taking into account all of the facts and circumstances, it is inequitable to hold an individual responsible for all or part of any unpaid tax or deficiency arising from a joint return. Under certain circumstances, it is possible that a refund could be obtained under this authority.

Description of Proposal

The proposal clarifies that the ability to obtain a credit or refund of Federal income tax is limited to situations where the taxpayer qualifies for innocent spouse relief or where the Secretary exercises his authority to provide equitable relief.

3. Interest netting (sec. 402(d) of the bill and sec. 3301(c)(2) of the 1998 Act)

Present Law

For calendar quarters beginning after July 22, 1998, a net interest rate of zero applies where interest is payable and allowable on equivalent amounts of overpayment and underpayment of any tax imposed by the Internet Revenue Code. In addition, the net interest rate of zero applies to periods on or before July 22, 1998, providing (1) the statute of limitations has not expired with respect to either the underpayment or overpayment, (2) the taxpayer identifies the periods of underpayment and overpayment where interest is payable and allowable for which the net interest rate of zero would apply, and (3) on or before December 31, 1999, the taxpayer asks the Secretary to apply the net zero rate.

Description of Proposal

The proposal restores language originally included in the Senate amendment that clarifies that the applicability of the zero net interest rate for periods on or before July 22, 1998 is subject to any applicable statute of limitations not having expired with regard to either a tax underpayment or overpayment.

4. Effective date for elimination of 18-month holding period for capital gains (sec. 402(i) of the bill, sec. 5001 of the 1998 Act, and sec. 1(h) of the Code)

Present Law

The 1998 Act repealed the provision in the 1997 Act providing a maximum 28-percent rate for the long-term capital gain attributable to property held more than one year but not more than 18 months. Instead, the 1998 Act treated this gain in the same manner as gain from property held more than 18 months. The provision in the 1998 Act is effective for amounts properly taken into account after December 31, 1997. For gains taken into account by a pass-thru entity, such as a partnership, S corporation, trust, estate, RCI or REIT, the date that the entity properly took the gain into account is the appropriate date in applying this provision. Thus, for example, amounts properly taken into account by a pass-thru entity after July 28, 1997, and before January 1, 1998, with respect to property held more than one year but not more than 18 months which are included in income on an individual's 1998 return are taken into account in computing 28-percent rate gain.

Description of Proposal

Under the proposal, in the case of a capital gain dividend made by a RIC or REIT after 1997, no amount will be taken into account in computing the net gain or loss in the 28-percent rate gain category by reason of property being held more than one year but not more than 18 months, other than amounts taken into account by the RIC or REIT from other pass-thru entities (other than in structures, such as a "master-feeder structure", in which the RIC invests a substantial portion of its assets in one or more partnerships holding portfolio securities and having the same taxable year as the RIC). A similar rule applies to amounts properly taken into account by a RIC or REIT by reason of holding, directly or indirectly, an interest in another RIC or REIT to which the rule in the preceding sentence applies.

For example, if a RIC sold stock held more than one year but not more than 18 months on November 15, 1997, for a gain, and makes a capital gain dividend in 1998, the gain is not taken into account in computing 28-percent rate gain for purposes of determining the taxation of the 1998 dividend. (Thus, all the netting and computations made by the RIC need to be redone with respect to all post-1997 capital gain dividends, whether or not dividends of 28-percent rate gain.) If, however, the gain was taken into account by a RIC by reason of holding an interest in a calendar year 1997 partnership which itself sold the stock, the gain will not be recharacterized by reason of this proposal (unless the RIC's investment in the partnership satisfies the exception for master-feeder structures). If the gain was taken into account by a RIC by reason of holding an interest in a REIT and the gain was excluded from 28-percent rate gain by reason of the application of this proposal to the REIT, the gain will be excluded from 28-percent rate gain in determining the tax of the RIC shareholders.

The proposal also corrects a cross reference.

B. TECHNICAL CORRECTIONS TO THE 1997 ACT

1. Treatment of interest on qualified education loans (sec. 403(a) of the bill, sec. 202 of the 1997 Act, and secs. 221 and 163(h) of the Code)

Present Law

Present law, as modified by the 1997 Act, provides that certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for such interest expense, up to a maximum dollar amount per year ($1,000 for taxable years beginning in 1998), subject to certain requirements (sec. 221). The maximum deduction is phased out ratably for individual taxpayers with modified AGI between $40,000 and $55,000 ($60,000 and $75,000 for joint returns). Present law also provides that in the case of a taxpayer other than a corporation, no deduction is allowed for personal interest (sec. 163(h)). For this purpose, personal interest means any interest allowable as a deduction, other than certain types of interest listed in the statute. This proposal does not specifically provide that otherwise deductible qualified education loan interest is not treated as personal interest.

Present law provides that a qualified education loan does not include any indebtedness owed to a person who is related (within the meaning of sec. 267(b) or 707(b)) to the taxpayer (sec. 221(e)(1)).

Description of Proposal

The proposal clarifies that otherwise deductible qualified education loan interest is not treated as nondeductible personal interest.

The proposal also clarifies that, for purposes of section 221, modified AGI is determined after application of section 135 (relating to income from certain U.S. savings bonds) and section 137 (relating to adoption assistance programs).

The proposal also provides that a qualified education loan does not include any indebtedness owed to any person by reason of a loan under any qualified employer plan (as defined in section 72(p)(4)) or under any contract purchased under a qualified employer plan (as described in sec. 72(p)(5)).

2. Capital gain distributions of charitable remainder trusts (secs. 402(i)(3) and 403(b) of the bill, sec. 311 of the 1997 Act and sec. 5001 of the 1998 Act, and sec. 1(h) of the Code)

Present Law

Under present law, the income beneficiary of a charitable remainder trust ("CRT") includes the trust's capital gain in income when the gains are distributed to the beneficiary (sec. 664(b)(2)). Internal Revenue Service Notice 98-20 provides guidance with respect to the categorization of long-term gain distributions from a CRT under the capital gain rules enacted by the 1997 Act. Under the Notice, long-term capital gains properly taken into account by the trust before January 1, 1997, are treated as falling in the 20-percent group of gain (i.e., gain not in the 28-percent rate gain or unrecaptured sec. 1250 gain). Long-term capital gains properly taken into account by the trust after December 31, 1996, and before May 7, 1997, are included in 28-percent rate gain. Long-term capital gains properly taken into account by the trust after May 6, 1997, are treated as falling into the category which would apply if the trust itself were subject to tax.

Description of Proposal

The proposal provides that, in the case of a capital gain distribution by a CRT after December 31, 1997, with respect to amounts properly taken into account by the trust during 1997, amounts will not be included in the 28-percent rate gain category solely by reason of being properly taken into account by the trust before May 7, 1997, or by reason of the property being held not more than 18 months. Thus, for example, gain on the sale of stock by a CRT on February 1, 1997, will not be taken into account in determining 28-percent rate gain where the gain is distributed after 1997.[8]

Effective Date

The proposal applies to taxable years beginning after December 31, 1997.

3. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations (sec. 403(c) of the bill, sec. 504 of the 1997 Act, and sec. 2001(f)(2) of the Code)

Present Law

Basic structure of Federal estate and gift taxes.—The Federal estate and gift taxes are unified so that a single progressive rate schedule is applied to an individual's cumulative gifts and bequests. The tax on gifts made in a particular year is computed by determining the tax on the sum of the taxable gifts made in that year and in all prior years

and then subtracting the tax on the prior years taxable gifts and the unified credit. Similarly, the estate tax is computed by determining the tax on the sum of the taxable estate and prior taxable gifts and then subtracting the tax on taxable gifts, the unified credit, and certain other credits.

This structure raises two different, but related, issues: (1) what is the period beyond which additional gift taxes cannot be assessed or collected—generically referred to as the "period of limitations"—and (2) what is the period beyond which the amount of prior transfers cannot be revalued for the purpose of determining the amount of tax on subsequent transfers.

Gift and estate tax period of limitations.—Section 6501(a) provides the general rule that any tax (including gift and estate tax) must be assessed, or a proceeding begun in a court for the collection of such tax without assessment, within three years after the return is filed by the taxpayer. Under section 6501(e)(2), the period for assessments of gift or estate tax is increased to six years where there is more than a 25 percent omission in the amount of the total gifts or gross estate disclosed on the gift or estate tax return. Section 6501(c)(9) provides an exception to these rules under which gift tax may be assessed, or a proceeding in a court for collection of gift tax may be begun, at any time unless the gift is disclosed on a gift tax return or a statement attached to a gift tax return.

Revaluation of gifts for estate tax purposes.—The value of a gift is its value as finally determined under the rules for purposes of determining the applicable estate tax bracket and available unified credit. The value of a gift is finally determined if (1) the value of the gift is shown on a gift tax return for that gift and that value is not contested by the Treasury Secretary before the expiration of the period of limitations on assessment of gift tax even where the value of the gift as shown on the return does not result in any gift tax being owned (e.g., through use of the unified credit), (2) the value is specified by the Treasury Secretary pursuant to a final notice of redetermination of value (a "final notice") within the period of limitations applicable to the gift for gift tax purposes (generally, three years) and the taxpayer does not timely contest that value, or (3) the value is determined by a court or pursuant of a settlement agreement between the taxpayer and the Treasury Secretary under an administrative appeals process whereby a taxpayer can challenge a redetermination of value by the IRS prior to issuance of a final notice. In the event the taxpayer and the IRS cannot agree on the value of a gift, the 1997 Act provided the U.S. Tax Court with jurisdiction to issue a declaratory judgment on the value of a gift (section 7477). A taxpayer who is mailed a final notice may challenge the redetermined value of the gift (as contained in the final notice) by filing a motion for a declaratory judgment with the U.S. Tax Court. The motion must be filed on or before 90 days from the date that the final notice was mailed. The statute of limitations is tolled during the pendency of the Tax Court proceeding.

Revaluation of gifts for gift tax purposes.—Similarly, under a rule applicable to the computation of the gift tax (sec. 2504(c)), the value of gifts made in prior years is its value as finally determined if the period of limitations for assessment of gift tax on the prior gifts has expired.

Description of Proposal

The bill clarifies the rules relating to revaluations of prior transfers for computation of the estate or gift tax to provide that the value of a prior transfer cannot be redetermined after the period of limitations if the transfer was disclosed in a statement attached to the gift tax return, as well as on a gift tax return, in a manner to adequately apprise the Treasury Secretary of the nature the transfer, even if there was no gift tax imposed on that transfer.

4. Coordinate Vaccine Injury Compensation Trust Fund expenditure purposes with list of taxable vaccines (sec. 403(d) of the bill, sec. 904 of the 1997 Act, and sec. 9510(c) of the Code)

Present Law

A manufacturer's excise tax is imposed on certain vaccines routinely recommended for administration to children (sec. 4131). The tax is imposed at a rate of $0.75 per dose on any listed vaccine component. Taxable vaccine components are vaccines against diphtheria, tetanus, pertussis, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, and varicella (chicken pox). Tax was imposed on vaccines against diphtheria, tetanus, pertussis, measles, mumps, rubella, and polio by the Omnibus Budget Reconciliation Act of 1987. Tax was imposed on vaccines against HIB, hepatitis B, and varicella by the 1997 Act.

Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund ("Vaccine Trust Fund") to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. Present law provides that payments from the Vaccine Trust Fund may be made only for vaccines eligible under the program as of December 22, 1987 (sec. 9510(c)(1)). Thus, payments may not be made for injuries related to the HIB, hepatitis B or varicella vaccines.

Description of Proposal

The proposal provides that payments are permitted from the Vaccine Trust Fund for injuries related to the administration of the HIB, hepatitis B, and varicella vaccines. The proposal also clarifies that expenditures from the Vaccine Trust Fund may occur only as provided in the Code and makes conforming amendments.

5. Abatement of interest by reason of Presidentially declared disaster (sec. 403(e) of the bill, sec. 915 of the 1997 Act, and sec. 6404(h) of the Code)

Present Law

The Taxpayer Relief Act of 1997 ("1997 Act") provided that, if the Secretary of the Treasury extends the filing date of an individual tax return for 1997 for individuals living in an area that has been declared a disaster area by the President during 1997, no interest shall be charged as a result of the failure of an individual taxpayer to file an individual tax return, or pay the taxes shown on such return, during the extension.

The Internal Revenue Service Restructuring and Reform Act of 1998 ("1998 Act") contains a similar rule applicable to all taxpayers for tax years beginning after 1997 for disasters declared after 1997. The status of disasters declared in 1998 but that relate to the 1997 tax year is unclear.

Description of Proposal

The proposal amends the 1997 Act rule so that it is available for disasters declared in 1997 or in 1998 with respect to the 1997 tax year.

6. Treatment of certain corporate distributions (sec. 403(f) of the bill, sec. 1012 of the 1997 Act, and secs. 351(c) and 368(a)(2)(H) of the Code)

Present Law

The 1997 Act (sec. 1012(a)) requires a distributing corporation to recognize corporate level gain on the distribution of stock of a controlled corporation under section 355 of the Code if, pursuant to a plan or series of related transactions, one or more persons acquire a 50-percent or greater interest (defined as 50 percent or more of the voting power or value of the stock) of either the distributing or controlled corporation (Code sec. 355(e)). Certain transactions are excepted from the definition of acquisition for this purpose. Under the technical corrections included in the Internal Revenue Service Restructuring and Reform Act of 1998, in the case of acquisitions under section 355(e)(3)(A)(iv), the acquisition of stock in the distributing corporation or any controlled corporation is disregarded to the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease.[9]

In the case of a 50-percent or more acquisition of either the distributing corporation or the controlled corporation, the amount of gain recognized is the amount that the distributing corporation would have recognized had the stock of the controlled corporation been sold for fair market value on the date of the distribution. No adjustment to the basis of the stock or assets of either corporation is allowed by reason of the recognition of the gain.[10]

The 1997 Act (as amended by the technical corrections contained in the Internal Revenue Service Restructuring and Reform Act of 1998) also modified certain rules for determining control immediately after a distribution in the case of certain divisive transactions in which a controlled corporation is distributed and the transaction meets the requirements of section 355. In such cases, under section 351 and modified section 368(a)(2)(H) with respect to reorganizations under section 368(a)(1)(D), the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account.

The effective date (Act section 1012(d)(1)) states that the relevant provisions of the 1997 Act apply to distributions after April 16, 1997, pursuant to a plan (or series of related transactions) which involves an acquisition occurring after such date (unless certain transition provisions apply).

Description of Proposal

The proposal clarifies the "control immediately after" requirement of section 351(c) and section 368(a)(2)(H) in the case of certain divisive transactions in which a corporation contributes assets to a controlled corporation and then distributes the stock of the controlled corporation in a transaction that meets the requirements of section 355 (or so much of section 356 as related to section 355). In such cases, not only the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock, but also the fact that the corporation whose stock was distributed issues additional stock, shall not be taken into account.

7. Treatment of affiliated group including formerly tax-exempt organization (sec. 403(g) of the bill and sec. 1042 of the 1997 Act)

Present Law

Present law provides that an organization described in sections 501(c) (3) or (4) of the

Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance. When this rule was enacted in 1986, certain treatment applied to Blue Cross and Blue Shield organizations providing health insurance that were submitted to this rule and that met certain requirements. Treasury regulations were promulgated providing rules for filing consolidated returns for affiliated groups including such organizations (Treas. Reg. sec. 1.1502–75(d)(5)).

The 1997 act repealed the grandfather rules provided in 1986 (permitting the retention of tax-exempt status) that were applicable to that portion of the business of the Teachers Insurance Annuity Association and College Retirement Equities Fund which is attributable to pension business and to the portion of the business of Mutual of America which is attributable to pension business. The 1997 Act did not specifically provide rules for filing consolidated returns for affiliated groups including such organizations.

Present law with respect to consolidated returns provides for an election to treat a life insurance company as an includable corporation, and also provides that a life insurance company may not be treated as an includable corporation for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed (sec. 1504(c)(2)). Present law also provides that a corporation that is exempt from taxation under Code section 501 is not an includable corporation (sec. 1504(b)(1)).

Description of Proposal

The proposal provides rules for filing consolidated returns for affiliated groups including any organization with respect to which the grandfather rule under Code section 501(m) was repealed by section 1042 of the 1997 Act. The proposal provides that rules similar to the rules of Treasury Regulation section 1.1502–75(d)(5) apply in the case of such an organization. Thus, an affiliated group including such an organization may make the election described in section 1504(c)(2) (relating to a 5-year period) without regard to whether the organization was previously exempt from tax under Code section 501.

8. Treatment of net operating losses arising from certain eligible losses (sec. 403(h) of the bill, sec. 1082 of the 1997 Act, and sec. 172(b)(1)(F) of the Code)

Present Law

The 1997 Act changed the general net operating loss ("NOL") carryback period of a taxpayer from three years to two years. The three-year carryback period was retained in the case of an NOL attributable to an eligible loss. An eligible loss is defined as (1) a casualty or theft loss of an individual taxpayer, or (2) an NOL attributable to a Presidentially declared disaster area by a taxpayer engaged in a farming business or a small business. Other special rules apply to real estate investment trusts (REITs) (no carrybacks), specified liability losses (10-year carryback), and excess interest losses (no carrybacks).

Description of Proposal

The proposal coordinates the use of eligible losses with the general rule for NOLs in the same manner as a loss arising from a specified liability loss. Thus, an eligible loss for any year is treated as a separate net operating loss and is taken into account after the remaining portion of the net operating loss for the taxable year.

9. Determination of unborrowed policy cash value under COLI pro rata interest disallowance rules (sec. 403(i) of the bill, sec. 1084 of the 1997 Act, and sec. 246(f) of the Code)

Present Law

In the case of a taxpayer other than a natural person, no deduction is allowed for the portion of the taxpayer's interest expense that is allocable to unborrowed policy cash surrender values with respect to any life insurance policy or annuity or endowment contract issued after June 8, 1997. Interest expense is allocable to unborrowed policy cash values based on the ratio of (1) the taxpayer's average unborrowed policy cash values of life insurance policies and annuity and endowment contracts, issued after June 8, 1997, to (2) the sum of (a) in the case of assets that are life insurance policies or annuity or endowment contracts, the average unborrowed policy cash values and (b) in the case of other assets the average adjusted bases for all such other assets of the taxpayer. The unborrowed policy cash values means the cash surrender value of the policy or contract determined without regard to any surrender charge, reduced by the amount of any loan with respect to the policy or contract. The cash surrender value is to be determined without regard to any other contractual or noncontractual arrangement that artificially depresses the unborrowed policy cash value of a contract.

Description of Proposal

The proposal clarifies the meaning of "unborrowed policy cash value" under section 264(f)(3), with respect to any life insurance, annuity or endowment contract. The technical correction clarifies that under section 264(f)(3), if the cash surrender value (determined without regard to any surrender charges) with respect to any policy or contract does not reasonably approximate its actual value, then the amount taken into account for this purpose is the greater of (1) the amount of the insurance company's liability with respect to the policy or contract, as determined for purposes of he annual statement approved by the National Association of Insurance Commissioners, (2) the amount of the insurance company's reserve with respect to the policy or contract for purposes of such annual statement; or such other amount as is determined by the Treasury Secretary. No inference is intended that such amounts may not be taken into account in determining the cash surrender value of a policy or contract in such circumstances for purposes of any other provision of the Code.

10. Payment of taxes by commercially acceptable means (sec. 403(k) of the bill, sec. 1205 of the 1997 Act, and sec. 6311 (d)(2) of the Code)

Present Law

The Code generally permits the payment of taxes by commercially acceptable means (such as credit cards) (sec. 6311(d)). The Treasury Secretary may not pay any fee or provide any other consideration in connection with this provision. This fee prohibition may have an unintended impact on Treasury contracts for the provision of services unrelated to the payment of income taxes by commercially acceptable means.

Description of Proposal

The proposal clarifies that the prohibition on paying any fees or providing any other consideration applies to the use of credit, debit, or charge cards for the payment of income taxes.

C. TECHNICAL CORRECTIONS TO THE 1984 ACT

1. Casualty loss deduction (sec. 404 of the bill, sec. 711(c) of the 1984 Act, and secs. 172(d)(4), 67(b)(3), 68(c)(3), and 873(b) of the Code)

Present Law

The Tax Reform Act of 1984 ("1984 Act") deleted casualty and theft losses from property connected with a nonbusiness transaction entered into for profit from the list of losses set forth in section 165(c)(3). This amendment was made in order to provide that these losses were deductible in full and not subject to the $100 per casualty limitation or the 10-percent adjusted gross income floor applicable to personal casualty losses. However, the amendment inadvertently eliminated the deduction for these losses from the computation of the net operating loss. Also, the Tax Reform Act of 1986 provided that casualty losses described in section 165(c)(3) are not miscellaneous itemized deductions subject to the 2-percent adjusted gross income floor, and the Revenue Reconciliation Act of 1990 provided that these losses are not treated as itemized deductions in computing the overall limitation on itemized deductions. The losses of nonresident aliens are limited to deductions described in section 165(c)(3). Because of the change made by the 1984 Act, the reference to section 165(c)(3) does not include casualty and theft losses from nonbusiness trans-Actions entered into for profit.

Description of Proposal

The proposal provides that all deductions for nonbusiness casualty and theft losses are taken into account in computing the net operating loss. Also, these deductions are not treated as miscellaneous itemized deductions subject to the 2-percent adjusted gross income floor, or as itemized deductions subject to the overall limitation on itemized deductions, and are allowed to nonresident aliens.

Effective Dates

The proposal relating to the net operating loss and the deduction for nonresident aliens applies to taxable years beginning after December 31, 1983.

The proposal relating to miscellaneous itemized deduction applies taxable years beginning after December 31, 1986.

The proposal relating to the overall limitation on itemized deductions applies to taxable years beginning after December 31, 1990.

D. DISCLOSURE OF TAX RETURN INFORMATION TO THE DEPARTMENT OF AGRICULTURE (SEC. 405(A) OF THE BILL AND SEC. 6103(J) OF THE CODE)

Present Law

Tax return information generally may not be disclosed, except as specifically provided by statute. Disclosure is permitted to the Bureau of the Census for specified purposes, which included the responsibility of structuring, conducting, and preparing the census of agriculture (sec. 6103(j)(1)). The Census of Agriculture Act of 1997 (P.L. 105–113) transferred this responsibility from the Bureau of the Census to the Department of Agriculture.

Description of Proposal

The proposal permits the continuation of disclosure of tax return information for the purpose of structuring, conducting, and preparing the census of agriculture by authorizing the Department of Agriculture to receive this information.

Effective Date

The proposal is effective on the date of enactment of this technical correction.

E. TECHNICAL CORRECTIONS TO THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (SEC. 405(B) OF THE BILL, SEC. 9004 OF THE ACT, AND SEC. 9503(F) OF THE CODE)

Present Law

The Transportation Equity Act for the 21st Century ("Transportation Equity Act") (P.L. 105–178) extended the Highway Trust Fund and accompanying highway excise taxes. The Transportation Equity Act also changed the budgetary treatment of Highway Trust Fund expenditures, including repeal of a provision that balances maintained in the Highway Trust Fund pending expenditure earn interest from the General Fund of the Treasury.

Description of Proposal

The proposal clarifies that the Secretary of the Treasury is not required to invest Highway Trust Fund balances in interest-bearing obligations (because any interest paid to the Trust Fund by the General Fund would be immediately returned to the General Fund).

F. REPEAL OF PROVISIONS RELATING TO DISTRICT OF COLUMBIA JUDICIAL RETIREMENT PROGRAM (SEC. 405(C) OF THE BILL)

Present Law

Section 804 of the Treasury and General Government Appropriations Act, 1999, makes certain technical and clarifying amendments to the Judicial Retirement Program of the District of Columbia. Included in these amendments were certain amendments that applied for purposes of the Internal Revenue Code of 1986.

Description of Proposal

Section 804 of the Treasury and General Government Appropriations Act, 1999, is repealed.

Effective Date

The proposal is effective on the date of enactment.

G. PERFECTING AMENDMENTS RELATED TO WITHHOLDING FROM SOCIAL SECURITY BENEFITS AND OTHER FEDERAL PAYMENTS (SEC. 406 OF THE BILL AND SECS. 201 AND 207 OF THE SOCIAL SECURITY ACT)

Present Law

The Uruguay Round Agreements Act (P.L. 103–465) contained a provision requiring that U.S. taxpayers who receive specified Federal payments (including Social Security benefits) be given the option of requesting that the Federal agency making the payments withhold Federal income taxes from the payments.

Description of Proposal

Due to a drafting oversight, the Uruguay Round Agreements Act included only the necessary changes to the Internal Revenue Code ("Code") and failed to make certain conforming changes to the Social Security Act (specifically a section that prohibits assignments of benefits). The proposal amends the Social Security Act anti-assignment section to allow the Code provisions to be implemented. The proposal also allocates funding for the Social Security Administration to administer the tax-withholding provisions.

Effective Date

The proposal applies to benefits paid on or after the first day of the second month beginning after the month of enactment.

FOOTNOTES

[1]This document may be cited as follows: Joint Committee on Taxation, Description of Provisions in S. 2622, the Tax Relief Extension Act of 1998 (JCX–70–98), October 10, 1998. (References in this document to the "1997 Act" refer to the Taxpayer Relief Act of 1997.)

[2]A special rule is designed to gradually recompute a start-up firm's fixed-base percentage based on its actual research experience. Under this special rule, a start-up firm will be assigned a fixed-base percentage of 3 percent for each of its first five taxable years after 1993 in which it incurs qualified research expenditures. In the event that the research credit is extended beyond the scheduled expiration date, a start-up firm's fix-based percentage for its sixth through tenth taxable years after 1993 in which it incurs qualified research expenditures will be a phased-in ratio based on its actual research experience. For all subsequent taxable years, the taxpayer's fixed-based percentage will be its actual ratio of qualified research expenditures to gross receipts for any five years selected by the taxpayer from its fifth through tenth taxable years after 1993 (sec. 41(c)(3)(B)).

[3]Under a special rule, 75 percent of amounts paid to a research consortium for qualified research is treated as qualified research expenses eligible for the research credit (rather than 65 percent under the general rule under sec. 41(b)(3) governing contract research expenses) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research, and (2) such qualified research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer.

[4]The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)).

[5]The President canceled these exceptions in 1997 pursuant to the Line Item Veto Act. On June 25, 1998, the U.S. Supreme Court held that the cancellation procedures set forth in the Line Item Veto Act are unconstitutional *Clinton* v. *City of New York*, 118 S. Ct. 2091 (June 25, 1998).

[6]This rule applies to fiscal years after 1996. For fiscal year 1996, this payment was to be made not later than 30 days after the production flexibility contract was entered into.

[7]The amount of elected farm income of a taxpayer for a taxable year may not exceed the taxable income attributable to any farming business for the year.

[8]The bill contains a similar amendment to section 1(h)(13), as amended by section 5001 of the 1998 Act, to provide that, for purposes of taxing the recipient of a distribution made after 1997 by a CRT, amounts will not be taken into account in computing 28-percent rate gain by reason of being properly taken into account before May 7, 1997, or by reason of the property being held for not more than 18 months. Thus, no amount distributed by a CRT after 1997 will be treated as in the 28-percent category (other than by reason of the disposition of collectibles or small business stock).

[9]This exception (as certain other exceptions) does not apply if the stock held before the acquisition was acquired pursuant to a plan (or series of related transactions) to acquire a 50-percent or greater interest in the distributing or a controlled corporation.

[10]The 1997 Act does not limit the otherwise applicable Treasury regulatory authority under section 336(e) of the Code. Nor does it limit the otherwise applicable provisions of section 1367 with respect to the effect on shareholder stock basis of gain recognized by an S corporation under this provision.

ESTIMATED REVENUE EFFECTS OF S. 2626, THE "TAX RELIEF EXTENSION RELIEF ACT OF 1998"

[Fiscal years 1999–2007, in millions of dollars]

Provision	Effective	1999	2000	2001	2002	2003	2004	2005	2006	2007	1999–02	2003–07	1999–07
I. EXTENSION OF EXPIRING PROVISIONS:													
Subtitle A. Expiring Tax Provisions:													
A. Extend the R&E Credit (through 6/30/99)	7/1/98	−1,126	−505	−258	−184	−94	−20				2,073	−114	−2,187
B. Extend the Work Opportunity Tax Credit (through 6/30/99)	wpoifibwa 6/30/98	−191	−140	−73	−29	−10	−2				−434	−11	−445
C. Extend the Welfare-to-Work Tax Credit (through 6/30/99)	wpoifibwa 4/30/99	−4	−10	−7	−3	−1					−24	−1	−25
D. Extend Contributions of Appreciated Stock to Private Foundations (through 6/30/99).	7/1/98	−63	−13	−4							80		−80
E. 1-Year Extension of Exemption from Subpart F for Active Financing Income.	tybi 1999	−80	−180								−260		−260
F. Extension of Placed-in-Service Date For Certain Nonconventional Fuels Facilities (though 6/30/99).	DOE	−7	−26	−27	−38	−39	−40	−41	−42	−43	−109	−207	−315
G. Extension of Tax Information Reporting for Income Contingent Student Loan Program (through 9/30/04) [1].	([2])	NEGLIGIBLE BUDGET EFFECT											
Subtotal of Extension of Expiring Tax Provisions		−1,471	−874	−379	−254	−144	−62	−41	−42	−43	−2,980	−333	−3,312
SUBTITLE B. EXPIRING TRADE PROVISIONS:													
A. Extend the Generalized System of Preferences (through 12/31/99/) [1]	dpo/a 7/1/98	−393	−84								−477		−477
B. Extend Trade Adjustment Assistance (through 6/30/99) [1]	DOE	−34	−15	−1							−50		−50
Subtotal of Extension of Expiring Trade Provisions		−427	−99	−1	–	–	–	–	–	–	−527	–	−527
II. OTHER TAX PROVISIONS													
A. Increase Deduction for Health Insurance Expenses of Self-Employed Individuals—70% in 2001 and 100% in 2002 and thereafter.	tyba 12/31/00			−163	−702	−959	−637	−680	−602	−257	−864	−3,134	−3,998
B. Production Flexibility Contract Payments to Farmers Not Included in Income Prior to Receipt.	tyea 12/31/95	NEGLIGIBLE BUDGET EFFECT											
C. Permanent Extension of Income Averaging for Farmers	tyba 12/31/00			−2	−21	−22	−22	−23	−24	−24	−23	−115	−138
D. Treatment of Nonrefundable Personal Credits (child credit, adoption, credit, HOPE and Lifetime Learning credits, etc.) Under the Alternative Individual Minimum Tax (for 1998 only).	tybi 1998	−474									−474		−474
Subtotal of Other Tax Provisions		−474		−165	−723	−981	−659	−703	−626	−281	−1,361	−3,249	−4,610
REVENUE OFFSET PROVISION													
A. Change the Treatment of Certain Deductible Liquidating Distributions of RICs and REITs.	dma 5/21/98	2,425	1,109	723	640	672	705	741	778	817	4,897	3,713	8,610

ESTIMATED REVENUE EFFECTS OF S. 2626, THE "TAX RELIEF EXTENSION RELIEF ACT OF 1998"—Continued

[Fiscal years 1999–2007, in millions of dollars]

Provision	Effective	1999	2000	2001	2002	2003	2004	2005	2006	2007	1999–02	2003–07	1999–07
Subtotal of Revenue Offset Provision		2,425	1,109	723	640	672	705	741	778	817	4,897	3,713	8,610
V. TAX TECHNICAL CORRECTIONS PROVISIONS		NO REVENUE EFFECT											
Net total		53	136	178	−337	−453	−16	−3	110	493	29	131	161

[1] Estimate provided by the Congressional Budget Office.

[2] Effective for requests made after the date of enactment and before 10/1/03.

NOTES: Details may not add to totals due to rounding. Legend for "Effective" column: dma = distributions made after; DOE = Date of enactment; dpo/a = duties paid on or after; tyba = taxable years beginning after; tybi = taxable years beginning in; tyea = taxable years ending after; wpoifibwa = wages paid or incurred for individuals beginning work after.

Prepared by Joint Committee on Taxation.

Mr. MOYNIHAN. Mr. President, I am pleased to cosponsor, along with our esteemed Chairman, Senator ROTH, a Senate Finance Committee bill to extend a package of expired tax provisions. Unfortunately, dealing with this group of expired tax items has become a routine annual event for the Committee and for the Congress. This bill extends universally popular items such as the credit for increasing research activities, the Work Opportunity Credit, and the deduction for gifts of appreciated stock to private foundations through June of next year. It is my hope that 1999 will be the year that the entire group of "extenders" are finally made permanent.

We thank Senator ROTH for ensuring that the Finance Committee is heard on this matter. Our action is a reminder that the United States Congress does not act, on tax bills or any other measures, as a unicameral legislature. Indeed, this Finance committee measure improves in several ways on the bill passed by the House Ways and Means Committee yesterday:

First, we extend the Trade Assistance Program from October 1, 1998 through June 30, 1999. This is an important program established in the Trade Expansion Act of 1962 that provides training and income support for workers adversely affected by import competition. It is a commitment we have made to workers, and it ought to be kept.

Second, the bill includes a provision that prevents the tax benefit of nonrefundable personal credits such as the $500 per child credit and the adoption credit from being eroded by the Alternative Minimum Tax. This was to have been included as part of the Taxpayer Relief Act of 1997, but was dropped for some unknown reason as part of the final compromise. Without the "fix" included in this bill, we will trap many unsuspecting taxpayers who sit down to prepare their 1998 Federal income tax returns next spring.

I applaud the work of the chairman and the committee in moving quickly to agree on this bill and, for the greater good, deferring action on a number of very important narrower items until next year.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. ROTH, and Mr. STEVENS):

S. 2623. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

• Mr. THOMPSON. Mr. President, today I am pleased to introduce the Government for the 21st Century Act of 1998, a bill to establish a commission to bring the structure of our government in line with the needs of our Nation in the next century. This bipartisan legislation is the result of work over several months between myself and Senators GLENN, BROWNBACK, LIEBERMAN, ROTH, and STEVENS. It has been carefully crafted to address not just what our government should look like, but the more fundamental question of what it should do.

We all know the old adage, "form follows function"—but in the case of our government, form too often impedes function. The federal infrastructure should enable it to respond to national needs and the needs of individual citizens quickly, efficiently, and successfully—but years of outmoded bureaucracies, procedures and red tape have impeded the kind of responsible service our citizens deserve and expect. The government we have today was designed for a world which has long since passed into history, a world in which personal computers did not exist, two-income families were the exception and no one had ever heard of a "sport utility vehicle". In short, it is time to modernize the federal government, and there is no more appropriate time to do it than on the eve of the next century.

It seems to me that the federal government is doing too many things to do them all well. I believe we must reevaluate the functions of government to improve government service where it is needed, redirect resources where it is necessary, and get the federal government out of activities in which it does not belong. Our Founding Fathers envisioned a government of defined and limited powers. I can imagine their dismay if they knew the size and scope of the federal government today. We need to return to the limited government that the Founders intended, and the Commission established in the legislation we are introducing today is a major step in that direction.

The Government Restructuring and Reform Commission established by this legislation would take a hard look at federal departments, agencies and programs and ask—

Can and should we consolidate these agencies and programs to improve the implementation of their statutory missions, eliminate activities not essential to their statutory missions, and reduce duplication of activities while increasing accountability for performance?

How can we improve management to maximize productivity, effectiveness and accountability?

What criteria should we use in determining whether a federal activity should be privatized?

Which departments or agencies should be eliminated because their functions are obsolete, redundant, or better performed by state and local governments or the private sector?

We all want a federal government that is as innovative and responsive as the government we envision. Our challenge is to determine how to get there. We must start by asking ourselves what the essential functions of government will be in the next century, so we may tailor the scope and structure of the executive branch accordingly. Some activities now performed by the federal government may require more resources; others will surely require less. The Commission on Government Restructuring and Reform will give us a blueprint for designing a federal government to meet our Nation's needs now and in the future.

I am pleased that Senators LIEBERMAN, BROWNBACK, ROTH, and STEVENS are joining me in introducing this bill today, and I thank them for the time and staff they have devoted to the effort. I look forward to working with them on this important legislation.

I ask unanimous consent that the Government for the 21st Century Act, along with the brief summary and section-by-section analysis, be printed in the RECORD.

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

S. 2623

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

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Government for the 21st Century Act of 1998".

(b) PURPOSE.—

(1) IN GENERAL.—The purpose of this Act is to reduce the cost and increase the effectiveness of the Federal Government by reorganizing departments and agencies, consolidating redundant activities, streamlining operations, and decentralizing service delivery in a manner that promotes economy, efficiency, and accountability in Government

programs. This Act is intended to result in a Federal Government that—

(A) utilizes a smaller and more effective workforce;

(B) motivates its workforce by providing a better organizational environment; and

(C) ensures greater access and accountability to the public in policy formulation and service delivery.

(2) SPECIFIC GOALS.—This Act is intended to achieve the following goals for improvements in the performance of the Federal Government by October 1, 2002:

(A) A restructuring of the cabinet and subcabinet level agencies.

(B) A substantial reduction in the costs of administering Government programs.

(C) A dramatic and noticeable improvement in the timely and courteous delivery of services to the public.

(D) Responsiveness and customer-service levels comparable to those achieved in the private sector.

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) "agency" includes all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations; and

(2) "private sector" means any business, partnership, association, corporation, educational institution, nonprofit organization, or individuals.

SEC. 3. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Commission on Government Restructuring and Reform (hereafter in this Act referred to as the "Commission").

(b) DUTIES.—The Commission shall examine and make recommendations to reform and restructure the organization and operations of the executive branch of the Federal Government to improve economy, efficiency, effectiveness, consistency, and accountability in Government programs and services, and shall include and be limited to proposals to—

(1) consolidate or reorganize programs, departments, and agencies in order to—

(A) improve the effective implementation of their statutory missions;

(B) eliminate activities not essential to the effective implementation of statutory missions;

(C) reduce the duplication of activities among agencies; or

(D) reduce layers of organizational hierarchy and personnel where appropriate to improve the effective implementation of statutory missions and increase accountability for performance.

(2) improve and strengthen management capacity in departments and agencies (including central management agencies) to maximize productivity, effectiveness, and accountability;

(3) propose criteria for use by the President and Congress in evaluating proposals to establish, or to assign a function to, an executive entity, including a Government corporation or Government-sponsored enterprise;

(4) define the missions, roles, and responsibilities of any new, reorganized, or consolidated department or agency proposed by the Commission;

(5) eliminate the departments or agencies whose missions and functions have been determined to be—

(A) obsolete, redundant, or complete; or

(B) more effectively performed by other units of government (including other Federal departments and agencies and State and local governments) or by the private sector; and

(6) establish criteria for use by the President and Congress in evaluating proposals to privatize, or to contract with the private sector for the performance of, functions currently administered by the Federal Government.

(c) LIMITATIONS ON COMMISSION RECOMMENDATIONS.—The Commission's recommendations or proposals under this Act may not provide for or have the effect of—

(1) continuing an agency beyond the period authorized by law for its existence;

(2) continuing a function beyond the period authorized by law for its existence;

(3) authorizing an agency to exercise a function which is not already being performed by any agency;

(4) eliminating the enforcement functions of an agency, except such functions may be transferred to another executive department or independent agency; or

(5) adding, deleting, or changing any rule of either House of Congress.

(d) APPOINTMENT.—

(1) MEMBERS.—The Commissioners shall be appointed for the life of the Commission and shall be composed of nine members of whom—

(A) three shall be appointed by the President of the United States;

(B) two shall be appointed by the Speaker of the House of Representatives;

(C) one shall be appointed by the minority Leader of the House of Representatives;

(D) two shall be appointed by the majority Leader of the Senate; and

(E) one shall be appointed by the minority Leader of the Senate.

(2) CONSULTATION REQUIRED.—The President, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under subsection (b).

(3) CHAIRMAN.—At the time the President nominates individuals for appointment to the Commission the President shall designate one such individual who shall serve as Chairman of the Commission.

(4) MEMBERSHIP.—A member of the Commission may be any citizen of the United States who is not an elected or appointed Federal public official, a Federal career civil servant, or a congressional employee.

(5) CONFLICT OF INTERESTS.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, a member of the Commission (to whom such provisions would not otherwise apply except for this paragraph) shall be a special Government employee.

(6) DATE OF APPOINTMENTS.—All members of the Commission shall be appointed within 90 days after the date of enactment of this Act.

(e) TERMS.—Each member shall serve until the termination of the Commission.

(f) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(g) MEETINGS.—The Commission shall meet as necessary to carry out its responsibilities. The Commission may conduct meetings outside the District of Columbia when necessary.

(h) PAY AND TRAVEL EXPENSES.—

(1) PAY.—

(A) CHAIRMAN.—Except for an individual who is chairman of the Commission and is otherwise a Federal officer or employee, the chairman shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the chairman is engaged in the performance of duties vested in the Commission.

(B) MEMBERS.—Except for the chairman who shall be paid as provided under subparagraph (A), each member of the Commission who is not a Federal officer or employee shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the Commission.

(2) TRAVEL.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(i) DIRECTOR.—

(1) APPOINTMENT.—The Chairman of the Commission shall appoint a Director of the Commission without regard to section 5311(b) of title 5, United States Code.

(2) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(j) STAFF.—

(1) APPOINTMENT.—The Director may, with the approval of the Commission, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAIL.—

(A) DETAILS FROM AGENCIES.—Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(B) DETAILS FROM CONGRESS.—Upon request of the Director, a Member of Congress or an officer who is the head of an office of the Senate or House of Representatives may detail an employee of the office or committee of which such Member or officer is the head to the Commission to assist the Commission in carrying out its duties under this Act.

(C) REIMBURSEMENT.—Any Federal Government employee may be detailed to the Commission with or without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(k) SUPPORT.—

(1) SUPPORT SERVICES.—The Office of Management and Budget shall provide support services to the Commission.

(2) ASSISTANCE.—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(l) OTHER AUTHORITY.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant

to section 3109 of title 5, United States Code. The Commission shall give public notice of any such contract before entering into such contract.

(m) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(n) FUNDING.—There are authorized to be appropriated to the Commission $2,500,000 for fiscal year 1999, and $5,000,000 for each of fiscal years 2000 and 2001 to enable the Commission to carry out its duties under this Act.

(o) TERMINATION.—The Commission shall terminate no later than September 30, 2001.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) PRESIDENTIAL RECOMMENDATIONS.—No later than July 1, 1999, the President may submit to the Commission a report making recommendations consistent with the criteria under section 3 (b) and (c). Such a report shall contain a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(b) IN GENERAL.—No later than December 1, 2000, the Commission shall prepare and submit a single preliminary report to the President and Congress, which shall include—

(1) a description of the Commission's findings and recommendations, taking into account any recommendations submitted by the President to the Commission under subsection (a); and

(2) reasons for such recommendations.

(c) COMMISSION VOTES.—No legislative proposal or preliminary or final report (including a final report after disapproval) may be submitted by the Commission to the President and Congress without the affirmative vote of at least 6 members.

(d) DEPARTMENT AND AGENCY COOPERATION.—All Federal departments, agencies, and divisions and employees of all departments, agencies, and divisions shall cooperate fully with all requests for information from the Commission and shall respond to any such requests for information expeditiously, or no later than 15 calendar days or such other time agreed upon by the requesting and requested parties.

SEC. 5. PROCEDURE FOR IMPLEMENTATION OF REPORTS.

(a) PRELIMINARY REPORT AND REVIEW PROCEDURE.—Any preliminary report submitted to the President and Congress under section 4(b) shall be made immediately available to the public. During the 60-day period beginning on the date on which the preliminary report is submitted, the Commission shall announce and hold public hearings for the purpose of receiving comments on the reports.

(b) FINAL REPORT.—No later than 6 months after the conclusion of the period for public hearing under subsection (a), the Commission shall prepare and submit a final report to the President. Such report shall be made available to the public on the date of submission to the President. Such report shall include—

(1) a description of the Commission's findings and recommendations, including a description of changes made to the report as a result of public comment on the preliminary report;

(2) reasons for such recommendations; and

(3) a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(c) EXTENSION OF FINAL REPORT.—By affirmative vote pursuant to section 4(c), the Commission may extend the deadline under subsection (b) by a period not to exceed 90 days.

(d) REVIEW BY THE PRESIDENT.—

(1) IN GENERAL.—

(A) PRESIDENTIAL ACTION.—No later than 30 calendar days after receipt of a final report under subsection (b), the President shall approve or disapprove the report.

(B) PRESIDENTIAL INACTION.—

(i) IN GENERAL.—If the President does not approve or disapprove the final report within 30 calendar days in accordance with subparagraph (A), Congress shall consider the report in accordance with clause (ii).

(ii) SUBMISSION.—Subject to clause (i), the Commission shall submit the final report, without further modification, to Congress on the date occurring 31 calendar days after the date on which the Commission submitted the final report to the President under subsection (b).

(2) APPROVAL.—If the report is approved, the President shall submit the report to Congress for legislative action under section 6.

(3) DISAPPROVAL.—If the President disapproves a final report, the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and Congress.

(4) FINAL REPORT AFTER DISAPPROVAL.—The Commission shall consider any issues or objections raised by the President and may modify the report based on such issues and objections. No later than 30 calendar days after receipt of the President's disapproval under paragraph (3), the Commission shall submit the final report (as modified if modified) to the President and to Congress.

SEC. 6. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "implementation bill" means only a bill which is introduced as provided under subsection (b), and contains the proposed legislation included in the final report submitted to the Congress under section 5(d) (1)(B), (2), or (4), without modification; and

(2) the term "calendar day" means a calendar day other than one on which either House is not in session because of an adjournment of more than three days to a date certain.

(b) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a final report is submitted to the Congress under section 5(d) (1)(B), (2), or (4), a single implementation bill shall be introduced (by request)—

(A) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee of jurisdiction in the House of Representatives. A committee to which an implementation bill is referred under this paragraph may report such bill to the respective House with amendments proposed to be adopted. No such amendment may be proposed unless such proposed amendment is relevant to such bill.

(3) REPORT OR DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 30th calendar day after the date of the introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(c) SENATE CONSIDERATION.—

(1) IN GENERAL.—On or after the fifth calendar day after the date on which an implementation bill is placed on the Senate calendar under subsection (b)(3), it is in order (even if a previous motion to the same effect has been disagreed to) for any Senator to make a motion to proceed to the consideration of the implementation bill. The motion is not debatable. All points of order against the implementation bill (and against consideration of the implementation bill) other than points of order under Senate Rule 15, 16, or for failure to comply with requirements of this section are waived. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the Senate shall immediately proceed to consideration of the implementation bill.

(2) DEBATE.—In the Senate, no amendment which is not relevant to the bill shall be in order. A motion to postpone is not in order. A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(3) APPEALS FROM CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to an implementation bill shall be decided without debate.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—At any time on or after the fifth calendar day after the date on which each committee of the House of Representatives to which an implementation bill is referred has reported that bill, or has been discharged under subsection (b)(3) from further consideration of that bill, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of that bill. All points of order against the bill, the consideration of the bill, and provisions of the bill shall be waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed 10 hours, to be equally divided and controlled by the Majority Leader and the Minority Leader, the bill shall be considered for amendment by title under the five-minute rule and each title shall be considered as having been read.

(2) AMENDMENTS.—Each amendment shall be considered as having been read, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for not to exceed 30 minutes, equally divided and controlled by the proponent and a Member opposed thereto, except that the time for consideration, including debate and disposition, of all amendments to the bill shall not exceed 20 hours.

(3) FINAL PASSAGE.—At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been agreed to, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

(e) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees by the presiding officer shall not be debatable.

(2) CONFERENCE REPORT.—No later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 7. IMPLEMENTATION.

(a) RESPONSIBILITY FOR IMPLEMENTATION.—The Director of the Office of Management and Budget shall have primary responsibility for implementation of the Commission's report and the Act enacted under section 6 (unless such Act provides otherwise). The Director of the Office of Management and Budget shall notify and provide direction to heads of affected departments, agencies, and programs. The head of an affected department, agency, or program shall be responsible for implementation and shall proceed with the recommendations contained in the report as provided under subsection (b).

(b) DEPARTMENTS AND AGENCIES.—After the enactment of an Act under section 6, each affected Federal department and agency as a part of its annual budget request shall transmit to the appropriate committees of Congress its schedule for implementation of the provisions of the Act for each fiscal year. In addition, the report shall contain an estimate of the total expenditures required and the cost savings to be achieved by each action, along with the Secretary's assessment of the effect of the action. The report shall also include a report of any activities that have been eliminated, consolidated, or transferred to other departments or agencies.

(c) GAO OVERSIGHT.—The Comptroller General shall periodically report to Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation of any Act enacted under section 6.

SEC. 8. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department or agency resulting from the enactment of an Act under section 6 shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.

GOVERNMENT FOR THE 21ST CENTURY ACT—BRIEF SUMMARY

This legislation will reduce the cost and increase the effectiveness of the Federal Government. It achieves this by establishing a commission to propose to Congress and the President a plan to bring the structure and operations of the Federal Government in line with the needs of Americans in the next century.

Duties of the Commission: The Commission is authorized under this legislation to: Reorganize Federal departments and agencies, eliminate activities not essential to fulfilling agency missions, streamline government operations, and consolidate redundant activities.

The Commission would not be authorized to: Continue any agency or function beyond its current authorization, authorize functions not performed already by the Federal Government, eliminate enforcement functions, and change rules of Congress.

Composition of the Commission: The Commission shall consist of 9 members appointed by the President and the Congressional Leadership of both parties. No more than 5 members can be affiliated with one party.

How the Commission Works: The process established in this legislation is bipartisan, allows input by the President, and is fully open and public.

1. The Commission Report: By July 1, 1999, the President may submit his recommendations to the Commission. By December 1, 1999, the Commission shall submit to the President and Congress a preliminary recommendations on restructuring the Federal Government. After a public comment period, the Commission shall prepare a final report and submit it to the President for review and comment.

2. Presidential Review and Comment: The President has 30 days to approve or disapprove the Commission's report. The Commission may or may not modify its report based on the President's comments, at its discretion, and shall issue its final report to Congress.

3. Congressional Consideration: The final report shall be introduced in both Houses by request and referred to the appropriate committee(s). After 30 days, the bills may be considered by the full House and Senate, and are subject to amendment.

Implementation: Once legislation effecting the Commission's recommendations is enacted, the Office of Management and Budget shall be responsible for implementing it, and the General Accounting Office shall report to Congress on the progress of implementation.

GOVERNMENT FOR THE 21ST CENTURY ACT OF 1998—SECTION BY SECTION ANALYSIS

SECTION 1. SHORT TITLE AND PURPOSE

This act may be known as the "Government for the 21st Century Act of 1998." Its purpose is to reduce the cost and increase the effectiveness of the Executive Branch. It achieves this by creating a commission to propose to Congress and the President a plan to reorganize departments and agencies, consolidate redundant activities, streamline operations, and decentralize service delivery in a manner that promotes economy, efficiency, and accountability in Government programs.

SECTION 2. DEFINITIONS

This section defines "agency" as all Federal departments, independent agencies, government-sponsored enterprises and government corporations, and defines "private sector" as any business, partnership, association, corporation, educational institution, nonprofit or individual.

SECTION 3. THE COMMISSION

This section establishes a commission, known as the Commission on Government Restructuring and Reform, to make recommendations to reform and restructure the executive branch. The Commission shall make proposals to consolidate, reorganize or eliminate executive branch agencies and programs in order to improve effectiveness, efficiency, consistency and accountability in Government. The Commission shall also recommend criteria by which to determine which functions of government should be privatized. The Commission may not propose to continue agencies or functions beyond their current legal authorization, nor may the Commission propose to eliminate enforcement functions of any agencies or change the rules of either House of Congress.

The Commission shall be composed of 9 members appointed by the President, the Majority and Minority Leaders of the Senate, and the Speaker and Minority Leader of the House of Representatives.

The Commission shall be managed by a Director and shall have a staff, which may include detailees. The Office of Management and Budget shall provide support services and the Comptroller General may provide assistance to the Commission.

This section also authorizes $2.5 million to be appropriated in fiscal years 1999 and $5 million for fiscal years 2000 and 2001 for the Commission to carry out its duties, and states that the Commission shall terminate no later than September 30, 2001.

SECTION 4. PROCEDURES FOR MAKING RECOMMENDATIONS

By July 1, 1999, the President may submit his recommendation on Government reorganization to the Commission. The President's recommendation must be consistent with the duties and limitations given to the Commission in formulating its recommendations by this act and must be transmitted to the Commission as a single legislative proposal.

By December 1, 1999, the Commission shall prepare and submit a single preliminary report to the President and Congress. That report must include a description of the Commission's findings and recommendations and the reasons for such recommendations. This proposed must be approved by at least 6 members of the Commission.

This section also provides that all Federal departments and agencies must cooperate fully with all requests for information from the Commission.

SECTION 5. PROCEDURES FOR IMPLEMENTATION OF REPORTS

This section provides that any preliminary report submitted to the President and the Congress under Section 4 be made available immediately to the public. During the 60-day period after the submission of the preliminary report, the Commission shall hold public hearings to receive comments on the report.

Six months after the conclusion of the period for public comments, the Commission shall submit a final report to the President. This report shall be made available to the public, and shall include a description of the Commission's findings and recommendations, the reasons for such recommendations, and a single legislative proposal to implement the recommendations.

The President shall then approve or disapprove the report within 30 days. If he fails to act, after 30 days the report is immediately submitted to Congress. If the President approves the report, he than shall submit the report to Congress for legislative action under Section 6.

If he disapproves the final report, the President shall report specific issues and objections, including the reasons for any

changes recommended in the report, to the Commission and Congress. For 30 days after the President disapproves a report, the Commission may consider any issues and objections raised by the President and may modify the report on these issues and objections. After 30 days, the Commission must submit its final report (as modified if modified) to the President and Congress.

SECTION 6. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS

After a final report is submitted to the Congress, the single implementation bill shall be introduced by request in the House and Senate by the Majority and Minority Leaders in each chamber or their designees.

This section stipulates that the implementation bill be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee of jurisdiction in the House of Representatives. Each committee must report the bill to its respective House chamber within 30 days with relevant amendments proposed to be adopted. If a committee fails to report such bill within 30 days, that committees is immediately discharged from further consideration, and the bill is placed on the appropriate calendar.

Section 6(c) outlines procedures for Senate floor consideration of legislation implementing the Commission's recommendation. On or after the fifth calendar day after the date on which the implementation bill is placed on the Senate calendar, any Senator may make a privileged motion to consider the implementation bill. Only relevant amendments shall be in order, and motions to postpone, recommit, or reconsider the vote by which the bill is agreed to are not in order.

Section 6(d) outlines procedures for House floor consideration of legislation implementing the Commission's recommendations. General debate on the implementation bill is limited to 10 hours equally divided in the House, and controlled by the Majority and Minority Leaders. Amendments shall be considered by title under the five minute rule, and shall be debatable for 30 minutes equally divided. Debate on all amendments shall not exceed 20 hours.

This section further states that within 20 calendar days, conferees shall report to their respective House.

SECTION 7. IMPLEMENTATION

The Office of Management and Budget shall have primary responsibility for implementing the Commission's report and any implementation legislation that is enacted, unless otherwise specified in the implementation bill.

Federal departments and agencies are required to include a schedule for implementation of the provisions of the implementation as a part of their annual budget request.

GAO is given oversight responsibility and is required to report to the Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation process.

SECTION 8. DISTRIBUTION OF ASSETS

Any proceeds from the sale of assets of any department or agency resulting from the implementation legislation shall be applied to the Federal deficit and deposited in the Treasury and treated as general receipts.●

● Mr. BROWNBACK. Mr. President, I am pleased to join Senator THOMPSON in introducing the Government for the 21st Century Act of 1998. Both majority and minority members of the Senate Governmental Affairs Committee have been working on this legislation throughout this Congress and have come to agreement to introduce this important bill.

The Government for the 21st Century Act would establish a commission to propose to Congress and the President a plan to reduce the cost and increase the effectiveness of the Federal government by bringing its structure and operations in line with the needs of America in the next century. The commission would consist of nine members appointed by the President and the congressional leadership of both parties.

The President may submit his recommendations to the Commission by July 1, 1999. By December 1, 1999, the Commission shall submit to the President and Congress preliminary recommendations on restructuring the Federal government. After a public comment period, the Commission will prepare a final report to the President. Legislation based on the final report would be introduced in both Houses and referred to the appropriate committee of jurisdiction. The bill would be considered by both Houses after 30 days. Once the legislation is signed into law, the Office of Management and Budget would be responsible for implementation.

The Commission would reinforce our work to maintain a balanced budget. Good government must have agencies that operate efficiently and effectively within their core mission and within their budget. We have achieved one goal of operating within a balanced budget but we must continue to work towards the other. Even under a balanced budget and a budget surplus, inefficiencies and rising costs remain in the Federal government. A balanced budget and a budget surplus does not preclude the Federal government from being accountable to the American people. The Government for the 21st Century Act would see to it that the Federal government will continue to be accountable.●

By Mr. DOMENICI:

S. 2624. A bill to establish a program for training residents of low-income rural areas for, and employing the residents in, new telecommunications industry jobs located in the rural areas, and for other purposes; to the Committee on Labor and Human Resources.

THE RURAL EMPLOYMENT IN TELECOMMUNICATIONS INDUSTRY ACT OF 1998

Mr. DOMENICI. Mr. President, today, with great pleasure, I introduce "The Rural Employment in Telecommunications Industry Act of 1998."

The introduction of this Bill marks a historic opportunity for rural communities to create jobs within the telecommunications industry. The Bill establishes a program to train residents of low income rural areas for employment in telecommunications industry jobs located in those same rural areas.

As many of my colleagues know, I have an initiative called "rural payday" and I believe this Bill is yet another step in creating jobs for our rural areas. All too often a rural area is characterized by a high number of low income residents and a high unemployment rate.

Moreover, our rural areas are often dependent upon a small number of employers or a single industry for employment opportunities. Consequently, when there is a plant closing or a downturn in the economy or a slowdown in the area's industry the already present problems are only compounded. Mr. President, I would like to take a moment and talk about New Mexico.

While New Mexico may be the 5th largest state by size with its beautiful mountains, desert, and Great Plains and vibrant cities such as Albuquerque, Santa Fe, and Las Cruces it is also a very rural state. The Northwest and Southeast portions of the state are currently experiencing difficulties as a result of the downturn in the oil and gas industry. Additionally, the community of Roswell has been dealt a blow with the closing of the Levi Straus manufacturing plant.

As I stated before, rural areas that simply do not have the resources of more metropolitan areas can be simply devastated by a single event or downturn in the economy. And that Mr. President is why I am introducing "The Rural Employment in Telecommunications Industry Act of 1998."

The Bill will allow the Secretary of Labor to establish a program to promote rural employment in the telecommunications industry by providing grants to states with low income rural areas. The program will be a win win proposition for all involved because employers choosing to participate in the project by bringing jobs to the rural area will be assured of a highly skilled workforce.

The program will provide residents with intensive services to train them for the new jobs in the telecommunications industry. The intensive services will include customized training and appropriate remedial training, support services and placement of the individual in one the new jobs created by the program.

And that is what this bill is about, providing people with the tools needed to succeed. With these steps we are embarking on the road of providing our rural areas throughout our nation with a vehicle to create jobs. We are creating opportunities and an environment where our citizens can succeed and our communities can be vibrant.

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. 2624

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 "Rural Employment in Telecommunications Industry Act of 1998."

SEC. 2. DEFINITIONS.

In this Act:

(1) DISLOCATED WORKER; LOW-INCOME INDIVIDUAL.—The terms "dislocated worker" and "low-income individual" have the meanings given the terms in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

(2) LOW-INCOME RURAL AREA.—The term "low-income rural area" means a county that—

(A) has a 1996 population of not less than 60,000 and not more than 105,000 persons;

(B) contains a municipality with a 1996 population of not less than 35,000 and not more than 50,000 persons;

(C) has a land area of not less than 5,500 and not more than 6,100 square miles;

(D) has a population density of not less than 10 and not more than 20 persons per square mile;

(E) has a 1996 per capita income that is—

(i) not less than $16,000 and not more than $16,500; and

(ii) not less than 86 and not more than 88 percent of the statewide per capita income for the State in which the county is located; or

(F) is a county no part of which is—

(i) within an area designated as a standard metropolitan statistical area by the Director of the Office of Management and Budget; or

(ii) within an area designated as a metropolitan statistical area by the Director of the Office of Management and Budget; or

(G)(i) is experiencing a significant contraction in the oil and natural gas exploration and development industry;

(ii) experienced a plant closing within 1 year before the date of enactment of this Act that significantly impacted the county; or

(iii) is in close proximity to an Indian reservation, as determined by the Bureau of Indian Affairs.

(3) INTENSIVE SERVICES.—The term "intensive services" means services described in section 134(d)(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(d)(3)).

(4) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(5) STATE.—The term "State" means 1 of the several States.

SEC. 3. RURAL EMPLOYMENT IN THE TELECOMMUNICATIONS INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to promote rural employment in the telecommunications industry. In carrying out the program, the Secretary shall make grants to States for projects described in subsection (b).

(b) USE OF FUNDS.—A State that receives a grant under subsection (a) shall use the funds made available through the grant to carry out a State telecommunications employment and training project. In carrying out the project, the State shall—

(1) train eligible individuals for new telecommunications industry jobs that will be located in low-income rural areas pursuant to arrangements with employers participating in the project, including ensuring that individuals receive—

(A) intensive services;

(B) customized training and appropriate remedial training described in paragraphs (2) and (3) of section 4; and

(C) appropriate supportive services; and

(2) arrange for the employment of the individuals in the telecommunications industry jobs.

(c) ELIGIBLE PARTICIPANTS.—To be eligible to participate in a project described in subsection (a), an individual shall be—

(1) a resident of a low-income rural area;

(2)(A) a low-income individual;

(B) a dislocated worker from the oil and natural gas exploration and development industry;

(C) an out-of-school youth;

(D) an individual with a disability, as defined in section 101 of the Workforce Investment Act of 1998;

(E) an individual who is receiving, or who has received within the past year, assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or other public assistance;

(F) a veteran, as defined in section 101 of the Workforce Investment Act of 1998;

(G) a displaced homemaker, as defined in section 101 of the Workforce Investment Act of 1998;

(H) an older individual, as defined in section 101 of the Workforce Investment Act of 1998;

(I) a homeless individual;

(J) an individual eligible to participate in activities carried out under section 166 of the Workforce Investment Act of 1998;

(K) an individual eligible to participate in employment and training activities under section 134 of the Workforce Investment Act of 1998;

(L) a long-term unemployed individual; or

(M) an individual with multiple barriers to employment; and

(3) an individual who has been assessed by the entity carrying out the project and determined to need intensive services.

(d) LIMITATION.—The Secretary shall make the grants to not more than 3 States.

SEC. 4. APPLICATION AND STATE PLAN.

(a) CONTENTS.—To be eligible to receive a grant under this Act, a State shall submit an application to the Secretary of Labor at such time, in such manner, and containing such information as the Secretary may require, including a State plan that includes—

(1) information demonstrating how the project will train and employ eligible individuals, including individuals described in subparagraphs (C) through (M) of section 3(c)(2);

(2) an assurance that the project will include a customized training program for the customer service and supervisory competencies needed in the telecommunications industry jobs to be located in the low-income rural areas served;

(3) an assurance that the project will include appropriate remedial training in such areas as reading, writing, math, and English as a second language for eligible individuals who the entity carrying out the project assesses and determines need such training;

(4) includes information describing linkages, including linkages relating to providing supportive services for participants in and graduates of the project, between—

(A) the entity carrying out the project; and

(B) one-stop operators (as defined in section 101 of the Workforce Investment Act of 1998), one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998), State workforce investment boards established under section 111 of such Act, and local workforce investment boards established under section 117 of such Act;

(5) information identifying certification criteria for individuals who successfully complete the training;

(6) an assurance that employers participating in the project will make available contributions to the costs of assessing and training participants in the project including those participants who are not eligible individuals described in subparagraph (c) for the new telecommunications jobs in an amount equal to not less than $1 for every $1 of Federal funds provided under the grant;

(7)(A) an assurance that the project will include an appropriate performance assessment program that will measure—

(i) the rate of completion of the training by participants in the training;

(ii) the percentage of the participants who obtain unsubsidized employment;

(iii) the wages of the participants at placement in the employment; and

(iv) the percentage of the participants retained in the employment after 6 months of employment; and

(B) an assurance that the entity carrying out the project will annually submit to the Secretary the results of the performance assessment program; and

(8)(A) information explaining how the activities carried out through the project are linked to State economic development activities; and

(B) information describing commitments from private sector employers to locate new telecommunications jobs and facilities within the low-income rural areas to be served, including commitments to provide any needed upgrade in the telecommunications infrastructure.

(b) ACCEPTANCE OF APPLICATIONS.—The Secretary shall accept applications submitted under subsection (a) not later than 90 days after the date of enactment of this Act.

(c) EVALUATION OF APPLICATIONS.—The Secretary shall evaluate, and approve or reject, each application submitted under subsection (a) that meets the criteria described in subsections (a) and (b) not later than 60 days after submission of the application.

(d) PRIORITY.—In determining which States receive grants under subsection (a), the Secretary will give priority to a State submitting a State plan describing a project that—

(1) will serve an area of high unemployment;

(2) will serve an area with a significant bilingual population;

(3) will serve an area with a significant minority population, including Native Americans;

(4) will serve an area with a high percentage of youth who have failed to complete secondary school;

(5) will serve an area significantly impacted by the contraction of the oil and natural gas exploration and development industry;

(6) will serve an area significantly impacted by recent plant closings; or

(7) is designed to create 1,000 or more new jobs within 2 years of the commencement of the training.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal years 1999 through 2003.

In the RECORD of October 9, 1998, on page 25160 the following statement of Mr. KERREY to accompany his introduced bill, S. 2613, was incorrectly attributed to Mr. KERRY. The permanent RECORD will be corrected to reflect the following:

By Mr. KERRY:

S. 2613. A bill to accelerate the percentage of health insurance costs deductible by self-employed individuals through the use of revenues resulting

from an estate tax technical correction; to the Committee on Finance.

HEALTH CARE DEDUCTIBILITY LEGISLATION

Mr. KERRY. Mr. President, I have a very simple proposition for the Senate. Let's close an accidental tax loophole for the heirs of people who leave estates worth more than $17 million and use the savings to help self-employed Americans—like the thousands of entrepreneurs on Nebraska's farms and ranches—afford the soaring cost of health care.

Today I am submitting legislation to accomplish that purpose.

The facts are very simple. Prior to 1997, when we passed the 1997 Balanced Budget Agreement, the first $600,000 of an estate was excluded from taxes. The old law gradually phased out this exclusion once an estate reached $17 million. The 1997 Act increases the value of an estate not subject to taxes. But a drafting error in the 1997 Balanced Budget Agreement failed to include the accompanying phase out of the exclusion on estates over $17 million.

Clearly this error needs to be fixed. Letting this mistake stand uncorrected will cost the American taxpayers nearly $900 million over the next ten years. To give you an idea of how much this provision does to benefit the few, consider that in 1995, the Internal Revenue Service estimates that just 300 tax returns were filed on estates over $20 million.

Congress had the opportunity to correct this error during consideration of the IRS Reform bill this year. Regrettably, the objections of a few to making this right overcame the support of the many for doing so.

Meanwhile, Mr. President, self-employed Americans are struggling to cope with the rising cost of health insurance, which they—unlike Americans employed by others—cannot fully deduct from their taxable income. The face of their struggle is most evident on farms and ranches. In Nebraska, producers are facing plunging commodity prices at the same time they face soaring costs of living, especially for health insurance. Today they can deduct 40 percent of the cost of their insurance. Under current law, they cannot fully deduct that cost until 2007.

So, my proposal is simple. Let's close the loophole that everyone admits was an accident, and use that money to accelerate the full deductibility of health insurance for the self-employed. It's a clear choice between a loophole that nobody wanted to exist and entrepreneurs who—especially those on our farms and ranches—may not exist much longer if we don't get them some help.

While I recognize time is short for passing this bill this year, I urge my colleagues to join me in supporting this legislation and in pursuing this goal next year.

MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998—S. 2616

Statements on the bill, S. 2616, introduced on October 9, 1998, did not appear in the RECORD. The material follows:

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BREAUX, Mr. JEFFORDS, Mr. DOMENICI, Ms. COLLINS, Mr. BAUCUS, Mr. D'AMATO, Mr. BRYAN, Mr. HATCH, Mr. KERREY, Mr. ROCKEFELLER, Mr. NICKLES, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, and Mr. MURKOWSKI):

S. 2616. A bill to amend title XVIII of the Social Security Act to make revisions in the per beneficiary and per visit payment limits on payment for health services under the medicare program; to the Committee on Finance.

MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998

Mr. ROTH. Mr. President, I rise to introduce the Medicare Home Health Fair Payment Act of 1998.

This legislation is the product of a great deal of hard work and analysis. It has bipartisan, bicameral, support. Currently, the bill has 15 cosponsors, and similar legislation was introduced in the House of Representatives.

Staff worked to make sure that the technical aspects of this bill could be implemented. After technical review from the Health Care Financing Administration, it is our understanding that the changes in home health payments could be implemented as intended.

I would like to thank the many Senators who were very helpful and contributed to the debate of addressing the home health interim payment system. In particular, I commend Senator COLLINS, Senator GRASSLEY, Senator BREAUX, Senator COCHRAN, and Senator BOND. All put forward legislative proposals which we examined closely, and which helped us in our development of the legislation now before us.

With this budget neutral proposal, about 82% of all home health agencies in the nation will benefit from improved Medicare payments. Although I have heard concerns that we do not go far enough to help some of the lowest cost agencies, it is an important step in the right direction. In fact, we have received letters of support from the Visiting Nurse Associations of America and the National Association for Homecare.

Let's remember where we were before the Balanced Budget Act of 1997. Home health spending was growing by leaps and bounds, cases of fraud and abuse were common, and the Medicare program was headed towards bankruptcy in 2003.

Last year, Medicare spent $17 billion for 270 million home health care visits so that one out of every ten beneficiaries received care at home from a nurse, a physical or occupational therapist, and/or a nurse aide.

Unlike any other Medicare benefit, the home health benefit has no limits on the number of visits or days of care a beneficiary can receive, beneficiaries pay no deductible, nor do they pay any co-payments.

Prior to BBA, home health agencies were reimbursed on a cost basis for all their costs, as long as they maintained average costs below certain limits. This payment system gave immense incentives for home health agencies to increase the volume of services delivered to patients, and it attracted many new agencies to the program.

From 1989 to 1996, Medicare home health payments grew with an average annual increase of 33 percent, while the number of home health agencies swelled from about 5,700 in 1989 to more than 10,000 in 1997.

In response to this rapid cost growth and concerns about program abuses, the BBA included a number of changes to home health care. Congress and the Administration supported moving toward a Prospective Payment System (PPS). In order for HCFA to move to a PPS, however, a number of computer system changes were necessary with respect to their home health operations. The interim payment system (IPS) was developed to manage reimbursement until the PPS could be implemented.

Significant Medicare payment issues for home health care have emerged from our analysis from the impact of the IPS. There are severe equity issues in payment limit levels both across states and within states. These wide disparities are exacerbated by a major distinction drawn in payment rules between so-called "new" versus "old" agencies. "Old" agencies being those that were in existence prior to 1993, and "New" agencies those in existence since then.

The effects of the current home health payment methodology are that similar agencies providing similar services in the same community face very different reimbursement limits, leading to highly arbitrary payment differences.

The payment limit issues will deepen significantly more in 1999 due to a scheduled 15% cut in already tight and severely skewed payment limit levels. Further, the prospective payment system scheduled to go on-line in October, 1999, will be delayed by several months to one year, because of year 2000 computer programming problems, according to the Health Care Financing Administration.

This legislation takes several steps to improve the Medicare home health care IPS and addresses the 15% cut.

First, it increases equity by reducing the extreme variations in payment limits applicable to old agencies within states and across states. This is achieved through a budget-neutral blend for "old" agencies.

Second, it increases fairness by reducing the artificial payment limit differences between "old" and "new" agencies. Such distinctions are contributing to the perception of arbitrariness in the home health care system. And, our proposal does not create additional classes of home health agencies, such as "new-new" agencies subject to even deeper, arbitrary payment limits in the future. Restricting new entrants to home health care is an inappropriate barrier to entry in underserved areas—both in rural and inner city areas. In the legislation, greater fairness is achieved by eliminating the 2 percent discount applicable to new agencies, and raising the per visit limits for all agencies from 105 percent to 110 percent of the national median.

Third, the proposal lengthens the transition period for payment changes by providing all agencies a longer transition period in which to adjust to changed payment limits. It creates a sustainable fiscal base for the statutorily mandated prospective payment system (PPS) by delaying the scheduled 15 percent cut and the PPS for one year.

The following is a summary of the Medicare Home Health Fair Payment Act of 1998:

PER BENEFICIARY LIMITS

1. "Old" agency: payment is a blended formula equal to 50 percent BBA policy + 50 percent (50 percent national mean + 50 percent regional mean); and

2. "New" agency: payment is increased by 2 percent to equal 100 percent of the national median, (which continues to be regionally adjusted for wages).

PER VISIT LIMITS

3. Increase the per visit limits from 105 percent to 110 percent of the median.

DELAY BOTH THE 15 PERCENT ACROSS-THE-BOARD CUTS AND THE PPS

4. Delay of the 15 percent across-the-board cuts in payment limits and the implementation of the prospective payments system now scheduled to take effect on October 1, 1999.

DESCRIPTION OF OFFSET POLICIES

1. Reduce the home health care annual market basket (MB) in the following manner: for fiscal year 2000 it is MB minus 0.5 percentage point; for FY 2001 it is MB minus 0.5 percentage point; for FY 2002 and FY 2003 it is full MB; and in FY 2004 it is MB plus 1.0 percentage point. Savings of $300 million over 5 years.

2. Non-Controversial Revenue Raisers—Revenues of $406 million over 5 years.

a. Math Error Procedures—This provision would clarify the math error procedures that the IRS uses.

b. Rotavirus Vaccine—This provision will add an excise tax of 75 cents on a vaccine against rotavirus gastroenteritis, a highly contagious disease among young children.

c. Modify Net Operating Loss Carryback Rules—Certain liability losses can be carried back over ten years. This provision would clarify the types of losses that qualify for the 10-year carryback.

d. Non-Accrual Based Method—This provision would limit the use of the non-accrual experience method of accounting to amounts received for the performance of certain professional services.

e. Information Reporting—This provision requires reporting on the cancellation of indebtedness by non-bank institutions.

3. Budget Pay-Go surplus for remaining offset.

At the beginning of my statement, I recognized my colleagues for their leadership on this issue. Now, I would like to especially thank the staff involved for their hard work and dedication to the completion of this bill. This represented a herculean task on their behalf. In particular, I would like to recognize the principal staff involved who spent many long hours putting the details of this package together, they are Gioia Brophy and Kathy Means of my staff; Katie Horton and David Podoff from Finance Minority staff; Louisa Buatti and Scott Harrison of the Medicare Payment Advisory Commission; Tom Bradley and Cyndi Dudzinski of the Congressional Budget Office; Jennifer Boulinger and Ira Bernie of the Health Care Financing Administration; John Goetchus of Senate Legislative Counsel; and Richard Price of the Congressional Research Service.

Mr. President, I ask unanimous consent that letters of support from the Visiting Nurse Association of America and the National Association of Homecare be printed in the RECORD.

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

VISITING NURSE ASSOCIATIONS OF AMERICA,
Boston, MA, October 10, 1998.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN ROTH: The Visiting Nurse Associations of America (VNAA) deeply appreciates your efforts to craft a solution to the problems caused by the Medicare home health interim payment system for our members and other cost effective home health agencies. Urgent action is needed before Congress adjourns to provide relief to these agencies to assure that they can continue to care for their Medicare patients.

We understand that one barrier to action has been the difficulty in finding acceptable funding offsets to the modest Medicare spending required to achieve a workable package. We have been advised that the Finance Committee is currently considering an adjustment to future home health market baskets that would generate approximately $300 million in new Medicare savings to offset in part the cost of the one year delay in the automatic 15% reduction in home health payments now scheduled for October 1, 1999. Specifically, VNAA understands that this proposal would reduce the market basket index in 2000 and 2001 by 0.5 percentage point. In 2002 and 2003 the full market basket index would be used, and in 2004 the market basket would be increased by one percentage point.

VNAA strongly supports the delay in the 15% cut and supports the adjustment to future home health market baskets as a needed partial offset to the cost of that important action.

VNAA hopes that its support for this offset will facilitate quick action by the Senate. If there are any questions about our position, please contact our Washington Representative, Randy Fenninger, at 202-833-0007, Ext. 111.

Thank you for your continued efforts on behalf of cost effective home health agencies and their patients.

Sincerely,

CAROLYN MARKEY,
President and CEO.

NATIONAL ASSOCIATION FOR HOME CARE,
Washington, DC, October 7, 1998.

Hon. WILLIAM V. ROTH, Jr.,
Chair, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: The National Association for Home Care (NAHC) is the largest home care organization in the nation, representing all types of home health agencies and the patients they serve. We have had continuing concerns over the past year regarding the effects of the home health provisions of the Balanced Budget Act of 1997, particularly by the interim payment system (IPS).

We are pleased that you and other members of the Senate Finance Committee have shown the leadership to develop a package of IPS refinements that will help to ease some of the most pressing problems of the new payment system. We are particularly grateful for your inclusion of a one-year delay of the 15 percent reduction that is currently scheduled for October 1, 1999. While there remain a number of important issues relating to the IPS that we believe must be addressed in the 106th Congress, your proposal will make a meaningful difference in helping agencies to remain open and to serve Medicare beneficiaries throughout the nation.

Many thanks for all of your efforts. We look forward to working with you, members of the House of Representatives, and others in developing additional relief legislation early next year.

Sincerely,

VAL J. HALAMANDARIS,
President.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished Chairman, Senator ROTH, and other colleagues in introducing a bill to improve the home health interim payment system.

Prior to the Balanced Budget Act of 1997 (BBA), home health agencies were reimbursed on a cost basis for all their costs, as long as they maintained average costs below certain limits. That payment system provided incentives for home health agencies to increase the volume of services delivered to patients, and it attracted many new agencies to the program. From 1989 to 1996, Medicare home health payments grew at an average annual rate of 33 percent, while the number of home health agencies increased from about 5,700 in 1989 to more than 10,000 in 1997.

In order to constrain the growth in costs and usage of home care, the BBA included provisions that would establish a Prospective Payment System (PPS) for home health care, a method of paying health care providers whereby rates are established in advance. An interim payment system (IPS) was also established while the Health Care Financing Administration works to develop the PPS for home health care agencies.

The home health care industry is dissatisfied with the IPS. The resulting concern expressed by many Members of Congress prompted us to ask the General Accounting Office (GAO) to examine the question of beneficiary access to home care. While the GAO found that neither agency closures nor the interim payment system significantly affected beneficiary access to care, I remain concerned that the potential closure of many more home health agencies might ultimately affect the care that beneficiaries receive, particularly beneficiaries with chronic illness.

The bill we are introducing today adjusts the interim payment system to achieve equity and fairness in payments to home health agencies. It would reduce extreme variations in payment limits applicable to old agencies within states and across states and would reduce artificial payment level differences between "old" and "new" agencies. The bill would provide all agencies a longer transition period in which to adjust to changed payment limits.

Clearly, since the bill may not address all the concerns raised by Medicare beneficiaries and by home health agencies, we should revisit this issue next year. A thorough review is needed to determine whether the funding mechanism for home health is sufficient, fair and appropriate, and whether the benefit is meeting the needs of Medicare beneficiaries.

America's home health agencies provide invaluable services that have given many Medicare beneficiaries the ability to stay home while receiving medical care. An adjustment to the interim payment system and delay in further payment reductions will enable home health agencies to survive the transition into the prospective payment system while continuing to provide essential care for beneficiaries.

Mr. GRASSLEY. Mr. President, I am pleased to cosponsor the Medicare Home Health Fair Payment Act of 1998, which is a first step toward addressing the crisis in Medicare home health care. This is not a perfect bill, but it's a good bill, and it is the best we can do at this moment in time. And it's a good example of the Senate listening to the American people. Let's pass it right now.

The Senate Special Committee on Aging, which I chair, highlighted the problems with the home health Interim Payment System (IPS) in a hearing on March 31st of this year. For more than six months since that day, I have been working to find a solution to these problems, because I believe that it's Congress' responsibility. It's true that the IPS legislation was primarily HCFA's product. And HCFA's implementation of the IPS has been questionable in many respects. But even if HCFA proposed it, there's no denying that Congress passed the IPS. So I have argued all year that it is incumbent on Congress to fix what's wrong with it, this year.

What's wrong with the IPS? In short, it bases payment on an individual home health agency's historical costs from Fiscal Year 1994. That means that if the agency had high costs per patient in that year, it can receive relatively high payment this year. That would be fine if HCFA knew that the agency had sicker patients this year, but the sad truth is that HCFA has no idea. So IPS has been a windfall for some agencies, but crushing for agencies with low historical costs. We have a lot of those in Iowa, where we still know the value of a dollar. Many of those hit hardest are the "little guys," the small businesses that are the lifeblood of the program in rural areas.

For months, I have worked with a bipartisan group of Finance committee members, including especially Senators BREAUX, BAUCUS, and ROCKEFELLER, on fixing IPS. In July we introduced the product of those efforts, the Home Health Access Preservation Act, and that bill clearly influenced the new Finance bill. I thank Chairman ROTH and his fine staff for their willingness to work with us to find a viable approach. In the final months of this session, they have really gone the extra mile.

Now, this bill doesn't give anyone everything that they want. Senators ROTH and MOYNIHAN rightly focused on creating something that could actually pass this year, and so the bill is a product of compromise. One of the key features is that the bill is paid for, so that it will not add another burden onto the already-burdened Medicare Part A trust fund. The offsets used are fair ones, and should not be controversial.

I am familiar with the bill the House is voting on today. Should both bills be passed, with all due respect to my House colleagues, I urge them to recede to the Senate bill in conference. I have worked on this issue a long time, and I don't believe this bill can be improved upon.

Mr. President, this bill will not satisfy everyone. It's a compromise, and in fact, it likely will not fully satisfy anyone. But it's the right thing to do, because it will help to keep some of our good home health providers around for another year, so they can make sure our seniors get home care when they need it.

Mr. BREAUX. Mr. President, I rise today in support of the Medicare Home Health Fair Payment Act of 1998. This is an issue that I have worked on for several months with Senator GRASSLEY and other Members of the Senate and I am pleased that the Senate has addressed this issue before adjourning.

I am the first to admit that there is too much fraud, waste, and abuse in Medicare's home health benefit and there is probably no other state where the problem is more pronounced than Louisiana. Every graph I see on home health shows Louisiana off the charts—Louisiana has the highest per beneficiary spending in the country; we have more visits per patient than any other state in the country; Louisiana represents 5.2% of all Medicare home health visits even though only 2.3% of Medicare beneficiaries live in the state. There are 466 home health agencies in Louisiana—we have more home health agencies than McDonalds in the state. So I know firsthand that there are problems with home health and that states like Louisiana could afford a reduction in the number of agencies. The problem is that the interim payment system crafted by Congress and the Administration last year is causing the wrong agencies to go out of business.

It is clear that the IPS has had serious unintended consequences. In Louisiana and other states, the interim payment system has for the most part rewarded inefficient providers and forced many low-cost, efficient agencies out of the program. For example, you could have one agency with a per beneficiary limit of $12,000 competing with another agency down the street with a per beneficiary limit of $4,000. What we did with IPS is essentially put that $4,000 agency at such a competitive disadvantage that there is no way it can stay in business.

When we finally move home health to prospective payment, it is critical that some low-cost providers be in business to treat patients who need home care. The Grassley-Breaux bill that we introduced several months ago tried to level the playing field by bringing the very high cost providers down while raising the reimbursement for low cost providers. This reflects what will happen under prospective payment when all providers will essentially be paid the same amount for treating the same kind of patient. We also eliminated the distinction between old and new providers in an attempt to further level the playing field. To ensure that high cost patients would still have access to home health, the Grassley-Breaux bill included an outlier policy so that home health agencies would not turn high cost patients away.

The interim payment reform proposal put forward by Senators ROTH and MOYNIHAN is an important first step towards fixing IPS and I applaud the bipartisan approach the Senate used in arriving at this proposal. I think most members would argue that much more needs to be done and I would agree. I am hearing from many home health agencies in Louisiana that this bill will only be of marginal help to the state but that it is important that something get done this year. As is the case with most things we do around here, particularly in the waning hours of this Congress, getting something is better than getting nothing. I

am pleased that there is a bipartisan commitment by the Senate Finance Committee to revisit this issue next year and take a much more comprehensive look at the home health benefit. It is imperative that the Congress address this issue again next year since this proposal represents only a temporary fix. But it is an important one. The Senate bill:

(1) Institutes a new blend for old agencies to increase reimbursements to low-cost agencies and reduce payments to very high-cost agencies. This will begin to level the playing field and prepare all providers for prospective payment. While the Senate proposal narrows the discrepancy between old and new agencies, I think much more needs to be done to restore equity to the program.

(2) Slightly increases payments to so-called "new" agencies, those in business since 1994. While in Louisiana this will only mean about an extra $52 per patient per year, it is important to recognize that new agencies need some relief.

(3) Increases the per visit cost limits from 105% of the national median to 110% of the national median.

(4) Most importantly, the Senate proposal delays the across-the-board 15% reduction that is currently scheduled for October 1, 1999. HCFA was originally required to institute a prospective payment system for home health agencies by October 1 of next year. Because of the Y2K problem, HCFA is now anticipating that it will not have PPS in place until April 1, 2000. Delaying the automatic 15% reduction in payments to home health agencies will ensure that the agencies aren't punished for HCFA's inability to implement PPS in a timely manner.

The goal of this bill is to fix some of the problems created in the BBA. Again, it is certainly only a first step—there is still much more that needs to be done and I am hopeful that the 106th Congress will revisit this issue to ensure that Medicare beneficiaries continue to have access to this very important benefit.

I urge my colleagues to support this bipartisan measure. It may not be everything everyone wants, but it certainly is better than doing nothing this year and it provides much-needed temporary relief to home health agencies across the country.

Mr. JEFFORDS. Mr. President, today, I am very pleased to join in introducing the Medicare Home Health Fair Payment Act, legislation that significantly improves the interim payment system to home health agencies established under the Balanced Budget Act of 1997. Over the past eight months, I have been working as hard as I know how to find a solution for the crisis faced by our home health care agencies in Vermont. Our 13 home health agencies are model agencies that provide high-quality, comprehensive home health care with a low price tag. However, under Medicare's new interim payment system the payments to the agencies are so low that Vermont's seniors may be denied access to needed home health services.

Under the legislation, the reimbursement from Medicare to home health agencies will be increased, and the 15% across-the-board cut scheduled for next year will be delayed by one year. Adoption of this bill will give the Vermont home health agencies needed financial relief until a new prospective payment system is in place.

For the past seven years, the average Medicare expenditure for home health care in Vermont has been the lowest in the nation. However, rather than being rewarded for this cost-effective program, Vermont has been penalized by the implementation of the current interim payment system. In June, 1998, Vermont's home health agencies projected that the statewide impact of the current interim payment system was a loss of over $4.5 million in Medicare revenues for the first year. This represents a loss of over 11% on an annual base of $40 million statewide.

Vermont is a good example of how the health care system can work to provide for high quality care for Medicare beneficiaries. Home health agencies are a critical link in the kind of health system that extends care over a continuum of options and settings. New technology and advances in medical practice hospitals to discharge patients earlier. They give persons suffering with acute or chronic illness the opportunity to receive care and live their lives in familiar surroundings. Time and time again, Vermont's home health agencies have proven their value by providing quality, cost-effective services to these patients. Yet time and again, federal policy seems to ensure that their good deeds should go punished.

The Medicare Home Health Fair Payment Act is the product of a great deal of hard work by the Finance Committee and is carefully designed to ease the burden of home health care agencies in the transitional years prior to the introduction of a new prospective payment system in 2000. The bill includes several strong policy components, which promote equity and fairness among the agencies nationwide. Under the new prospective payment system, Vermont and other cost-effective agencies can look forward to being rewarded rather than penalized for their high-quality, low-cost comprehensive medical care to beneficiaries.

It is my strong hope, that this bill will be adopted by the Senate, supported by the House, and signed into law. I have worked closely with Vermont's 13 home health agencies, Senator LEAHY and the Governor's Office in developing a solution to the payment crisis. The signing of this bill will mark a victory for our State, and it will also reflect a strong nationwide commitment to high-quality, cost-effective home health agencies such as those in Vermont.

Ms. COLLINS. Mr. President, I rise in support of the legislation introduced by the distinguished chairman of the Finance Committee. I would have preferred the approach taken in my own home health bill, which I introduced last April and which has 29 Senate cosponsors, because it would have done more to level the playing field and provide more relief to historically cost-effective agencies. However, I understand that the chairman faced a difficult task of balancing a number of competing issues, and the bill we are considering today is an important first step that will move the process forward and provide a measure of relief to those cost-effective agencies in every State that are currently being penalized by the formula used to calculate the per-beneficiary limit.

America's home health agencies provide invaluable services that have enabled a growing number of our most frail and vulnerable Medicare beneficiaries to avoid hospitals and nursing homes and stay just where they want to be—in their own homes. However, critics have long pointed out that Medicare's historic cost-based payment for home health care has inherent incentives for home care agencies to provide more services, which has driven up costs.

Therefore, there was widespread support for the Balanced Budget Act provision calling for the implementation of a prospective payment system for home care. Until then, home health agencies are being paid according to a new "interim payment system," which unfortunately is critically flawed.

As we are all aware, the Health Care Financing Administration has diverted considerable resources to solving its Y2K problem so that there will be no slowdown of Medicare payments in 2000. As a result, implementation of the prospective payment system for home health agencies will be delayed, and home health agencies will remain on IPS far longer than Congress envisioned when it enacted the Balanced Budget Act. This makes it all the more imperative that we act now to address the problems with a system that effectively rewards the agencies that have provided the most visits and spent the most Medicare dollars, while it penalizes low-cost, more efficient providers.

Home health agencies in the Northeast are among those that have been particularly hard-hit by the formula change. As the Wall Street Journal recently observed, "If New England had been just a little greedier, its home health industry would be a lot better off now . . . Ironically, . . . [the region]

is getting clobbered by the system because of its tradition of nonprofit community service and efficiency.

Moreover, there are wide disparities in payments and no logic to the variance in payment levels. The average patient cap in the East South Central region is almost $2,500 higher than New England's without any evidence that patients in the southern States are sicker or that nurses and other home health personnel in this region cost more.

Moreover, the current per-beneficiary limits range from a low of $760 for one agency to a high of $53,000 at another. As such, the system gives a competitive advantage to high-cost agencies over their lower costs neighbors, since agencies in a particular region may have dramatically different reimbursement levels regardless of any differences among their patient populations. And finally, this system may force low-cost agencies to stop accepting patients with more serious health care needs.

Mr. President, I realize that we cannot address every home health issue that has been raised this year. Some matters will have to carry over to the next Congress, and I fully intend to work with my colleagues next year on these items. Nonetheless, there are things we can do this year, and I believe that it is imperative that Congress act now to begin to address these problems. At least one agency in Maine has closed because the reimbursement levels under this system fell so short of its actual operating costs. Other cost-efficient agencies in my State are laying off staff or declining to accept new patients with more serious health conditions.

Which brings us back to the central and most critical issue—the real losers in this situation are our seniors, since cuts of this magnitude simply cannot be sustained without ultimately affecting patient care.

Mr. President, once again, I commend the chairman of the Finance Committee for his efforts on this difficult issue and urge my colleagues to join me in supporting this legislation.

Mr. BOND. Mr. President, I thank the Senator from Delaware, Mr. ROTH, for attempting to bring some resolution to the home health crisis before the end of this session and making much needed revisions to the Medicare home health interim payment system (IPS). I fully support delaying the automatic 15 percent reduction for one year, raising the cost limits to 110 percent of the median, and raising payments for new agencies. However, I still have serious reservations about a blend approach which reshuffles the deck chairs on the *Titanic*. It is imperative that we restore access to home health care for medically complex patients, and I look forward to working with my colleagues to address this issue in conference.

At this time my distinguished colleague from Mississippi, Mr. COCHRAN, and I would like to engage the able Chair of the Senate Finance Committee, Mr. ROTH, in a discussion about the problems that have resulted from IPS, and further action that the Senate must take to complete the work begun this year in this important area.

Mr. President, there is not a single Member of the Senate or House of Representatives who has not become painfully aware of the serious problems that have arisen within the home health program over the last year. These problems stem from enactment of a temporary payment system that was recommended to us by the Health Care Financing Administration. The fact is that the so-called interim payment system (IPS) was untested, and, as we have found, made such swift and deep cuts in reimbursements, thereby hampering the ability of home care providers to serve needy patients and affecting access to care for some of the most frail, oldest, and poorest of our seniors and disabled.

The IPS is the worse case of false economy that I've ever seen. If the elderly and disabled cannot get care at home, it's clear where they will go for care. Emergency room costs will rise, patients will go into more expensive institutionalized care, or patients simply won't get any care at all. In addition to increasing Medicare costs, there will be an explosion in Federal and State Medicaid budgets. I believe the Senator from Mississippi would agree that the problems brought about by IPS are significant.

Mr. COCHRAN. Mr. President, the statements made by the Senator from Missouri are, I'm sad to say, quite true. Most recent official figures from 29 state health departments indicate that close to 800 agencies have closed in those states. This number represents parent agencies; other data from the states indicate that the number of agencies and branches that have closed is much higher. We also know that there are many more agencies on the brink of closing if some relief from IPS is not provided soon. If the current rate of closures continues, we could easily see a loss of 2,000 more home health agencies by October 1, 1999.

Agency closing are resulting in significant beneficiary care access problems. In fact, a recent GAO study found that two-thirds of discharge planners and more than a third of the aging organizations surveyed reported having had difficulty obtaining home health care for Medicare patients in the last year, especially those who need multiple weekly visits over an extended period of time. Matters will only get worse as agencies become more and more limited in their ability to provide needed services. In fact, in testimony before the Ways and Means Committee in August, Ms. Gail Wilensky, former head of the Health Care Financing Administration, warned that, if the Congress waits for proof that a crisis is occurring in home care before it acts, it will be too late. She also indicated that more money was taken out of home care than the Congress had expected when IPS was designed and then implemented by HCFA.

Mr. BOND. Mr. President, I might add at this time that despite the fact that HCFA is responsible for this draconian system, HCFA has only offered technical assistance to address this crisis. HCFA must beheld accountable for this insane and inequitable system and face up to the fact that its system is wreaking havoc throughout our country.

Clearly the program cannot continue under this scenario and continue to provide quality services to eligible individuals. Some of my colleagues may wonder how this all came about. Perhaps the Senator from Mississippi can provide some insight into this.

Mr. COCHRAN. Mr. President, I thank my colleague. In addition to HCFA imposing an untested payment system with the home health IPS, the scoring mechanism used by CBO to estimate savings resulting from IPS included a ⅔ behavioral offset. What this means is that CBO presumed that for every $3 saved under IPS, agencies would find some way, through expanding the number of beneficiaries they serve, to make up $2 of every $3 lost under IPS. What has become clear, as was indicated by the Senator from Missouri, CBO's behavioral assumptions about agencies increasing the number of beneficiaries served have not come to pass. Instead, we are seeing a near dismantling of the home care program as the result of IPS.

We have already seen the devastating effects of the interim payment system in my state of Mississippi. While I applaud the Senate for its efforts to reform the interim payment system, we must commit ourselves to continuing this work as soon as the Senate reconvenes. I am particularly concerned that we must address the problems that will be created by the automatic 15% reduction in payment limits which we have agreed to delay one year. It took this distinguished body that long to reach the temporary solutions which we have before us today and we cannot put off deliberations on this additional cut until the last moment. Prudence dictates that we find ways to insure that any additional cuts in reimbursement not adversely affect efficient providers nor burden patients in their access to necessary home care services.

Mr. BOND. Thank you for those insights Senator COCHRAN. I fully agree that this must be a priority of the Senate to address as soon as possible. There are additional issues which also need to be addressed at that time, particularly how to reimburse those agencies which serve our nation's most

medically complex patients. We have a moral obligation to ensure that our nation's seniors and disabled are provided the quality and comfortable care they deserve. In addition, we must look at provisions which require that the payment limits are prorated where a patient is served by more than one agency. It is my understanding that the Health Care Financing Administration is not capable of administering this provision, yet it is having impact on patient's access to care. The problem centers around the inability of a home health agency to properly manage its business when it does not know the ultimate payment limitation which it must budget. The home health agency has no way of knowing whether a patient has received services from another home health agency during the year and cannot possibly figure out whether its breaking even or going broke. While we do not want home health agencies to abuse the system through schemes that allow them to circumvent the limits by transferring patients, we also do not want to penalize patients and providers from the appropriate management of home care services. Another issue is the elimination of the periodic interim payment methodology scheduled for October, 1999. That termination date was chosen to coincide with implementation of prospective payment system, which we now know, will not be in operation at that stage. This Congress should recognize the need to continue that system until such time as a Prospective Payment System is in place.

Mr. COCHRAN. Mr. President, I too am very concerned about the delay in the development and implementation of a PPS system. It is the only clear solution to deal with those complex patients who are having increasing difficulty in gaining access to home care services. If we cannot have PPS soon, we must find a way to better reimburse agencies which care for these high cost patients. Home health agencies in Mississippi report to me that this is one of the most important problems that must be addressed. At the same time, putting together a PPS program will do no good if we destroy the foundation of our home health services delivery system. As the result of IPS, I am told that home health agencies across the country will find some time in the middle of next year that they have likely been over paid by the Medicare program even though they delivered appropriate services to patients at a reasonable cost. This Congress must find a way to deal with that pending crisis in order to protect those home health agencies that met patient's needs yet still incurred costs beyond the arbitrary limits which were developed under IPS.

Mr. ROTH. Senator BOND and Senator COCHRAN, I thank you for your leadership within the Senate of these crucial issues affecting Medicare beneficiaries across the country. Through your assistance we hope to ensure that home health care is readily available where the needs arise. We will continue to explore fully those issues which you have raised. We will also draw on the resources of Medpac, HCFA, the GAO, and representatives from home care patients and providers to determine whether more work is required. Home health care is a crucial part of our health care system and the elderly and disabled protected by the Medicare program deserve the attention of this Congress to insure that we not disrupt this important benefit without a full and accurate understanding of the consequences. Once again, I thank Senator BOND and Senator COCHRAN for the guidance that they have offered to this body in addressing these important issues.

Mr. CONRAD. Mr. President, I want to comment on the home health proposal that is before us and ask the Chairman of the Finance Committee to clarify his intentions with regard to addressing this issue in the next Congress.

The current home health interim payment system isn't working. Under the current system, those agencies that abused the system and milked Medicare for every possible reimbursement dollar are rewarded with generous cost limits. However, North Dakota agencies that did not abuse the system, that worked hard to keep their costs down, are penalized with unrealistically low limits. Not only is this terribly unfair, it creates a terrible incentive for efficient, low-cost agencies to go out of business and transfer their employees and their customers to agencies that have ripped off the system.

This system clearly penalizes North Dakota home health agencies and the beneficiaries who rely on their services. The median per beneficiary cost limit for North Dakota home health agencies is the second lowest in the country—a mere $2150 per year. In fact, the agency in North Dakota with the highest limit has a cap that is below the lowest limit in the state of Mississippi. There is no rational basis for this sort of inequity.

Unfortunately, the proposal before us today takes only the smallest of steps toward correcting this inequity and leaves in place too many of the current incentives that favor high cost, wasteful home health agencies. I do not see how I can, in good conscience, go back to North Dakota home health agencies and tell them that we can only lift their payments rates 2 or 3 percent when agencies in other parts of the country will continue to have payment limits 3 and 4 times as high as theirs. It is not fair. It is not good policy. It is not good enough. For that reason, I will feel constrained to object to this legislation unless I can be assured by the Chairman of the Finance Committee that there will be an opportunity to do better next year.

Mr. ROTH. Mr. President, I thank the gentleman from North Dakota for his comments. He is right; this change is only a small step. It does not "fix" the interim payment system. However, in the time remaining this year, this is the best we can do. It takes an important step toward making the system more fair, and it reduces the perverse incentives in the current system. In addition, it recognizes that the Prospective Payment System for home health will be delayed, so it delays for 1 year the 15% cut in payments that is currently scheduled to go into effect on October 1, 1999.

I want to assure my colleague from North Dakota, however, that I fully intend to revisit the home health issue next year. At that time, I pledge to work with him and other members of the Finance Committee to see if we can come up with a system that better addresses the needs of North Dakota home health agencies.

Mr. CONRAD. I thank the Chairman. With that assurance, I will drop my objection and let this legislation move forward.

ADDITIONAL COSPONSORS

S. 2130

At the request of Mr. GRAMS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Oklahoma (Mr. NICKLES) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. WELLSTONE) 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.

ADDITIONAL STATEMENTS

TRIBUTE TO INDIANA STAFF

• Mr. COATS. Mr. President, I rise today to pay tribute to a group of people that have been of tremendous service to me during my tenure as a United

States Senator. That group is my Indiana staff.

As I have so often said, whatever success I have achieved during my service as a Senator is greatly attributable to the tireless work of my staff. Their hours are long, and they toil in relative obscurity. However, they do so for the same reason that we as Senator make the sacrifice. They work so hard because they believe in this great Nation we serve, and the ideals that are woven into the very fiber of our existence as Americans.

So much of our work here in the Senate focuses on legislative activity. For that is the stuff of headlines and news stories. However, it is hardly a reflection of one of the most fundamental responsibilities of a United States Senator, and that is providing caring and responsive service to the citizens of our State, the people who's trust we are charged with protecting and serving. And, Mr. President, it is those people serving in my State and regional offices that work so hard to insure that the needs and requests of my Indiana constituents are met with friendly and effective service. They are the front line, they are my eyes and ears in Indiana, and without their hard work, it would be impossible for me to serve effectively.

As the distinguished senior Senator from Indiana pointed out yesterday, we have a rather unique operation back in Indiana. The senior Senator and I share a combined staff. They have served the State well. I would like to take a moment now to acknowledge my Indiana staff. Kathy Blane, Susan Brouillette, Sarah Dorste, Mark Doude, James Garrett, Amy Gaston, Michelle Mayer, Kevin Paicely, Lane Ralph, Karen Seacat, Libby Sims, Cory Shaffer, Angela Weston, Mike Duckworth, Barbara Keerl, David Graham, Pat McClain, Phil Shaull, Amy Hany, Tim Sanders, and Barb Franz. I believe I have included everyone. If I have not, let them know my appreciation.

As I have said, the distinguished senior Senator and I have shared staff, and so many will continue to work for the citizens of Indiana. Though some will go on to other endeavors, that same sense of responsibility and public service that has motivated them to date, I am sure will drive them to continue to play a positive role in the lives of Hoosiers for years to come.

I thank them and salute them.•

TRIBUTE TO JUDGE JAN SMITH

• Mr. REID. Mr. President, I rise today to pay tribute to an outstanding Nevadan, my friend and former colleague, Judge Jan Smith. At the age of 71, after years of service as Justice of the Peace for the Jean-Good Springs community, Judge Smith will retire from the bench next year. I want to take this opportunity pay tribute to Jan for her efforts to improve the lives of so many Americans, because her accomplishments have helped us all.

I have been fortunate enough to be a first hand witness to some of Jan's incredible achievements. I have watched her rise from legal aide and working mother in the early 1960's to become one of Nevada's most influential judicial officers.

After toiling away as a legal secretary for a District Attorney and a county judge, Jan became deeply involved with a variety of grass roots causes. She was one of the first women in the State to be an advocate on behalf of the environment. In the city of Henderson, she canvassed neighborhoods and city hall to prevent industry from inflicting permanent damage to the environment. As a mother of six, she was insightful enough to take action so that her children could grow up with an ample supply of clean air and water.

Judge Smith was also a champion for the underprivileged. She worked tirelessly to create opportunities for the poor and disadvantage in Nevada. Like many of her contemporaries, she marched on behalf of women and children who needed a "hand-up", rather than a donation or handout.

When I served as Nevada's Lt. Governor, I began working closely with Jan when she was chosen to run the Southern Nevada office of then Governor Mike O'Callahan. Savvy and determined, she made an impression on everyone she worked with throughout those 6 years. Much of her success on the job came from her staunch work ethic and strong ties to both her family and the community.

The people of Nevada were truly fortunate to have Judge Smith come out of semiretirement to accept an appointment as a Justice of the Peace for the Jean-Good Springs district. She single-handedly reorganized the court so that it eventually became a model of fairness and efficiency. She has subsequently been reelected with overwhelming community support.

Judge Smith is one of the unsung heroes of the American justice system. Like many of our Nation's Justice of the Peace Officers, she does not typically preside over big dollar, high drama cases. However, those like Judge Smith are the representatives of our legal system most likely to come in contact with everyday Americans. Professionals like Jan do more to preside over basic public safety issues because they handle the difficult events that are all too common in communities across the country—drunk driving and domestic violence. Essentially, Jan's career has required her or exercise judgement and make tough decisions that have lasting impact.

Judge Jan Smith truly believes in the law, as a fellow officer of the court and United States Senator, I have relied upon on Judge Smith's trademark intelligence and honesty, as well as her ability to astutely assess the character and behavior of the many Nevadans who visit her court.

Much of my admiration for Judge Smith stems from her enduring commitment to people of the Silver State. Her values are reflected not only in the way she lives her life, but in the many organizations she has served over the past 30 years. Judge Smith's lifetime of achievement is truly an inspiration, and she serves as an incredible role model for judicial prudence, legal acumen, and personal integrity.•

REAUTHORIZATION OF THE OLDER AMERICANS ACT

• Mr. HUTCHINSON. Mr. President, on Friday, October 10th, I became a cosponsor of legislation introduced by Senator MCCAIN that would reauthorize the Older Americans Act. This Act, established in 1965, established a series of programs to benefit older Americans. Services provided include nutrition, transportation, nursing home ombudsmanship, and other senior's rights programs. Needless to say, Arkansas, which has over 200,000 senior citizens, has benefitted greatly from the services provided through the Older Americans Act. In addition, the organizations in Arkansas that have received funding through the Act have done an incredible job in reaching out to our seniors.

While the Older Americans Act expired in 1995, its programs have widespread support, which has resulted in continued funding. Nonetheless, authorization is critical for the long-term stability of these programs and for the peace of mind of senior citizens. the McCain bill renews the Act, without any changes, for a period of 3 years. Let me say that, as with any reauthorization, I strongly believe in the need for congressional hearings to examine the programs contained within the Act to ensure that they are working well, efficiently serving the needs of seniors, and that any appropriate adjustments in funding are made. Regrettably, the Senate Labor and Human Resource Committee, on which I serve, has not taken action on any reauthorization legislation this year. Until the committee does so, and as an indication of my very strong support for the programs contained in the Older American Act, I am cosponsoring the McCain bill.

The Older American Act has improved the quality of life for so many of our Nation's elderly, and it will continue to provide vital services as the aging population grows. I sincerely hope that the Senate will act on legislation to reauthorize this important act soon.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

FEDERAL MARITIME COMMISSION NOMINATIONS

• Mr. HOLLINGS. Mr. President, I would like to take a moment to congratulate two nominees, Mr. Hal Creel and Mr. John Moran, upon their confirmation to be Federal Maritime Commissioners.

Hal Creel, a native of South Carolina and my former Senior Counsel on the Maritime Subcommittee, has been a Federal Maritime Commissioner for 4 years. He has served the last 2½ years as the agency's Chairman. As Chairman, he has demonstrated a wide-ranging knowledge of the maritime industry and an outstanding ability to oversee industry activities. Our Nation is extremely fortunate to have such a dedicated individual at the helm of this important government body.

Mr. Creel and the Federal Maritime Commission are responsible for overseeing all international liner shipping in the U.S.—over $500 billion in trade. His efforts in the controversy surrounding Japan's restrictive port practices come immediately to mind.

The Government of Japan for many years has orchestrated a system that impedes open trade, unjustly favors Japanese companies, and results in tremendous inefficiencies for anyone serving Japan's ports. The FMC, under Mr. Creel's guidance, met these problems head-on and he was instrumental in bringing the two governments to the bargaining table. The bilateral agreement that resulted paves the way for far-reaching changes that can remove these unfair barriers to trade. The progress made to date has occurred in large measure due to the Commission's firm, results-oriented approach. I urge him to continue to keep the Japanese honest, and to perform their agreed upon obligations.

Hal Creel also has led the Commission in its efforts to resolve unfavorable trading conditions with the Peoples Republic of China and Brazil. These trades pose differing problems, but circumstances that nonetheless restrict U.S. companies or render their business dealings unnecessarily difficult or simply inefficient.

Hal Creel is widely respected by all sectors of the industry as an involved, knowledgeable Chairman who can be trusted to make impartial decisions based on all relevant factors. This has been evidenced by the objective, informed decisions he renders in formal proceedings, his voting record on important agency matters, and the even-handed enforcement program administered by the Commission. As Chairman of the FMC, Hal Creel has worked hard to curb harmful practices and create equitable trading conditions for the entire industry. He takes a personal stake in these matters and works hard to obtain compliance with the laws passed by this Congress. But those who willfully violate the law or intentionally disregard the Nation's ocean shipping policies as contained in the Shipping Act are dealt with appropriately.

These are turbulent times in the liner shipping industry, times that call for effective and respected leadership from our Nation's regulatory body. Mr. Creel provides that leadership now, and I am certain will continue to do so as the industry enters the new environment that will result from the Ocean Shipping Reform Act of 1998 passed by this body last week.

I am proud of the accomplishments and fine work Hal has done at the FMC. I am also proud that he is a native South Carolinian. He certainly has continued the fine tradition and excellence he has established as a staffer and senior counsel for the Senate Commerce Committee. His reappointment is well deserved.

I also wish to convey my support for John Moran to become a Commissioner at the FMC. John also is a former Commerce Committee counsel who served all members of that Committee with distinction. John and Hal worked together at the Committee on a bipartisan basis, slugging through tough issues and serving all of the Members well.

For my Senate colleagues who do not know Mr. Moran, his only fault is that he is not from South Carolina. He has demonstrated his abilities and intellect time and time again. He is well suited to be a Federal Maritime Commissioner. Currently, John works representing the American Waterways Operators, as their Vice President for legislative affairs. John also has an outstanding reputation within the maritime and transportation industry sectors.

I congratulate these two deserving individuals, who have been appointed to the agency which plays such a critical role in international trade.•

THE REPUBLICAN PATIENTS' BILL OF RIGHTS ACT

• Mr. ENZI. Mr. President, I rise to speak in strong support of S. 2330, the Patients' Bill of Rights Act. As an original cosponsor, I'm confident that this legislation is the logical step to ensure Americans accessible and affordable healthcare.

On January 13, 1998, the Majority Leader created the Republican Health Care Task Force to begin pouring the foundation for a comprehensive piece of legislation that would enhance the quality of care without dismantling access and affordability. For the last seven months, the task force met every Thursday—and other times as needed—with scores of stakeholders prior to writing this bill. Such thorough steps in writing a bill have clearly paid off. We now have legislation that would provide patients' rights and quality healthcare without nationalized, bureaucratized, budget-busting, one-size-fits-all mandates.

In 1993, President and Mrs. Clinton launched an aggressive campaign to nationalize the delivery of healthcare under the guise of modest reform. The sales pitch was backed with scores of anecdotes illustrated from Presidential podiums across the country. The stories pulled on the heartstrings of all Americans and were intentionally aimed at injecting fear and paranoia into all persons covered or not covered by private health insurance.

I am quick to ask my constituents interested in the President's bill to carefully examine the fine print. It's no surprise to me that most of them already have. The American people haven't forgotten the last time this Administration tried to slip nationalized healthcare past their noses. Folks in this town may be surprised to learn that the American people aren't a bunch of pinheads. Anyone can put lipstick on a pig, give it a fancy Hollywood title, and hope for an election-year slam dunk. Expecting the public to close its eyes and kiss that pig, however, is an entirely different matter.

The American people understand what's going on here. They know full well that higher premiums mean no coverage. Why? Because affordable access to healthcare is an even higher priority than quality. If it isn't affordable, it doesn't exist! By issuing one-size-fits-all mandates and setting the stage for endless litigation, the President's bill could dramatically raise the price of premiums—barring people from purchasing insurance. The President would be well advised to call his legislation the "Patient's Bill," because a costly bill is exactly what Americans would receive. That's the bottom line for American families—the cost. We all want quality. There isn't a member in Congress who doesn't want quality. But if Americans are expected to pay up to 23 percent higher premiums to get it, they'll most often have to go without insurance. It's that simple.

I remember the reaction Wyoming residents had to the 1993 "Clinton Care" plan. I was a State Senator living in Gillette, Wyoming at the time. I recall how the President and First Lady rode a bus across America—promoting nationalized healthcare. I also remember the detour they took when they arrived at the Wyoming border. Instead of entering my home state, they chose a more populated route through Colorado. That was an unfortunate choice. They missed an important healthcare point. Had they driven all 400 miles across southern Wyoming, they would have seen for themselves why one-size-fits-all legislation doesn't work in rural, under-served states.

Affordable and accessible care is THE life-line for Wyoming residents. I live

in a city of 22,000 people. It's 145 miles to another town of equal or greater size. Many of my constituents have to drive up to 125 miles one-way just to receive basic care. More importantly, though, is the difficulty we face enticing doctors and practitioners to live and practice medicine in Wyoming. I'm very proud of Wyoming's health care professionals. They practice with their hearts, not their wallets.

In a rural, under-served state like Wyoming, only three managed care plans are available and that covers just six counties. Once again, this is partly due to my state's small population. Managed care plans generally profit from high enrollment, and as a result, the majority of plans in Wyoming are traditional indemnity plans—commonly known as fee-for-service. Some folks might wonder why I am so concerned about the President's healthcare package, especially since it's geared toward managed care. I'm concerned because a number of Wyoming insurers offer managed care plans elsewhere. Any premium hike spurred by mandates in the Presidents' bill could be distributed across the board—causing increases in the fee-for-service premiums in Wyoming. Simply put, my constituents could easily end up paying for services they'll never get! 40 percent of my constituents are self-insured—meaning they pay for their own health insurance out of their own pockets. Expecting my constituents to pay more poses a clear and potential threat to exclude them from health insurance coverage. The urban areas get the care—we get the cost. Added cost—that's it—that's all.

The Republican plan is the right choice for America. It would safeguard 48 million people out of the 124 million now covered by the 1974 Employee Retirement Income Security Act or ERISA by requiring that group healthcare plans provide enrollees with: access to emergency medical care; point-of-service coverage; access to ob-gyn care; access to pediatric care; continuity of care; and, a ban on patient/doctor "gag" rules. ERISA plans, whether fully-insured or self-insured, would also be required to provide enrollees with information about plans and providers such as options, restrictions and descriptions.

The Republican Patients' Bill of Rights would also allow a patient to hold their health plan accountable. The President's bill, however, would allow a patient to sue their own health plan and tie up state courts with litigation for months or years. The only people that benefit from this would be trial lawyers. The patient, however, would be lucky to get a decision about their plan before their ailment advanced or even took their life. A big settlement doesn't do much good if you got it, because you died while the trial lawyers fiddled with the facts. Folks aren't interested in suing their health plan. They watch enough court-TV shows to know how expensive that process is and how long it takes to get a decision made. This isn't L.A. Law—it's reality. The Republican Patients' Bill of Rights avoids all this by incorporating an internal appeals process that doesn't exceed 72 hours. If not satisfied, an enrollee would be able to access an external review by independent medical experts. Getting quick decisions saves lives.

The President has repeatedly said that the Republican Patients' Bill of Rights should apply to all health insurance plans. Such claims are no different than those made by the President back in 1993. He wants nationalized healthcare—plain and simple. There is a reason the Republican bill only amends ERISA. It's because the 124 million ERISA enrollees are not regulated by the states. The states, by the way, have been in the business of regulating the health insurance industry far longer than Congress or any President was beating up on managed care.

The President wants all regulatory decisions about a person's health insurance plan to be made from Washington—nationalized care. The reason this won't work is that it fails to take into account the unique type of healthcare provided in states like Wyoming. While serving in the Wyoming Legislature for 10 years, I gained tremendous respect for our state insurance commissioner's ability to administer quality guidelines and insurance regulations that cater to our state. State regulation and understanding is absolutely, unequivocally essential. I firmly believe that decisions which impact my constituents' health insurance should continue to be made in Cheyenne—not Washington.

Congress has an obligation to ensure such quality services to the 124 million ERISA enrollees whose plans are currently absent these protections. In doing so, however, the Republican bill stays within its jurisdictional boundaries and doesn't trample over states' rights. As a result, Americans can gain protections whether they are insured under a state, ERISA, or Medicare regulated plan. I believe that this approach is rational and fair.

The Republican Patients' Bill of Rights would provide individual rights with respect to a person's own, personal health information. Access to personal medical records is a delicate matter. Provisions, however, are included to address inspection and copying of a person's medical information. Safeguards and enforcement language has also been added to guarantee confidentiality. In relation to this language, group health plans and health insurance issuers in both the group and individual market would be prohibited from collecting or using predictive genetic information about a patient with the intention of denying health insurance coverage or setting premium rates.

The Republican plan would establish the Agency for Healthcare Quality Research. This is not a new federal agency, but rather a new name for the current Agency for Health Care Policy and Research within the Department of Health and Human Services. This agency would be modernized to improve healthcare quality throughout America. The agency would not mandate a national definition of quality, but it would provide information to patients regarding the quality of care people receive, allow physicians to compare their quality outcomes with their peers, and enable employers and individuals to make prudent purchases based on quality.

The Senate Labor Committee held a number of hearings in relation to women's health research and prevention. As a result, the Republican Patients' Bill of Rights includes a number of important provisions that represent women's health. These provisions will clearly benefit the promotion of basic and clinical research for osteoporosis, breast and ovarian cancer, the effects of aging and other women's health issues.

Finally, the Republican Patients' Bill of Rights broadens access to coverage by removing the 750,000 cap on medical savings accounts (MSA's). MSA's are a success and should be made available to anyone who wishes to control their own healthcare costs. Moreover, persons who pay for their own health insurance could deduct 100 percent of the costs if the Republican plan is enacted. This would have a dramatic impact on folks from Wyoming. These provisions would, without a doubt, pave the way for quality healthcare to millions of Americans without dismantling access and affordability.

While the President's bill has been pitched as being essential to enhancing the quality of care Americans receive, I hope that my colleagues will carefully evaluate the impact that any nationalized, bureaucratized, budget-busting, one-size-fits-all bill would have on our nation's healthcare system. As I have encouraged my constituents to read the fine print, I ask my colleagues to consider how the President's legislation impacts you and your home state. Rural states deserve a voice, too. Only the Republican Patients' Bill of Rights Act would give them that voice.•

HURRICANE GEORGES AND THE DISASTER MITIGATION ACT OF 1998

• GRAHAM. Mr. President, on September 30th, with my colleagues Senator MACK and Florida Governor Lawton Chiles, I participated in a helicopter tour of Florida's Panhandle,

where once again, Mother Nature has subjected Florida's citizens to her wrath. After first devastating the Florida Keys, Hurricane Georges moved northward and severely impacted the Panhandle, producing rainfall in excess of 2 feet in some areas.

In the Florida Keys, Georges damaged over 1,500 homes destroying or causing major damage to approximately 640 residences. Initial estimates indicate that Georges caused over $250 million in insured damage in the Keys, and there are millions more in uninsured damages. Many residents in the lower Keys have only recently had their power restored, and Federal, State, local, and voluntary agencies provided food, water, and ice for more than a week as the Keys finally emerged from this emergency situation.

Unfortunately—as I was able to view firsthand—Georges path of destruction did not end in the Keys. Even in its weakened state, Georges caused extensive flooding and isolated tornadoes throughout the Panhandle. At least 20 major roads were closed or partially closed, and evacuations continued for days in many low-lying areas. During my visit to the area, 14 shelters remained open, providing safe harbor for at least 400 Floridians who had been forced from their homes.

As a result of this hurricane, the President issued an emergency declaration for 33 Florida counties, in order to provide immediate Federal assistance to protect the lives and property of affected residents. On September 28, the President issued a major disaster declaration for Monroe County, which authorizes Federal disaster recovery assistance for local governments and citizens in the Florida Keys. As of today, 16 counties in and around the Panhandle have been added to this declaration, and I want to acknowledge the outstanding efforts of both the President and the Federal Emergency Management Agency (FEMA) in expediting Federal assistance to the State of Florida.

Mr. President, throughout 1998, I have come to the Senate floor to describe the destruction and misery that Florida has experienced as a direct result of natural disasters. This year, Florida has been subjected to a series of unprecedented natural disasters. Even for a state that is experienced in dealing with such disasters, Floridians have been tested again and again by what may be one of the worst years in Florida meteorological history. In late January and early February—in the midst of our State's dry season—several Northern Florida counties were deluged by massive floods. Not long after, parts of Central Florida were devastated by thunderstorms and tornadoes that are more typical in the summer months. Beginning in May and ending in late July, a deadly combination of intense heat and prolonged drought sparked more than 2,000 forest fires in Florida's 67 counties. Finally, over the next several weeks, Florida will begin the long and painful process of recovery from the widespread damage that has been caused by Hurricane Georges.

I ask that this September 30 article from the Miami Herald—which summarizes Florida's 6 Presidential disaster declarations in more detail—be printed in the RECORD.

The article follows:

FLORIDA GET FEDERAL AID A RECORD SIX TIMES

(By Tom Fiedler)

For Floridians, this has been a banner year of hell and high water. President Clinton said so.

Even before Hurricane Georges slapped the Keys unsilly, then dumped tons of fresh rain on an already sodden Panhandle, Florida had established in 1998 a new—although dubious—record: recipient of the most presidential disaster declarations in a single year.

"It's been a very hard year," said Joseph Myers, state director of emergency management, who on Tuesday was into his seventh straight day of working around the clock monitoring the latest disaster. "But that's what we get paid to do."

He would be entitled to wonder if that could possibly be pay enough, at least this year.

Like home-run sluggers Mark McGwire and Sammy Sosa, Florida established its new record with style, shattering the previous marks by more than a couple.

Since New Year's Day, which Myers spent monitoring a chain of tornadoes ripping their way across the central peninsula, causing at least $24 million in damage to crops and homes. President Clinton has declared at least parts of Florida to be federal disaster areas six times.

That topped the previous records of three in 1992—the year that included the mother of all disaster declarations. Hurricane Andrew—and 1995, which featured Hurricanes Erin and Opal, both concentrating their fury on the upper Gulf Coast.

To qualify for a presidential disaster declaration, the amount of damage must be beyond the ability of state and local government to assist, either because of the amounts of money involved or the types of assistance needed.

When the president issues a declaration, it makes available federal money to reimburse the state, and local governments for the immediate costs of meeting the emergency—such as in providing police and fire services, maintaining shelters or in restoring vital services.

It also activates several federal programs to aid in a community's long-term recovery. That array includes unemployment assistance to those whose jobs may have been lost or interrupted because of the disaster; mortgage assistance; low-interest loans to help businesses and farmers get back on their feet; money for governments to rebuild highways or restore other services—including replacing lost tax revenues from damaged businesses; and money that can be used to avert future disasters, such as constructing dikes against floods or beach dunes against hurricanes.

VARIETY OF DISASTERS

What distinguishes 1998 from previous years is the variety of disasters that has befallen the state. Besides hurricanes, which can destroy people and property through high water and wind, this year's declarations have included several for killer tornadoes, one for massive flooding and—most dramatic of all—one for infernal fires that raged for nearly two months over an area that at one point stretched nearly from Tallahassee to Miami.

Missing only were the biblical swarms of locusts and the medieval bubonic plague.

Myers said his personal disaster calendar began last Christmas, when he was summoned to the state's emergency-management headquarters to monitor a winter storm exploding out of the Gulf and hammering counties in Central Florida. the storm—considered the shock troops of El Niño—spun off dozens of tornadoes, washed out hundreds of homes and virtually ruined tomato and strawberry crops that were ripening. Its cost: about $24 million to taxpayers alone, not counting what insurance companies paid to individuals.

TORNADOES IN MIAMI

Holidays seemed as magnets to these storms. On Groundhog Day, another winter storm rumbled out of the Gulf to cut across the lower peninsula. This one triggered tornadoes in the heart of Miami.

The so-called Groundhog Day storm savaged 600 homes in Dade, Broward and Monroe counties. It left two tugboats parked on Sunny Isles Beach and caused $2 million in damage to the Keys' lobstering industry.

Barely three weeks later, another storm hammered the central part of the state, coming ashore in the Tampa Bay area but spreading throughout the peninsula. Myers said the president was still in the process of issuing the disaster declaration for the Groundhog Day storm when the bad weather hit.

"So they just added this onto the one they were already working with," he said. "The storm kept on coming, and they kept on adding."

The most dramatic were bands of swarming tornadoes that bracketed Orlando in March, flattening communities near Kissimmee and those east of Sanford. All told, nearly two dozens Floridians were killed in those weather disasters.

MOST OF THE STATE

"Eventually they got to 56 counties," only 11 short of Florida's 67 counties, Myers said. "They finally stopped adding them on April 24."

The lull in El Niño's wind and rain proved anything but benign, however. With such a wet spring, the underbrush in the state's forests grew at an incredible pace, becoming lush and thick.

"Then it just dried up. It didn't rain," Myers said. "We knew that El Niño would produce fires, but we thought they would come later."

June was the driest month in Florida's history. The underbrush became tinder.

On June 6, the anniversary of D-Day, a major fire flared in Flagler County between Daytona Beach and St. Augustine. It raged for 48 days. President Clinton and Vice President Al Gore were among those who came to inspect the disaster. Fire crews from around the nation came to fight it.

"We ended up getting a major disaster declaration and 15 fire suppression grants to pay for the firefighting," the first time Florida had ever received such compensation, Myers said.

Florida's cost of fighting the fires alone hit $156 million.

• Mr. BUMPERS. Mr. President, my experiences with disasters this year—in addition to the unforgettable destruction of Hurricane Andrew in 1992—have motivated me to re-evaluate the policies and programs that are implemented to ease the pain and economic loss caused by disasters. First, we must recognize that we cannot prevent severe weather events. In fact, it seems that as we approach the millennium, the Nation is experiencing severe weather more frequently—and more intensely—than ever before. Second, as our population grows, our coastal and riverfront communities have greatly expanded, placing an even higher number of citizens at risk from floods and hurricanes. Finally, expanded requirements for housing and residential structures have increased both the number and value of property developments in high-risk areas.

Taken together, these facts clearly demonstrate that we will continue to experience losses from natural disaster. Therefore, we must act now to limit these inevitable losses through a proactive, nationwide loss prevention and mitigation initiative. We cannot continue to respond to repeat disasters in the same locations in an endless cycle of damage-repair-damage-repair.

It is for these reasons, Mr. President, that Senator INHOFE and myself introduced the Disaster Mitigation Act of 1998. Our legislation focuses the energies of Federal, State, and local governments on disaster mitigation, shifting the Nation's efforts toward preventative—rather than responsive—actions, in order to prepare our citizens for disasters now and in the future.

I worked very closely with Senator INHOFE to develop this bipartisan legislation, which has been reported out of the Environment and Public Works Committee. This legislation will more comprehensively and efficiently address the threats we face from disasters of all types. The bill is composed of two titles: Title I seeks to reduce the impact of disasters by authorizing a "pre-disaster mitigation" program; Title II seeks to streamline the current disaster assistance programs to save administrative costs, and to simplify these programs for the benefit of States, local communities, and individual disaster victims.

To address the problems associated with the damage-repair-damage-repair cycle, the legislation places its primary emphasis on comprehensive pre-disaster mitigation. This bill will authorize a five-year pre-disaster mitigation program, funded at $35 million per year, to be administered by Federal Emergency Management Agency, or FEMA. The pre-disaster mitigation program will change the focus of our efforts, at all levels of government, to preventative—rather than responsive—actions in planning for disasters. Such a change in ideology is critical to reducing the short- and long-term costs of natural disasters. It will encourage both the public and the private sector, as well as individual citizens, to take responsibility for the threats they face by adopting the concept of disaster mitigation into their everyday lives. Just like energy conservation, recycling, and the widespread use of seat belts, disaster mitigation should become a concept that all citizens incorporate into their day-to-day existence.

Since 1993, under the leadership of Director James Lee Witt, FEMA has truly changed its way of doing business. In the past five years, FEMA has become more responsive to disaster victims and State and local governments, and has "reinvented" itself by choosing to focus its energy on mitigating, preparing for, responding to, and recovering from the effects of natural hazards. FEMA has already taken an important first step in advocating pre-disaster mitigation by establishing "Project Impact," their new mitigation initiative, in local communities throughout the nation. I am proud to say that Deerfield Beach, Florida, was the first community to be chosen as a participant in Project Impact. By authorizing the conduct of Project Impact for five years in this legislation, we will definitively endorse both the program and Director Witt's leadership, and we expect that the initiative will produce measurable results in reducing the costs of disaster in the future.

Mr. President, this legislation is the result of coordination and cooperation with FEMA, the National Association of Emergency Management, the National League of Cities, representatives of the private and voluntary sectors, and numerous other state and local governmental organizations. I strongly believe that this legislation represents a historic change in the nation's efforts to prevent the effects of natural disasters. By taking proactive steps to implement mitigation now, we will reduce the damage, pain, and suffering from disasters in the future that have become all too familiar to us from the disasters we have faced in the recent past.

Mr. President, I urge my colleagues to support Senator Inhofe and myself by joining with us in our efforts to protect the citizens of the U.S. from disasters now and in the future. I ask the Senators who have most recently been affected by Hurricane Georges, as well as the many Senators whose constituents have been impacted by catastrophic disasters over the past several years, to support this legislation and ensure its passage before the end of this session.•

NATIONAL OPTICIANS MONTH

• Mr. GRAMS. Mr. President, January 1999 will be celebrated throughout the United States as National Opticians Month. I am pleased to inform my colleagues that one of my constituents, Gary R. Aiken of Minnetonka, Minnesota, is president of the Opticians Association of America, which is sponsoring the observance.

Nearly all Americans aged 65 or older require some help to see their best and sixty percent of Americans wear eyeglasses or contact lenses. Opticians, skilled in fitting and dispensing eyeglasses and contact lenses, provide the expert assistance we need to make the most of our vision. Technology has brought us literally thousands of possible combinations of eyeglass frames and lenses and an array of contact lenses. Dispensing opticians play a pivotal role in guiding eyewear customers to the combination which exactly fits their need.

Through formal education programs, voluntary national certification and mandatory licensing in many states, and programs of continuing education, dispensing opticians acquire the skills and competence to correctly, efficiently and effectively fill eyewear prescriptions. At the same time, retail opticians are an important part of our nation's small business community and provide the competitive balance which keeps eyewear affordable for all Americans.

It is a pleasure to acknowledge the important role of dispensing opticians as they assist us all in making the most of our precious eyesight. I commend them for their efforts and congratulate Gary Aiken and the members of the Opticians Association of America for their accomplishments.•

MICHAEL K. SIMPSON

• Mr. MOYNIHAN. Mr. President, I rise to pay tribute to New York's Dr. Michael K. Simpson who last year completed ten years of service as President of Utica College at Syracuse University and is now President of the American University in Paris.

While at Utica, Dr. Simpson taught international relations, contemporary French politics, international law, the political economics of multinational corporations, macro- and micro-economics, and American foreign policy. He has also been a visiting professor at the Maxwell School of Citizenship at Syracuse University and director of Syracuse's study center in Strasbourg, France.

In addition to his broad academic experience, Dr. Simpson has dedicated himself to the people of Oneida County, New York. As the community representative and chairperson of the Health and Hospital Council of the Mohawk Valley from 1987–1992, he lead that Council toward developing a hospital consolidation plan for four area hospitals. That succeeded in making quality health-care more accessible

and affordable to local residents. Since 1988 he has been a trustee of The Savings Bank of Utica.

I have had the privilege to speak at three commencements in which Michael Simpson participated—at his graduation from Fordham College in 1970 when he earned his bachelor's degree, at Syracuse University in 1983 upon receipt of his M.B.A., and during his tenure as Utica College President.

With great admiration and gratitude I commend Dr. Simpson for his commitment to excellence in education and his service to his fellow citizens of New York. I wish him all the best on his sojourn in Paris.•

TAIWAN'S NATIONAL DAY

• Mr. KERRY. Mr. President, I want to take this opportunity to extend my congratulations to President Lee Teng-hui., Vice President Lien Chan and the people of the Republic of China today, on their National Day.

Taiwan has continued to prosper economically even in the face of the Asian financial crisis. As the world's fourteenth largest economic entity, Taiwan plays a significant role in global trade and Asian economies. With its per capita income of $13,000 US dollars, Taiwan provides an important market for American consumer goods.

In addition to its economic successes, Taiwan has embarked upon a democratic course resulting in a pluralistic society which enjoys basic democratic rights and freedoms including freedom of the press and direct elections for the president and other officials.

The people of Taiwan and its leadership should be very proud of the successes that they have achieved. I congratulate them on this special day.•

PRIVATE RELIEF BILLS

• Mr. LAUTENBERG. Mr. President, I am pleased that key members of the Senate have agreed to pass all the pending private relief bills in one package and send it over to the House.

I would like to thank the principals who have been involved in this effort, Senators HATCH, ABRAHAM, LEAHY and KENNEDY. This package will include my bill to help Vova Malofienko.

Let me tell you a little about Vova Malofienko and his family. Vova was born in Chernigov, Ukraine, just 30 miles from the Chernobyl nuclear reactor.

In 1986, when he was just two, the reactor exploded and he was exposed to high levels of radiation. He was diagnosed with leukemia in June 1990, shortly before his sixth birthday.

Through the efforts of the Children of Chernobyl Relief Fund, Vova and his mother came to the United States with seven other children to attend Paul Newman's "Hole in the Wall" camp in Connecticut.

While in this country, Vova was able to receive extensive cancer treatment and chemotherapy. In November of 1992, his cancer went into remission.

Regrettably, the other children from Chernobyl were not as fortunate. They returned to the Ukraine and they died one by one because of inadequate cancer treatment. Not a child survived.

The air, food, and water in the Ukraine are still contaminated with radiation and are perilous to those like Vova who have a weakened immune system.

Additionally, cancer treatment available in the Ukraine is not as sophisticated as treatment available in the United States.

Although Vova completed his chemotherapy in 1992, he continues to need medical follow-up on a consistent basis, including physical examinations, lab work and radiological examinations to assure early detection and prompt and appropriate therapy in the unfortunate event the leukemia recurs.

Because of his perilous medical condition, Vova and his family have done everything possible to remain in the United States. Since 1992, they have obtained a number of visa extensions, and I have helped them with their efforts.

In March of 1997, the last time the Malofienkos visas were expiring, I appealed to the INS and the family was given what I was told would be a final one-year extension.

So we have a family battling for over six years now, to stay in this country. And why? So that they can save the life of their child, Vova.

Because of the compelling circumstances of their case, I introduced S. 1460, which was approved unanimously by the Senate Judiciary Committee.

After I introduced that bill, Senator ABRAHAM, in his capacity as Chairman of the Immigration Subcommittee, requested a report from the INS and that stayed any further INS proceedings.

But at the end of this Congress they would be subject to deportation. That is why I have worked so hard to get this bill passed this session of Congress.

This family has endured enough. They cannot have the threat of deportation hanging over their heads. They are dealing with enough trauma from Vova's cancer.

I wish my colleagues could meet Vova—then they would understand why I feel so strongly about this case. He is truly a remarkable young man.

Throughout his battle against cancer, he has been an inspiration. He has been an honors student at Millburn Middle School, and he is an eloquent spokesperson for children with cancer. He has rallied the community and helped bring out the best in everyone. His dedication, grace, and dignity provide an outstanding example, not just to young people, but to all Americans.

Again, I want to thank Senators HATCH, ABRAHAM, LEAHY and KENNEDY for their diligence.

I hope that we will pass this package on Monday and send it to the House and then the President. Then, Vova can continue his fight in the safety of United States.•

RECESS UNTIL 2 P.M. MONDAY, OCTOBER 12, 1998

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until Monday at 2 p.m.

Thereupon, at 4:10 p.m., the Senate recessed until Monday, October 12, 1998, at 2 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 10, 1998:

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JAMES C. BURDICK, X...

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. WALTER R. ERNST II, X...
BRIG. GEN. BRUCE W. MACLANE, X...
BRIG. GEN. PAUL A. POCHMARA, X...
BRIG. GEN. MASON C. WHITNEY, X...

To be brigadier general

COL. JOHN H. BUBAR, X...
COL. VERNA D. FAIRCHILD, X...
COL. ROBERT I. GRUBER, X...
COL. MICHAEL J. HAUGEN, X...
COL. WALTER L. HODGEN, X...
COL. LARRY V. LUNT, X...
COL. WILLIAM J. LUTZ, X...
COL. STANLEY L. PRUETT, X...
COL. WILLIAM K. RICHARDSON, X...
COL. RAVINDRAA F. SHAH, X...
COL. HARRY A. SIEBEN, JR., X...
COL. EDWARD N. STEVENS, X...
COL. MERLE S. THOMAS, X...
COL. STEVEN W. THU, X...
COL. FRANK E. TOBEL, X...

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. HARRY A. CURRY, X...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL A. CANAVAN, X...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JOHN M. SCHUSTER, X...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE SERVING AS THE DIRECTOR, NATIONAL IMAGERY AND MAPPING AGENCY DESIGNATED AS A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 441 AND 601:

To be lieutenant general

MAJ. GEN. JAMES C. KING, X...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. EDWIN P. SMITH, X...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. ANTHONY R. JONES, [redacted].

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL L. DODSON, [redacted].

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RANDALL L. RIGBY, JR., [redacted].

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JERALD N. ALBRECHT, [redacted].
BRIG. GEN. WESLEY A. BEAL, [redacted].
BRIG. GEN. WILLIAM N. KIEFER, [redacted].
BRIG. GEN. WILLIAM B. RAINES, JR., [redacted].
BRIG. GEN. JOHN L. SCOTT, [redacted].
BRIG. GEN. RICHARD O. WIGHTMAN, JR., [redacted].

To be brigadier general

COL. ANTONY D. DI CORLETO, [redacted].
COL. GERALD D. GRIFFIN, [redacted].
COL. TIMOTHY M. HAAKE, [redacted].
COL. JOSEPH C. JOYCE, [redacted].
COL. CARLOS D. PAIR, [redacted].
COL. PAUL D. PATRICK, [redacted].
COL. GEORGE W. PETTY, JR., [redacted].
COL. GEORGE W. S. READ, [redacted].
COL. JOHN W. WEISS, [redacted].

NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. MARIANNE B. DREW, [redacted].

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. SCOTT A. FRY, [redacted].

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. PATRICIA A. TRACEY, [redacted].

IN THE ARMY

ARMY NOMINATIONS BEGINNING MICHAEL C. AARON, AND ENDING RICHARD G.* ZOLLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 1998.

ARMY NOMINATIONS BEGINNING MATTHEW L. KAMBIC, AND ENDING JAMES G. PIERCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 30, 1998.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF JEFFREY M. DUNN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 29, 1998.

IN THE NAVY

NAVY NOMINATION OF MICHAEL C. GARD, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 11, 1998.

NAVY NOMINATION OF THOMAS E. KATANA, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGSIONAL RECORD OF SEPTEMBER 16, 1998.