SENATE—*Tuesday, May 12, 1998*

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

PRAYER

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

Lord God, You have given us consciences so that the beliefs, values, and truths You have worked into the fiber of our character may be worked out in the specific challenges and decisions of this day. Help us to be true to You, ourselves, and our patriotism. Give us sterling, unflinching integrity in all matters. Speak to us through our consciences. We claim the promise of Proverbs 11:3, "The integrity of the upright will guide them." Give us peace of soul when our thoughts and plans are right; conversely, disturb us when we drift from what is best.

Thank You for this new day. Show us each step of the way. Guide us in all we do and say. You are the Potter, we are the clay. We want to do Your will without delay. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, on Monday a good deal of work was done and the predicate was laid for a number of bills to be considered this week. We will begin the morning with morning business until 10 a.m. I observe that there are at least a couple of Senators who wish to take advantage of that.

Following morning business, Senator D'AMATO will be recognized to introduce a bill regarding patient care for breast cancer. It is hoped that a short time agreement can be reached with the D'Amato bill.

At 11 a.m., under a previous order the Senate will proceed to the consideration of the agriculture research conference report. The time until 12:10 will be divided among several Members for debate on that conference report. Following that debate, the Senate will proceed to the consideration of the National Science Foundation reauthorization bill, again under a short time agreement. A rollcall vote will occur on passage of that bill, the National Science Foundation reauthorization, at approximately 12:15 or so. Therefore Members should be aware that the first vote of today's session will occur at 12:15. Then the Senate will recess after that vote for the weekly policy caucuses.

When the Senate reconvenes at 2:15, Senator GRAMM of Texas will be recognized to move to recommit the agriculture research conference report. There will be 1 hour of debate equally divided on the motion. At the conclusion of that debate, the Senate will proceed to vote on or in relation to the motion. Following the vote, it is hoped that a short time agreement can be reached with respect to the agriculture research conference report. Any of several high-tech bills or other legislative or executive items also may be taken up today, if they can be cleared.

I did have a good conversation late on Monday afternoon with Senator DASCHLE. I believe we are going to be able to clear at least three of those high-tech bills. All of them are broadly supported and I believe will have an overwhelming vote once we get to a vote. I won't list them now, but we will make some further announcement on that later on today.

Finally, as a reminder to all Members, a cloture vote will occur on Wednesday on the motion to proceed to the missile defense bill. Senator COCHRAN handled this debate on the floor on Monday. He has done excellent work on this bill. This is something we should do for the defense of our country. The American people, I find, when I go around and talk about missile defense, are shocked to learn that we don't have a National Missile Defense System in place. So this bill is very important, I believe. I appreciate the work that has been done by my colleague from Mississippi.

The next 2 weeks obviously will be extremely busy as Members attempt to complete action on several important pieces of legislation. There are a number of conferences that we hope to have completed and voted on before the Memorial Day recess, including the ISTEA II, the highway transportation bill, the education conference report, the IRS reform and restructuring conference report. We also have a vote already agreed to with regard to Russia-Iran missile technology transfer, which is a continuing concern. Progress is not being made sufficiently, and I do expect that there will be a vote on this before the end of the next week.

There are a number of other very important bills now that Members are getting cleared through committees or that Members are seeking to have voted on. We will try to schedule as many of those as we can. Obviously, we will need the cooperation of all Members as we try to get through this process before the end of the May recess for Memorial Day.

I again emphasize we do have probably three high-tech bills that we have cleared: we have the agriculture conference report, we have the missile defense bill that Senator COCHRAN has been working on, and the National Science Foundation reauthorization bill. And we are going to try to clear some Executive Calendar nominations, too.

So, again, thank you for your cooperation. These are all very important bills for the American people and I hope we can continue the good progress that we have made over the last 3 weeks. When you look back at what we have been able to get through the Senate, in terms of education, the NATO treaty enlargement, and also last week the IRS reform—if we can have another week and complete the week with the Department of Defense authorization bill I think we can feel very good about what we have accomplished over the last month.

I yield the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Mississippi.

AMERICAN MISSILE PROTECTION ACT

Mr. COCHRAN. Mr. President, let me say, first of all, that I appreciate very much the majority leader calling up the missile defense bill on yesterday. At his authorization and direction, a cloture motion was filed on the motion to proceed to consider that bill when an objection was raised by the ranking Democrat on the Armed Services Committee and the ranking Democrat, Senator LEVIN, on the International Security, Proliferation and Federal Services Subcommittee that I chair.

Last year, we had a series of hearings looking into the growing proliferation problem in the development of weapons of mass destruction and missile systems to deliver those weapons by countries that many in our Nation probably weren't aware were developing the sophistication in long-range missile systems that were being developed.

I think yesterday the announcement in India of the detonation of a nuclear device as a test confirms once again what a dangerous environment we are in, in terms of proliferation of capabilities, of having nuclear weapons, of having missile systems that can deliver those weapons over a long range. To

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

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put that in context yesterday, Pakistan, just a few weeks ago, tested a new missile that our security analysts and our intelligence agencies weren't aware that they had—another example of how we cannot predict with any degree of certainty or accuracy how soon countries are going to develop missile systems, nuclear weapons with the capability of delivering those weapons systems over long ranges. The Pakistani missile that was tested was a 1,500-kilometer range missile—five times greater in capability than a report that was filed by the Defense Department said that Pakistan had in November of 1997. Think about that.

We get an annual report from the Defense Department using the intelligence capabilities of our CIA, the Defense Intelligence Agency, National Security Agency—all of the resources that our country has, to put together this report for the Congress. And in November of 1997 they said that Pakistan had in its inventory a 300-kilometer range missile, and then in April they test a 1,500-kilometer range missile. What has happened? They have had assistance from other countries. Some say it was China who provided the technology and wherewithal to come up with this new, longer range missile. Some say it was North Korea. Pakistan says it was developed from within with their own technology, their own scientists.

Whatever the reason and however this came to be, it is alarming, and now we see India reacting to that new development by testing a nuclear weapon that is twice as powerful as the atomic bomb that was used in World War II by the United States against Japan.

The point is, this is a very, very dangerous situation that we see developing in that part of the world, but in other countries, too. In Iran. We have seen demonstrated in Iraq the capacity to almost put a satellite in orbit with a missile launch vehicle 10 years ago. That surprised the United States. That surprised our intelligence-gathering agencies.

I am hopeful that the Senate will notice that the time has come for us to stop playing politics with missile defense and national security and work together in a bipartisan way to develop and deploy, as soon as technology permits, a national missile defense system to protect the security of the United States.

We will have that vote on cloture, as the majority leader pointed out, on Wednesday—cloture on the motion to proceed to consider the bill, not on the bill itself. It will still be open for amendment. It will still be open for debate by Senators who want to discuss this issue, but I hope the Senate will invoke cloture so that we can proceed to consider the bill, to discuss the issue further, particularly in view of these developing events that confirm what a dangerous proliferation situation we find ourselves in in the world today, and we are defenseless against long-range or intercontinental ballistic missiles.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes. Under the previous order, the Senator from Maryland is recognized to speak for up to 15 minutes.

Ms. MIKULSKI. I thank the Presiding Officer.

(The remarks of Ms. MIKULSKI and Mr. DASCHLE pertaining to the introduction of S. 2064 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

HEALTH CARE LEGISLATION

Mr. DASCHLE. Mr. President, there is no one from the Republican side of the aisle on the floor at this moment, so I do not want to propound the request until someone is available. But I do want to put our colleagues on notice that I would like very much to be able to propound a unanimous consent request within the next few minutes that would do two things: First, it would ask that Senator D'AMATO be recognized to offer a bill regarding inpatient hospital care for breast cancer with a time limit of 2 hours for debate on the bill, with no amendments or motions in order thereto, and that when all time is used or yielded back, the Senate proceed to vote on passage of the D'Amato bill, and that immediately upon disposition of the D'Amato bill, the Senate then proceed to the immediate consideration of the Daschle-Kennedy Patient Protection Act with a time limit of 2 hours for debate, with no amendments or motions in order thereto, and that when all time is used or yielded back, the Senate proceed to vote on the passage of the bill with all time equally divided and controlled in the usual form, and that the above occur without intervening action or debate. I would ask that those bills begin to be considered at 11 o'clock.

As I said, Mr. President, I will not ask unanimous consent at this time simply in deference to our colleagues. But let me again explain what it is we are attempting to do here. It is our hope this week, in a very limited timeframe, that we can pass two bills of great concern and importance to this country, first and foremost, a bill that many of us have cosponsored dealing with the need to protect patients in an array of different health circumstances that they face. More and more, the American people are saying they are victimized, not assisted, by HMOs. More and more, they are saying that managed care is not working as it is supposed to. More and more, they are saying that we are facing some critical decisions that we must make if we are going to ensure that managed care and HMOs work right.

Day after day, our caucus has come to the Senate floor recognizing the importance of calling the attention of this country to victims of our current managed care system. These victims have lost their health, and in some cases, their lives as a result of very critical decisions being made erroneously by people sitting at computers instead of by doctors and nurses in the hospital rooms and clinics of this country.

We have introduced legislation that would provide protections to patients. It recognizes that in this HMO, managed care environment we have to do a lot better job of focusing on patients, and not on bottom-line calculations that are oftentimes used regardless of patients needs. The Patient Protection Act is absolutely essential to that effort. We also recognize that there is a need, as part of the legislation, to deal with the problem of premature release of patients when they have mastectomies.

Senator D'AMATO and Senator FEINSTEIN and others have made a real effort to highlight that particular problem. And we are very supportive of that effort. So we hope we can pass both bills. Let us pass the Patient Protection Act. Let us pass the Feinstein-D'Amato mastectomy bill. Let us do it en bloc. Let us do it: 2 hours and 2 hours. We are prepared to do it this morning. We can get on with that and also the array of other very important technological bills that we will be bringing up. I thank very much the Senator from Montana for affording me the opportunity to make my presentation. As I noted, just as soon as we find a Republican colleague on the floor I will pose this unanimous consent request.

Mr. DORGAN. Will the Senator yield?

Mr. DASCHLE. I will be happy to.

Mr. DORGAN. Mr. President, as I understand the minority leader, he is talking about the desire to bring to the floor of the Senate for a vote the patients' bill of rights. As the Senator knows, we have every day brought to the floor of the Senate a discussion about the specific problems that patients are encountering out in this

country who have been hurt by managed care institutions or organizations and find that their health care decisions are all too frequently not made by the doctor in the doctor's office or in the hospital but by some insurance accountant someplace 500 or 1,000 miles away. And the result has been catastrophic for some of the patients in this country who have not been able to get the health care they need. As I understand it, this piece of legislation talks about the ability to get the health care you need from the doctor you choose, the ability to get to an emergency room when you need one, and a full range of similar concerns that affect patients.

Is it the request of the minority leader that we have an opportunity to vote on that legislation this morning? And if not this morning, at least at a time certain at some point this year? As I understand it, there are some who don't ever want us to have an opportunity to deal with this issue, because the insurance industry and some others, who certainly don't want anybody tampering with the circumstances at all, prefer we not vote on this. But the American people understand we have a serious problem here that needs to be addressed. Is it the intention of the Senator to get a vote on this today or at some specific point in the future?

Mr. DASCHLE. It is our desire to see if we can find a way to take up this legislation and pass it today. And if not today, at a time certain. If we cannot do it for some reason at 11 o'clock this morning, we are prepared to set a time—perhaps June 15—perhaps right after we get back from the Memorial Day recess. If we are doing the tobacco bill next week, and we have technology bills this week, 4 hours today seems to me to be a reasonable period of time to debate both of these bills and pass them. If we cannot do it today, I think it is incumbent upon the Senate to pass this legislation at a time certain—to agree to a debate at a time certain. I am sure that will happen.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Is it the position of the Senator that this really is the most important health issue that is before the families of America today? Is it understood that we have been unable to consider this legislation in the Labor and Human Resources Committee, and so this is the only way and only means by which we can have the kind of debate that families across this country want? Is it the opinion of the Senator from South Dakota that this really is a compelling issue, perhaps the most important health care issue that families in South Dakota and across this Nation care most deeply about—to make sure that doctors and not insurance agents are going to be making decisions on health care?

Mr. DASCHLE. Mr. President, I tell the Senator from Massachusetts that, just last week, a family from South Dakota told me that if there is one thing the U.S. Senate should do this year—this year—it is pass the Patient Protection Act. It is to deal with the problems they are having with managed care. And it is to deal with the recognition that there is a growing problem out there. In poll after poll after poll, the American people are saying: We don't care what else you do, do this and do it this year.

So I think it is very clear that the intensity level is as high as it can be. People care about this issue, and they recognize the problem. People know how difficult it is today to face managed care organizations that, in large measure, are not addressing these problems as they should. So the Senator from Massachusetts raises the right question. Do the American people want us to address this issue? The answer is not only yes, but yes with an exclamation point.

Mr. DURBIN. Will the Democratic leader yield?

Mr. DASCHLE. I yield to the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator for raising this issue. I hope that we put it in context. This is an important procedure that Senators FEINSTEIN and D'AMATO bring to the floor. It addresses the issue of mastectomy. It makes certain that women and families have peace of mind when they face that procedure. I don't think there is going to be any opposition to that bill, and there should not be.

The Senator from South Dakota makes a point—and I think we should make the point—that in this debate there are many other potential injustices, and injustices in the health care system. One should consider the fact that most Americans say, first and foremost, they want to choose their own doctors, and many women say, "I want to be able to make certain during the course of my pregnancy that I have a doctor, an obstetrician who I can be confident in, and one who will give me advice every time I come in for a visit." There are families who worry that when their children are brought into a doctor's office, they will be referred to the right specialist, the one best for that child. They don't want that decision being made by an insurance company. They want it being made by a doctor.

The irony here is that we are saying doctors should make that decision. These doctors who have been chosen by the insurance companies to be part of their plans should be trusted, and their judgment should be trusted. What the Senator from South Dakota is saying is, let's move forward on the Feinstein bill, on this important mastectomy protection; but let's extend this protection to so many other Americans and families and women in other circumstances who are being disadvantaged by insurance companies and HMOs that are unresponsive to families and their needs.

I think the Senator from South Dakota puts a challenge to the Senate today. Will we do one small, but important, part? Or will we take a look at the whole picture and make certain that we can return home after this session with the kind of legislation that the American people will support? I hope the Republicans will join us. This ought to be bipartisan. What is the controversy here when we say patients and their families should come first, and protecting the patients when it comes to important medical decisions?

I thank the Senator from South Dakota. I hope we can get the assurance from the Republican leadership today that we will not only consider the Feinstein-D'Amato bill, but also the patient protection that Senators DASCHLE and KENNEDY will offer.

Mr. DASCHLE. Mr. President, I thank the Senator from Illinois for his very good statement. He raises an interesting point that I failed to mention. Oftentimes, we talk about this as a matter simply of urgency and concern for victims. Indeed, that is the greatest concern—the degree to which victims come to us with stories that they believe call out for attention to this matter. But there are now over a hundred organizations—organizations of all kinds—our doctors, our nurses, an array of working organizations in this country, including education, you name it—organizations that have come forward to say that this isn't just a health issue, this is a worker issue, this is a quality of life issue. This is an array of organizations that rarely come together on any issue. Philosophically, they go from left to right. But the fact is, they care about this issue because they know how critical it is that we solve it this year.

So, as the Senator said, this should not take very long. Indeed, it is important that we get on with moving this legislation.

Ms. MIKULSKI. Will the Senator yield?

Mr. DASCHLE. I yield to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask the Senator from South Dakota, our Democratic leader, a question. In all of his research on the bill, has he not found that this is a very compelling issue for women and for children, that there has essentially been a "moat" around access to medical treatment and, therefore, leaving it to the Senate or legislative bodies to make corrections, one procedure at a time, like drive-by deliveries, dumping of mastectomy patients? Would it not be better to take down the "moat" around medical treatment and do this in a comprehensive way, especially a way that

it affects the women and children? Has the Senator found that?

Mr. DASCHLE. The Senator from Maryland is absolutely right. She said it very succinctly. That is, in essence, what this legislation will do. This isn't the broad array of health care reforms that we could be addressing. This very narrowly focuses on one of the biggest problems we have in health care delivery today. I appreciate very much her calling attention to that fact.

Ms. MIKULSKI. I thank the Democratic leader.

UNANIMOUS CONSENT REQUEST—S. 249 AND S. 1890

Mr. DASCHLE. Mr. President, now that we do have a Republican colleague on the floor, let me propound the following unanimous consent request:

I ask unanimous consent that at 11 o'clock on Tuesday, May 12, Senator D'AMATO be recognized to offer a bill regarding inpatient hospital care for breast cancer, with a time limit of 2 hours for debate on the bill, with no amendments or motions in order thereto, that when all time is used or yielded back, the Senate proceed to a vote on passage of the bill, and immediately upon disposition of the D'Amato bill, the Senate proceed to the immediate consideration of the Daschle-Kennedy Patients' Bill of Rights bill with a time limit of 2 hours for debate, with no amendments or motions in order thereto, and that when all time is used or yielded back, the Senate proceed to vote on passage of the bill, with all time equally divided and controlled in the usual form, and that the above occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Mr. President, reserving the right to object. Mr. President, let me simply state that tying these two requests together—and I appreciate the position of the Senate minority leader—is unacceptable for the majority. Therefore, I will object.

We can have some discussion as to the merits of attempting to tie the two together. I know the minority leader has been speaking. I might even support the Patients' Bill of Rights, but to tie it together in this way is unacceptable. So I am forced to object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Let me just say I am very disappointed. We are not tying them together in any way other than by procedure. We are simply saying, let's debate the D'Amato bill for 2 hours, and then let's debate the Daschle-Kennedy bill for 2 hours. They both deal with protections for patients. They both deal with the need to confront the array of problems we are facing in managed care today. So I am very disappointed the majority has chosen to take this action, and I hope if we can't do it today, perhaps we can do it on the 15th. So let me ask unanimous consent that on a date no later than June 15, both bills be considered in the order that I have just described.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Mr. President, reserving the right to object, again let me say it is one thing to say they are not being tied together, but that is exactly what is taking place. Let me take the time to point out, if I might, that the legislation that has been crafted with the help and consultation of my colleague, Senator FEINSTEIN from California, from the beginning is not controversial, absolutely not controversial and is necessary. To take a bill that is so straightforward and tie it up in procedural knots—and that is what is happening here—so that the women of America, because of these procedures today, are being denied health care that they need, reconstructive surgery, drive-by mastectomies, being put on the streets or being told we are not going to pay for more than 24 hours or 48 hours or whatever the policy limits may be, regardless of the medical necessity, we are not going to pay for reconstructive surgery because, as one plan said and a doctor told me, "It doesn't serve a bodily function so therefore we don't have to have reconstructive surgery," is absolutely wrong.

This is an issue that everyone can support and should support, and we should not tie it down with legislation by its very nature that is so comprehensive as the Patients' Bill of Rights that takes in a myriad of programs and projects, et cetera, many of them that have arguments on both sides. To say that we are going to give one 2 hours and the other 2 hours, which is so complex, is just absolutely using the procedure to stifle this straightforward bill which says we will give women the right without having to appeal to various boards, et cetera, to reconstructive surgery and to know that they are not going to be forced to leave a hospital before it is the right time to do so.

That is what we are talking about here. So we are forced to object. I am sorry that the distinguished leader on the other side is using that as a cover for precluding—and by the way, we may have some Members on the Republican side, I might want to add, who will seek to amend this, who are out of line, I believe, and who will hide behind this and do not have the courage to come down here and to vote up or down. And I would like to see them offer amendments because I have had some colleagues—let's be very candid—to say, "We are going to offer a killer amendment."

Why? Let me give you the argument on the other side. "We don't want mandates." Let me give you another one. One of my distinguished colleagues says, "We shouldn't have legislation by body part." Well, it is too bad, he is right, that we would have to reach this time and this place that it demands that. How much longer should the women of America have to wait? How many years, how many months do we really tie it up? And let me say this to you: This Senator is going to go forward. I know that my colleagues on the Democrat side, and there are many of them, feel equally passionate, and we are going to go forward and we are going to have a vote on this amendment. It is a straightforward piece of legislation.

I see my colleague, Senator FEINSTEIN, is seeking to speak on this, and I am going to——

Mr. DASCHLE. Mr. President, did the Senator from New York object?

Mr. D'AMATO. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. D'AMATO. I call for regular order, Mr. President.

Mr. DASCHLE addressed the Chair.

Mr. D'AMATO. I now call for regular order with respect to the continued time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. I would remind the Senate of the previous order so that we are at the point, past the point, where morning business is closed.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized.

UNANIMOUS-CONSENT REQUEST—S. 249

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 249 regarding inpatient care for breast cancer, and there be 2 hours for debate equally divided with one relevant amendment in order to be offered by Senator D'Amato, and following the disposition of the amendment the bill be advanced to third reading and a vote occur on its passage, all without intervening action or debate.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DASCHLE. Reserving the right to object, let me just say how disappointed I am that the Senator from New York continues to persist in his erroneous conclusion that somehow these are melded together. I will put forward a new proposal for my colleague and friend from New York. I

would propose that we take up the D'AMATO bill today, that we debate it as he suggests so long as by June 15, or at any date in June that would be of his choosing, we can take up and debate the Patient Protection bill for whatever time it takes. If it is complex, let's debate it. If it ought to be amended, let's debate it. If the Senator from New York is prepared to give me that opportunity, to say in June we will take up patient protections with amendments, we will have the debate on his bill today and my bill in June. I would make that proposal to the Senator from New York, reserving the right to object.

Mr. D'AMATO. I understand that, and let me respond by saying that I wish I could and did have the authority to accept that because I would do it, because I think we should have a full debate and a full discussion on the Patients' Bill of Rights. And I think it will not be limited, should not be limited to 2 hours. I thank my colleague, the Senate minority leader, for recognizing the complexity of the bill that is, I don't know how many pages. It is voluminous. And it is important.

Here it is. I don't know whether it has even had a hearing. It is 109 pages. It is controversial, to say the least. And there are many parts of this bill which I would be supporting. There is absolutely no doubt about it.

Mrs. FEINSTEIN. Will the Senator yield?

Mr. D'AMATO. However, we are linking the two together. By suggesting that in order to get this straightforward bill, this legislation that says no more drive-by mastectomies and that women will be guaranteed the right to have reconstructive surgery where there is a radical mastectomy, it is linking the two together. I think that is unfortunate. I might be willing to come and join my colleagues and battle for a date certain or to fight for hearings at least. I don't know whether we have had hearings. I don't think we have. I see Senator KENNEDY here.

But the point of the matter is that we are linking the two. We are saying we are not going to consider whether women should have that right. Where I don't believe there is one Senator here who feels they should not have, not one, why should we link the two, with one bill 109 pages, which 90 percent of the Members have not read, have not studied, have not gone through. Again, it is linkage, and therefore I am compelled to say that notwithstanding the good intents of my friend, it is linkage.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DASCHLE. Continuing to reserve the right to object, since my colleague from New York did now object to my counterproposal, I am flabbergasted. I am absolutely flabbergasted that the Senator from New York would say, since we have not seen action on our bill, we should take up his bill. And why are we taking up his bill under these circumstances? Because the Finance Committee has not acted. That is the reason. We are going to go around the Finance Committee to go straight to the floor, and he is saying we shouldn't go around the Labor Committee to go straight to the floor for the Patient Protection Act.

So let there not be any confusion here as to what is going on. Everyone ought to know this. This is as glaring as the lights themselves. Our Republican colleagues, for whatever reason, are denying the opportunity to consider a Patient Protection Act, today, tomorrow or any other day. And they are hiding behind the mastectomy bill to do it.

Well, let's not hide behind any legislation. Let's strip away all the rhetoric. They do not want to do it. They simply do not want to do it. I don't know why they don't want to do it, given that about 80 or 90 percent of the American people are demanding we do it, but they can explain it.

No one should be misled here. The problem is not that we are combining the two bills. I have just released them. There isn't any connection anymore. We will take up the Feinstein-D'Amato bill today and take up the Patient Protection Act in the next couple of months. Just let us take it up. That is all we are asking.

So, Mr. President, I am really astounded at that logic and that rationale. But I don't think anybody is misled here. They don't want to take up the patient protection legislation, and I am very disappointed, and I think the American people would be as well.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let's look at this in perspective. I have asked staff has there been a hearing with respect to S. 1890, a bill that is over 100 pages, the complexities of which, everyone has to admit, go well beyond a very straightforward, very limited bill which we believe guarantees women a right that I don't think there is one person here who could object to, and that is, length of stay should be determined by the medical necessity of the procedure; and, second, that reconstructive surgery should be a woman's right. She should not have to go to appeal to some board or some insurance plan because ERISA prevents States from having legislation that would order this.

Let me say this. We have had a hearing on S. 249, and we have had two votes to attempt to get it. Senator FEINSTEIN, myself, and others—and I might say our bill has broad, bipartisan support. There is not one Member on the Patients' Bill of Rights from the Republican Party. You can say that you are not linking, you can say you are not blocking, but that is exactly what has happened. The women of America are being denied a right to something that they should have—that we should enact into law, and we should be proud, and all 100 Senators should come down and vote for this and sponsor this—because we want the Patients' Bill of Rights to be heard at a particular time and we are linking the two. That is exactly what is happening.

I could support various provisions in the Patients' Bill of Rights—the clinical trials. I think we should have them. I want to support them. But to say that we should deny the women of America an opportunity to be heard on this and to have a vote on this is counterproductive; it is wrong. It is a shame that the Senate operates in this manner.

But everyone has a right to be heard. Everyone has a right to make their objections. I think it is unfortunate. My friend and colleague from California, Senator FEINSTEIN, has been waiting very patiently. If I might—

Several Senators addressed the Chair.

Mr. DASCHLE. Mr. President, I think the unanimous-consent request is still pending. Reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Reserving the right to object, let me just say the Senator from New York has said on several occasions now that this has not been the subject of any hearings. The Labor Committee has dealt with this issue at more than seven hearings, hearings that have brought people in from around the country, talking about this particular problem and about how serious it is. There has been one meeting in the subcommittee of the Finance Committee on his bill.

So let's talk about hearings. Let's talk about the array of people who have come forth and said, "Why are you waiting? Why aren't you moving ahead with this legislation?" I don't have an answer to that. Our caucus is attempting to promote the opportunity for all people to be heard on this issue.

The Senator from New York also made mention of the fact that his bill deals with mastectomy, and it is a very important contribution. I applaud Senator FEINSTEIN and others for making the effort, as they have, to get to this point. But his legislation is very, very narrowly focused.

He said he supports clinical trials. We want to give him the opportunity to vote for it. He says he supports access to specialists. We want to give him the opportunity to vote for it. He wants to protect the information, the records of patients. Let's give him and others a chance to vote for it. That is what our bill does. It goes way beyond simply the right, that a woman surely should have, to be more confident

about her ability to get the proper treatment when in a situation as sensitive as a mastectomy. But let's provide them the protection through clinical trials. Let's ensure that they can see necessary specialists. Let's ensure that their records are going to be protected. Let's do it all. Let's not do half a job, let's do the whole job. That is what we are talking about here.

So I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Mr. D'AMATO. I call for the regular order.

The PRESIDING OFFICER. The Senator from New York has the floor.

WOMEN'S HEALTH AND CANCER RIGHTS ACT

Mr. D'AMATO. I yield 10 minutes to the Senator from California, Senator FEINSTEIN.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. D'AMATO. Regular order. I believe under the regular order I control up to an hour.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. Mr. President, I make a point of order.

Mr. D'AMATO. Mr. President, I yield to the Senator from California, for up to 10 minutes, for a question.

Mr. FORD. Mr. President, take charge and give direction to these Senators.

The PRESIDING OFFICER. The Senator from New York has been recognized under the regular order. The Senator from New York does not control the floor. If he seeks to yield time, that requires a unanimous consent.

Is there objection to yielding time?

Mr. D'AMATO. Mr. President, my colleague from California has a question. I would like to yield for a question to the Senator from California.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has a right to yield for a question. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I would like to ask the Senator from New York a question.

As I recall, we introduced this amendment as a bill on January 30, 1997. That was 16 months ago. The Patients' Bill of Rights, I believe, was introduced on March 31st of this year. Is that not correct?

Mr. D'AMATO. Would the Senator——

Mrs. FEINSTEIN. My question about when we introduced this bill, a bill that would give a woman and her physician the right to determine the length of a hospital stay when she has a mastectomy, and quite possibly a radical mastectomy. The length of stay in the hospital would be the decision of her physician, not the HMO; we introduced this bill 16 months ago. Correct? The Patients' Bill of Rights was introduced in March of this year. Is that not correct?

Mr. D'AMATO. That is correct. The Senator is correct. We introduced this on January 30, 1997.

Mrs. FEINSTEIN. And, am I correct in that the Senate Finance Committee held a hearing on our bill on November 5, 1997?

Mr. D'AMATO. That is also correct. And the Senator testified—the Senator from California came and gave some very cohesive and forceful testimony as to the need for this legislation.

Mrs. FEINSTEIN. Is it not true that we have filed this bill to be considered by the Senate two times and you offered it in the Finance Committee two times? On March 16, we filed it as an amendment to H.R. 2646, the Parent and Students Savings Account Plus Act. Is that not correct?

Mr. D'AMATO. Absolutely. The Senator is absolutely correct.

Mrs. FEINSTEIN. On May 6, we filed it as an amendment to H.R. 2676, the IRS restructuring bill. Is that not correct?

Mr. D'AMATO. That is absolutely correct.

Mrs. FEINSTEIN. And on March 31 and on February 10 of this year, did my colleague not offer it as an amendment in the Finance Committee?

Mr. D'AMATO. I did. I did. My colleague is right. We brought it to a vote.

Mrs. FEINSTEIN. Is it not true that the Senator has been unable to get the Finance Committee to move this bill to the floor?

Mr. D'AMATO. Absolutely true. Again, procedurally this is raised, just as an analogy, as is being done here—there they raised germaneness, and, unfortunately, they kept the women of America from having the opportunity to have this bill considered at that time. That is correct.

Mrs. FEINSTEIN. Is it not true that the D'Amato-Feinstein mastectomy bill has 21 cosponsors, including a bipartisan group of women Senators—Senators SNOWE, MOSELEY-BRAUN, HUTCHISON, MIKULSKI, and BOXER?

Mr. D'AMATO. Absolutely. It is a bipartisan effort. It has been that way. I applaud my colleague from California for her leadership in this matter. We have done this and conducted this in a manner that has sought to eliminate politics and think about the women of America and the families of America, because we are talking about a disease and procedures that are hurting, harming the families of America.

Mrs. FEINSTEIN. I would like the Senator from New York to know that I am a cosponsor, also, of the Patients' Bill of Rights Act. I understand the importance of this bill. I would very much welcome floor time to consider this bill as well.

However, I did indicate in our Democratic caucus that absent that opportunity, and because women all across this Nation are going through some of the same events that two women who brought this to my attention 3 years ago in California went through, and that is to show up to have a radical mastectomy at 7:30 in the morning, and then to be pushed out on the street at 4:30 that afternoon with drains in them, the effects of anesthetics still upon them, really unable even to walk—is it not true that what we strive to do is make a simple reform and say that no woman without the permission of her physician will be subject to this kind of treatment ever again in the United States of America?

Mr. D'AMATO. The Senator from California is absolutely correct.

Let me say that we worked long and hard on this. We have many of our colleagues who, because of their commitment to deal with this—it is tragic when it hits a family it has so much of an impact—said you have to have at least 48 hours. In other words, 72 hours. And we finally have been working with the people in the medical community, and I must say we built a consensus where we recognize that we should not put any time limitation whatsoever.

If I might, Mr. President, we have the Senator from Montana who is waiting to make a statement. Might I propound a unanimous consent request that he be permitted to speak for up to 3 or 4 minutes as if in morning business, and that might we also have an additional 5 minutes then—we started late—so that he could make his statement, and then without my losing the right to continue and to hold the floor and continue our discussion with respect to this?

Mr. KENNEDY. Reserving right to object, I don't want to object. I would like to have a very brief time to be able to respond. I think, as I understand it, at 11 o'clock under the consent agreement we are going to the agricultural matter.

Mr. D'AMATO. That is why I asked for an additional 5 minutes.

Mr. KENNEDY. I would like to see if we could have, say, 15 minutes to be able to respond to that time.

Mr. D'AMATO. Unfortunately, I am not in a position to agree to that. Let me say this to Senator KENNEDY. Let's say that in one-half hour we would yield to the Senator from New York 10 minutes. Is that fine?

Mr. KENNEDY. That would be very generous.

Mr. D'AMATO. Could Senator BAUCUS' remarks be contained in morning business without interrupting the debate for up to 5 minutes?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I thank all Senators very much for accommodating me.

First of all, I hope that the bill to be offered by the Senator from California and the Senator from New York will be brought up quickly and passed. I think every Member of the Senate does. I very much favor it. At the same time, I very strongly believe the Patients' Bill of Rights, the basic protection bill, we have to pass that. It is very regrettable, frankly, that we are at loggerheads. We need to get that bill passed. I think we should work that out fairly soon. Frankly, it is in the interest of the American people we get this passed very quickly. But it is not going to be resolved right now.

By unanimous consent, the remarks of Mr. BAUCUS pertaining to "Montana Pole Vaulters" are printed in today's RECORD under "Morning Business."

Mr. D'AMATO. Mr. President, might I ask unanimous consent that Senator JOHNSON from South Dakota be given 3 minutes to speak on this issue?

Mr. DORGAN. Mr. President, reserving the right to object, my understanding is that the order by unanimous consent at 10 o'clock required that Senator D'AMATO be recognized to propound a unanimous consent request; not that Senator D'AMATO be recognized between 10 and 11 o'clock. I am wondering. Am I correct on that?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The order provides for the recognition of Senator D'AMATO of New York.

Mr. D'AMATO. I believe I was going to be recognized, and indeed I am attempting to accommodate this. I could speak for this 1 hour. I am attempting to accommodate the needs of my colleagues. That is why I yielded 10 minutes. I am prepared to yield 10 minutes to Senator KENNEDY. The time is clicking off here.

Mr. DORGAN. I will not object. But my understanding of the UC was that the Senator from New York would be recognized to propound a unanimous consent request at which point the floor would be open. I guess I understand the Senator from New York intends to retain the floor until 11 and simply by consent allow others to speak for a certain amount of time.

Mr. D'AMATO. Yes.

Mr. DORGAN. He certainly has that right. Under the unanimous consent agreement he has the right of recognition. So I will not object.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I thank the Senator from New York and the Senator from California for their extraordinary work on this important legislation.

Mr. President, frankly, I have to share a great level of frustration, and to be candid, anger at where we find ourselves this morning: unable to move forward with the breast cancer legislation for which there is broad bipartisan support and little controversy. I have more than simply a public policy concern about this issue. I have a personal concern in my own family, having gone through my wife's breast cancer challenge over the past 2 years. She is doing very well. But we had a situation where she remained in the hospital for one night following surgery. She went home with the drains, and the other complications. We were able to do that all right because we don't have small children at home. We had no complications. But I know of other women in my State of South Dakota who have small children at home who cannot take a great amount of time from work, who have no extra help, who have extra complications, and who have all sorts of matters that are debilitating that cause complications. And 24 hours for many of them is simply not adequate. We have an opportunity here to correct that problem. This doesn't correct everything.

I share the support of the Senator from California for the Patients' Bill of Rights. I am frustrated, as well, that we haven't made greater progress there. I hope that before this session is over we will in fact deal with the more comprehensive health care reform legislation.

I applaud Senator DASCHLE's leadership on the Patients' Bill of Rights legislation. But I do not want to make the perfect the enemy of the good. What we have here is a piece of legislation which we should be able to pass this very day.

It is certainly my hope, while we have the continued discussion about a more comprehensive approach to managed care and ensuring the rights of all patients, that before this session of the 105th Congress expires—and we are running out of time quickly—that, in fact, we get this breast cancer bill to the floor and deal with it in an expeditious fashion.

Again, I simply want to applaud the leadership of the Senators from California and New York on this issue, one that we really should not allow to be delayed longer than it already has.

I yield my time.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the time be extended until 11:05, because we did not start nearly on time, and I further ask unanimous consent that Senator KENNEDY be recognized now for up to 10 minutes.

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

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Mr. President, let me be clear: I am all in favor of Senator D'AMATO's bill. Its provisions are included in the Patients' Bill of Rights. I was an original cosponsor of Senator DASCHLE's legislation, which preceded the legislation authored by my colleague from New York, that guaranteed breast cancer patients a minimum length of stay in the hospital following a mastectomy. And I worked with the breast cancer community—patients and providers—to write and introduce a bill that would require plans that cover mastectomies to also cover reconstructive surgery, prostheses and treatment for lymphedema, a complication of the surgery. In fact, Senator D'AMATO modified his original bill, which covered only reconstructive surgery, to conform it more closely to mine. We share a commitment to this legislation.

But his proposal does not include other provisions that are in our bill and which are equally important to breast cancer patients, their families and their doctors. The following protections, all of which are in the Patients' Bill of Rights remain unaddressed in the legislation proposed by Senator D'AMATO:

It does not guarantee access to specialists—provisions that would allow an oncologist to act as a cancer patient's care coordinator, or would allow a patient to see an oncologist directly, without first making an unnecessary visit to a so-called "gatekeeper."

It does not ensure for a smooth transition between new and existing doctors for breast cancer patients and survivors whose employers change plans or whose plans change providers in the network.

It does not include access to and coverage of participation in clinical trials, which can so often mean the difference between life and death for patients with nowhere else to turn.

It does not establish the right to an independent and timely appeal—a critical feature for those times when coverage decisions fall into a grey area.

It does not create access to prescription drugs that are not on the formulary, if they are medically indicated in the case at hand.

It does not guarantee that emergency care will be covered, provided a layperson believed they were in an emergency.

With the limited exception for post-mastectomy length-of-stay determinations, it does not fully restore the doctor-patient relationship by returning treatment decisions to the attending physician.

Finally, it does not allow patients to hold health plans accountable for their medical decision-making.

Clearly, the problems are not with what is in the bill, but with what is not in the bill.

We are effectively precluded from including these particular provisions in the D'Amato proposal. And that is why

these matters are linked, Mr. President. The items contained in our Patient Protection Act are critically important to breast cancer patients and survivors. Our bill has the broad support from virtually all the various cancer groups and breast cancer groups. But, if we move forward on only those included in the D'Amato proposal, we effectively preclude movement on the rest of the provisions.

One can say, "Well, we are still making some progress." I understand, but there is no reason in the world—none, no reason—that we cannot include these particular provisions for women today—none, make no mistake about it.

We have had eight hearings on the issues relating to the Patients' Bill of Rights. I introduced the original legislation on this issue more than a year ago—over a year ago. The President's advisory commission, which included among its members representation from the business community and insurance industry, reported unanimously last November about what ought to be included in a patients' bill of rights. We have incorporated their recommendations in our bill. They are needed today by women across this country.

All we are asking is for the opportunity to have the Senate debate and go on record with regard to these kinds of protections. But we are foreclosed from acting today. We are denied doing it. We cannot even get a reasonable period of time. The Republican leadership is sitting somewhere in this building. They could have listened to the exchange that was done by the Democratic leader and the Senator from New York. They know what is going on on the floor of the U.S. Senate. They can just come out here and say, "All right, you got it, you are going to have an opportunity to debate this issue; we won't have a time limitation, call the roll and let's have a debate on what is the No. 1 issue before American families." But, no, we are precluded from that.

You don't have to be around here a great deal of time to understand what is going on. We are effectively excluded because of the power of the insurance industry. Do you hear that? We are excluded from having an opportunity to debate this because of the power of the insurance industry. That is what is going on here. That is the issue this morning on the floor of the U.S. Senate.

The industry does not want to provide patients with the protections to which they are entitled and have paid for, and their allies in the Senate are holding this up, Mr. President, by using parliamentary techniques to deny us the chance to consider this legislation. We cannot get a report out of our Labor and Human Resources Committee. We cannot take it up on the floor of the U.S. Senate. It is time for action, and we are denied an opportunity, not just today, not just tomorrow, not just June, but anytime whatsoever—whatsoever.

We are asking the Republican leadership to give us a time. Call the Democratic leader. Bring it up in 2 days. Bring it up in 2 weeks. Bring it up in a month. But give us a time to bring this up. That is what this issue is all about, and that is where we are going, Mr. President. We will bring this issue up time in and time out, again and again. We may be foreclosed now, but the American people are going to demand it. Those women who have or have had breast cancer are going to understand it and demand it as well.

I yield the remaining time to the Senator from California.

I thank the Senator from New York for granting the time.

Mrs. BOXER. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes 15 seconds.

Mrs. BOXER. Mr. President, I say to my colleague, I will reserve 2 minutes for him.

Sometimes we set up false fights, and it is a real false fight between those who want to ban drive-through mastectomies, which I would guess is every single Senator in this Chamber, and those who want to go even further and grant patients protections across the board for breast cancer patients, prostate cancer patients, children, the elderly, anyone who gets sick. There is no fight. Why are we having a fight? We are having a fight because, as the Senator from Massachusetts has said, we are unable to make this a broader bill.

I am very proud to be a sponsor of the D'Amato-Feinstein bill, and I am going to be very excited when this bill becomes law, and it will become law.

We need to do more, and there is no reason why the leadership of the Senate won't give us that opportunity, except that there are many special interests who don't want us to do more, who are pocketing—into deep pockets—profits on a HMO system that shortchanges patients, and that is wrong.

I was visited by a man named Harry Christie. I have told his story on the Senate floor before. His daughter was diagnosed with a rare tumor in her kidney. She was 9 years old. There were two doctors who had experience operating on that type of tumor. His HMO said, "That's too bad, you have to go with a general surgeon."

He said, "This is my only child."

And they said, "You're out of luck."

Fortunately, Mr. Christie was able to come up with the $50,000 he needed, and he saved his daughter's life. Six years later, she is alive and, yes, the HMO was fined a hefty sum by the State of California. If Mr. Christie had listened to the HMO, he might not have his daughter today.

All the Senator from Massachusetts and the Democratic leader are saying is we love this mastectomy bill, we want to help you get this bill through, but help us, help us do more. We can stop a woman from having to go through a horrific, outrageous, demeaning, dangerous drive-through mastectomy, and we will with this bill. But what happens when she is out of hope a couple of years later, and she needs to get into a clinical trial where she can have access to certain drugs because nothing else is working? The mastectomy bill is narrow, it doesn't address that. The broader patient rights bill addresses it.

I want to speak to the issue of the dates when these various bills were put into the hopper, because Senator FEINSTEIN made a good point on that. However, Senator KENNEDY had a bill that was offered before the drive-through mastectomy bill. Others had bills that were offered before as well. We don't need to have this argument which pits one against the other. We should be able to pass this bill banning drive-through mastectomies, and allow it to be amended to take up these broader issues, so that if someone has chest pains and goes to the emergency room, they are not going to be told by their HMO that they can't qualify for a payment because, guess what, they didn't actually die and have a heart attack, they actually lived. But it was a prudent person who made that decision to walk into that emergency room. Why should they be penalized?

I am very hopeful we will pass this drive-through mastectomy bill, but also a broader Patients' Bill of Rights for breast cancer patients, for prostate cancer patients, for Alzheimer's patients, for all the patients, and let's not set up a false argument here. We can do both. Somebody once said you should be able to walk and chew gum at the same time. Well, we should be able to do this very narrow bill and then debate a broader bill and give all of our patients the protection they so richly deserve.

I yield the remaining time to Senator KENNEDY.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. Mr. President, I ask unanimous consent that my colleague from California, Senator FEINSTEIN, be recognized for 5 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Senator from New York.

I must say that I think what is happening here is unfortunate. I think what we are seeing overwhelmingly all across the United States is a state of medical care and health insurance in this country that is becoming much more oriented toward business and much less oriented toward medicine. And this is prompting, I think, all

across this land a terrible situation for physicians and for patients.

What prompted me to introduce this bill was two California women who wrote to me. I want to read them to you and enter their full statements in the RECORD.

One was from a woman in Newark, CA. And she wrote—and this was almost 2½ years ago—that she had a modified radical mastectomy as an outpatient at the Fremont Kaiser outpatient clinic. She was operated on at 11:30 in the morning and was released at 4:30 that afternoon, with no attempt made to see if she could even walk to the bathroom. She was 60 years old. And the discovery of cancer and the subsequent surgery were extremely draining both emotionally and psychologically.

That is one case. Same day. Let me read you about another case.

My mastectomy and lymph node removal took place at 7:30 a.m., November 13. I was released at 2:30 p.m. that same day. I received notice, the day before surgery, from my doctor that mastectomy was an outpatient procedure at Kaiser and I'd be released the same day. Shocked by this news, I told my surgeon of my previous complications with anesthesia and the fact that I have a cervical spine condition, which adds an additional consideration for any surgery.

Then she goes on and she says:

While in a groggy, postoperative daze, swimming in pain and nausea, I was given some perfunctory instructions on how to empty the two bloody drains attached to my body. I was told to dress myself and go home. My doctor's written chart instructions for a room assignment, if I developed acute nausea or pain, were ignored by the nursing staff.

This is the problem we are trying to stop right here and now. I frankly am sorry that the bill isn't broader. But this is something whose cost is small—$100 million. We know it can be accommodated. We know we can get the job done.

This bill is simple. It requires every insurance plan in the United States of America to cover the hospital length of stay determined by the physician to be medically necessary. It does not prescribe a fixed number of days. It does not set a minimum. It leaves the length of the hospital stay for the mastectomy up to the treating physician.

Secondly, it requires health insurance plans to cover breast reconstruction following a mastectomy.

Thirdly, it requires insurance plans to cover breast prostheses and complications of mastectomy, including lymphedema.

And, finally, it prohibits insurance plans from financially penalizing or rewarding a physician for providing medically necessary care or for referring a patient for a second opinion.

This is a simple bill. It is a direct bill. It is going to directly benefit the lives of tens of thousands of women. I regret that it isn't more comprehensive. But we know it is doable, we know what it does, and we know women will immediately be better off because of it.

So I am very proud to stand here with my colleague from New York and with others in the Senate. The great bulk of women Senators are supporting this. This is tangible; it is doable. We believe it can become law quickly. And we say, let us seize the moment and let us accomplish at least this for women of America.

So I thank my colleague from New York for his authorship. I was very proud to be an original sponsor on this bill. We did have a hearing. We have tried to get the job done before, but hopefully it will get done this morning.

As an original cosponsor of S. 249, the Women's Health and Cancer Rights Act, I am pleased to sponsor the amendment on mastectomy hospital length of stay that Senator D'AMATO is urging the Senate to consider. It is time to pass it.

Senator D'AMATO and I introduced this amendment as a bill on January 30, 1997, 16 months ago. The Senate Finance Committee held a hearing on the bill, S. 249, on November 5, 1997. We have filed this as an amendment, to be considered by the Senate, three times:

On March 16, we filed it as an amendment to H.R. 2646, the Parent and Student Savings Account PLUS Act.

On May 6, we filed it as an amendment to H. R. 2676, the IRS restructuring bill.

On March 31 and on February 10 of this year, Senator D'AMATO offered it as an amendment in the Finance Committee.

In sum, we have made numerous efforts to get the Senate to consider this bill.

The D'Amato-Feinstein mastectomy bill has 21 cosponsors, including a bipartisan group of women Senators: Senators SNOWE, MOSELEY-BRAUN, KAY BAILEY HUTCHISON, MIKULSKI and BOXER.

This amendment has four important provisions: For treatment of breast cancer:

1. It requires insurance plans to cover the hospital length of stay determined by the physician to be medically necessary. Importantly, our bill does not prescribe a fixed number of days or set a minimum. It leaves the length of hospital stay up to the treating physician.

2. It requires health insurance plans to cover breast reconstruction following a mastectomy.

3. It requires insurance plans to cover breast prostheses and complications of mastectomy, including lymphodemas. For treatment of all cancers:

4. It prohibits insurance plans from financially penalizing or rewarding a physician for providing medically necessary care or for referring a patient for a second opinion

Let me share with you two firsthand experiences, two California women describing their treatment by insurance companies in having a mastectomy.

Nancy Couchot, age 60, of Newark, California, wrote me that she had a modified radical mastectomy on November 4, 1996, at 11:30 a.m. and was released by 4:30 p.m. She could not walk and the hospital staff did not help her "even walk to the bathroom." She says, "Any woman, under these circumstances, should be able to opt for an overnight stay to receive professional help and strong pain relief."

Victoria Berck, of Los Angeles, wrote that she had a mastectomy and lymph node removal at 7:30 a.m. on November 13, 1996, and was released from the hospital 7 hours later, at 2:30 p.m. Ms. Berck was given instructions on how to empty two drains attached to her body and sent home. She concludes, "No civilized country in the world has mastectomy as an outpatient procedure."

These are but two examples of what, unfortunately, is symptomatic of a growing trend and a national nightmare—insurance plans interfering with professional medical judgment and arbitrarily reducing care without a medical basis.

Premature discharges for mastectomy, with insurance plans strong-arming physicians to send women home, are one glaring example of the growing torrent of abuses faced by patients and physicians who have to "battle" with their HMOs to get coverage of the care that physicians believe is medically necessary.

Increasingly, insurance companies are reducing inpatient hospital coverage and pressuring physicians to discharge patients who have had mastectomies. This is beyond the pale. It is unconscionable.

The Wall Street Journal on November 6, 1996, reported that "some health maintenance organizations are creating an uproar by ordering that mastectomies be performed on an outpatient basis. At a growing number of HMOs, surgeons must document 'medical necessity' to justify even a one-night hospital admission."

A July 7, 1997 study by the Connecticut Office of Health Care Access found the average hospital length of stay for breast cancer patients undergoing mastectomies decreased from three days in 1991 and 1993 to two days in 1994 and 1995. This study said, "The percentage of mastectomy patients discharged after one-day stays grew about 700 percent from 1991 to 1996."

In the last ten years, the length of overnight hospital stays for mastectomies has declined from 4 to 6 days to 2 to 3 days to, in some cases, "no days." The average cost of one day in a community hospital in 1995 nationwide was $968.00. In California, in 1997, the average cost for one day was $1,329.77. When insurance plans refuse to cover a hospital stay, most Californians have difficulty coughing up $1,300.00. They are forced to go home.

In 1997, over 180,000 women (or one in every 8 American women) were diagnosed with invasive breast cancer and 44,000 women died from breast cancer. Only lung cancer causes more cancer deaths in American women. 2.6 million American women are living with breast cancer today.

In my state, this year, 19,399 women will be diagnosed with breast cancer and 4,585 will die. The San Francisco Bay Area has some of the highest rates of breast cancer in the world. According to the Northern California Cancer Center, San Francisco's 9-county area's rate of breast cancer in 1994 was 50 percent higher than most European countries and 5 times higher than Japan. In September 1997, the Northern California Cancer Center gave us some mixed news: "The good news is we're seeing the rates go down. The bad news is we don't know why," said Angela Witt Prehn. But officials there say, the bottom line is that incidence rates are still higher than national rates.

After a mastectomy, patients must cope with pain from the surgery, with drainage tubes and with psychological loss—the trauma of an amputation. These patients need medical care from trained professionals, medical care that they cannot provide themselves at home.

A woman fighting for her life and her dignity should not also be saddled with a battle with her health insurance plan. A physician trying to provide medically necessary care

As the National Breast Cancer Coalition wrote me on March 12, 1998: "The NBCC applauds this effort and believes this compromise will put an end to the dangerous health insurance practices that allow cost and not medical evidence to determine when a woman leaves a hospital after breast cancer surgery."

Insurance plans also refuse to cover breast reconstruction and breast prostheses. Our bill requires coverage.

Joseph Aita, Executive Vice President and Medical Director of LifeGuard, was quoted in the San Jose, California, Mercury News, as saying "Looking normal is not medically necessary."

Let me contradict Mr. Aita. Looking normal is medically necessary. Breast reconstruction is important to recovery. According to Dr. Ronald Iverson, a Stanford University surgeon, "Breast reconstruction is a reconstructive and not a cosmetic procedure."

He cites a study which found that 84 percent of plastic surgeons reported up to 10 patients each who were denied insurance coverage for reconstruction of the removed breast. This could mean 40,000 cases per year.

Commendably, my state has enacted a law requiring coverage of breast reconstruction after a mastectomy. We need a national standard, covering all insurance policies. Let's follow California's need.

Finally, our amendment prohibits insurance plans from including financial or other incentives to influence the care a doctor's provides, similar to a law passed by the California legislature last year. Many physicians have complained that insurance plans include financial bonuses or other incentives for cutting patient visits or for not referring patients to specialists. Our bill bans financial incentives linked to how a doctor provides care. Our intent is to restore medical decision-making to health care.

For example, a California physician wrote me, "Financial incentives under managed care plans often remove access to pediatric specialty care." A June 1995 report in the Journal of the National Cancer Institute cited the suit filed by the husband of a 34-year old California woman who died from colon cancer, claiming that HMO incentives encouraged her physicians not to order additional tests that could have saved her life.

Our amendment today tries to restore professional medical decision-making to medical doctors, those whom we trust to take care of us. It should not take an act of Congress to guarantee good health care, but unfortunately that is where we are today. As the National Breast Cancer Coalition wrote us on March 12, "* * * until guaranteed access to quality health care coverage and service is available for all women and their families, there are some very serious patient concerns that must be met. Without meaningful health care reform, market forces propel the changes in the health care system and women are at risk of being forced to pay the price by having inappropriate limits placed on their access to quality health care."

This amendment is an important protection for millions of Americans who face the fear, the reality and the costs of cancer every day. When any cancer strikes, it is not just the victim who suffers. It becomes a family matter.

Today I say, enough is enough. It is time for this Senate, for this Congress to send a strong message to insurance companies that we must put care back into health care. Medical decisions must be made by medical professionals, not anonymous insurance clerks.

I ask unanimous consent to have items I referred to previously printed in the RECORD.

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

NEWARK, CA, NOVEMBER 16, 1996.

Senator FEINSTEIN.

Senator BOXER.

I recently called your office to express my anger at having been forced on Nov. 4 to have a modified radical mastectomy as an outpatient at the Fremont Kaiser Outpatient Clinic. I was operated on at 11:30 am and was released by 4:30 with no attempt made to see if I could even walk to the bathroom.

I am 60 years old and the discovery of cancer and the subsequent surgery was extremely draining both emotionally and psychologically. I feel that Kaiser completely disregarded these feelings, along with my fear of coming home so soon with no professional help. We received a call from Kaiser the following morning and a visit by a home health nurse.

Any woman, under these circumstances, should be able to opt for an overnight stay to receive professional help and strong pain relief.

I am interested in your view of this issue. Contact me if you want further details.

NANCY COUCHOT.

Sorry I am still wobbly writing.

[From the Los Angeles Times, Nov. 21, 1996]

OUTPATIENT MASTECTOMY SURGERY

My thanks to Ellen Goodman for "The Latest HMO Outrage: Drive-Thru Mastectomy" (Commentary, Nov. 18). Last week I became an uninformed victim of this inhumane practice at Kaiser-Permanente, Los Angeles.

I want to acquaint women with my first-hand experience of this degradation and urge my fellow HMO patients to contact their Washington legislators.

My mastectomy and lymph node removal took place at 7:30 a.m., Nov. 13. I was released at 2:30 p.m. that same day. I received notice, the day before surgery, from my doctor that mastectomy was an outpatient procedure at Kaiser and I'd be released the same day. Shocked by this news, I told my surgeon of my previous complications with anesthesia and the fact that I have a cervical spine condition, which adds an additional consideration for any surgery. The pleasant doctor assured me that I'd be admitted, for the night, if I experienced excessive pain or nausea. This was noted in my chart.

In the recovery room and the holding area, I felt like a wounded soldier in a hospital tent during the Civil War. I was surrounded by moaning patients and placed directly next to a screaming infant. When I finally found a voice, I shouted, "Get me out of here!" A nurse flitted by, shot me a disapproving glance, and commented, "Some folks just don't know when to be grateful." This was the ultimate humiliation.

While in a groggy, postoperative daze, swimming in pain and nausea, I was given some perfunctory instructions on how to empty the two bloody drains attached to my body. I was told to dress myself and go home. My doctor's written chart instructions for a room assignment, if I developed acute nausea or pain, were ignored by the nursing staff. Obviously, the reassurance had been given to placate me at the time of my discussion with the doctor but everyone knew an overnight stay was against Kaiser hospital rules. Everyone knew, except me. I had no time to mourn the loss of my breast or regain a sense of composure.

This experience was especially shocking because four years previously, I had undergone a hysterectomy and received excellent treatment and a four-night stay at the very same Kaiser facility.

We women can allow ourselves to be discounted or we can demand more from the HMOs. No civilized country in the world has mastectomy as an outpatient procedure.

VICTORIA BERCK.

Mrs. FEINSTEIN. I yield the floor.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from Maine, Senator SNOWE, be recognized to speak for up to 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Thank you.

Mr. President, I thank Senator D'AMATO for yielding me such time. I want to applaud him for his leadership on this very important issue for women in America. And I thank my colleague, Senator FEINSTEIN, for her leadership as well and commitment that she has demonstrated on this issue.

Mr. President, I regret that we have reached a point here where we cannot pass one bill because it is being held hostage to another. No one disagrees with the Senator from Massachusetts in terms of the importance of some of the issues that he has raised with respect to a Patients' bill of rights. But this legislation should not be held hostage to that legislation.

We all know that there are many questions with respect to the approach that he has taken—relevant questions, understandable concerns—that should be appropriately discussed and explored in the committee process and then ultimately here on the floor. But this should not hold up this particular bill. And Senator D'AMATO is absolutely correct, we should move forward, because this has strong bipartisan support.

There is not a Senator on the floor who would not support this legislation. So the women of America should not be held hostage because of internal divisions, because of parliamentary maneuvers, because of legislative gridlock.

This legislation has the support of Democrats as well as Republicans. We have 180,000 women every year who are diagnosed with breast cancer. One in eight women in their lifetime will be detected with breast cancer. We have now discovered that, in many instances, mastectomies are being performed on an outpatient basis, and we need to take action to prevent that. Mastectomies are very complicated surgical procedures.

There is no way that that is a decision that should be made by a bureaucrat; but rather, the length of a woman's stay in a hospital, how that procedure will be handled, should be determined by her as well as her doctor. Those are the only two individuals who ought to be making that decision. It should not be a bureaucrat's bottom line.

We have found time and time again women who have had to endure this procedure on an outpatient basis. The physical scars left by mastectomy, which can be complicated and difficult to care for, often require supervision. Women prematurely released may not have the information they need, let alone the care. And dangerous complications have arisen hours after the operation. And all of this is occurring within the context of a traumatic circumstance, and that is having a mastectomy. We want to make sure that this decision is made appropriately within the confines of medical supervision and medical providers.

We have also found that breast reconstructive surgery is considered cosmetic surgery. Well, it is not. Forty-three percent of women who want to undergo breast reconstructive surgery cannot because it is deemed cosmetic. And that is wrong. Breast reconstructive surgery is designed to restore a woman's wholeness. Fortunately, my State has passed legislation to guard against that and to require health insurance companies to consider it as breast reconstructive surgery. But unfortunately for those who are employed by those who are self-insured, they do not receive this kind of coverage.

That is why this legislation that is offered by Senator D'AMATO is so essential. We cannot allow women to have to endure this kind of decision-making under the most arduous circumstances because of the indecision and the difficulties that have arisen here.

This legislation had a hearing back in November of 1997 before the Senate Finance Committee. We are entitled to get this legislation through the legislative process. In fact, the President, during his State of the Union Address in January of 1997, had a physician in the gallery who drew attention to the need to change the guidelines that had encouraged outpatient masectomies. Therefore, he called on Congress in January of 1997 to pass this legislation.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. SNOWE. I thank Senator D'AMATO for his leadership. I urge the Senate to move this legislation forward. We will have another day to raise the issues raised by the Senator from Massachusetts.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from Alaska be recognized for 2 minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Let me commend the chairman on his efforts to bring this to the floor. This is the second or third time he has done it. I am certainly pleased to be a cosponsor of the Women's Health and Cancer Rights Act.

In our State of Alaska, we have an effort relative to awareness being put on by the Breast Cancer Detection Center of Alaska, which has provided 25,000 women in 81 villages throughout the State an opportunity for free mammograms. This has been done not with government support but with private support. We have raised about $830,000 through a series of fishing tournaments each year, which some Senators have been a party to.

Mr. President, I think that the significance of this bill, which means so much to so many, is that it would put an end to the "drive-through" mastectomies, as we know them today. Many of my colleagues have already spoken on this issue. The bill ensures that mastectomy patients would have access to reconstruction surgery. Scores of women have been denied this procedure because insurers have deemed this procedure to be "cosmetic." Far too often, breast cancer victims who believe they have adequate health coverage have become horrified when they learn that reconstruction is not covered.

In my State of Alaska, of the 324 mastectomies and lumpectomies performed in Alaska in 1996, reconstruction only occurred on 11 of the patients. That means that only 3.4 percent of the women who have a breast removed have reconstructive surgery, compared to the national average of 23 percent.

The reason is cost, Mr. President. And if we look at one of the physicians in my State, Dr. Troxel, of Providence Hospital in Anchorage, who states:

> Women who are not able to receive reconstructive surgery suffer from depression, a sense of loss, and need more cancer survivor counseling. . . .Additionally, reconstructive surgery can be preventive medicine—women who don't have reconstructive surgery often develop back problems and other difficulties.

Mr. President, one out of nine American women will suffer the tragedy of breast cancer. It is today the leading cause of death for women between the ages of 35 to 54.

Alaskan women are particularly vulnerable to this disease. We have the second highest rate of breast cancer in the nation: 1 in 7 Alaska women will get breast cancer and tragically it is the Number One cause of death among Native Alaskan women.

Mr. President, these tragic Alaska deaths are not inevitable. Health experts agree that the best hope for lowering the death rate is early detection and treatment. It is estimated that breast cancer deaths can be reduced by 30 percent if all women avail themselves of regular clinical breast examination and mammography.

But for many Alaska women, especially native women living in one of our 230 remote villages, regular screening and early detection are often hopeless dreams.

For more than 20 years, my wife Nancy has recognized this problem and tried to do something about it. In 1974, she and a group of Fairbanks' women created the Breast Cancer Detection Center, for the purpose of offering mammographies to women in remote areas of Alaska—regardless of a woman's ability to pay.

Now, the Center uses a small portable mammography unit which can be flown to remote areas of Alaska, offering women in the most rural of areas easy access to mammographies at no cost. Additionally, the Center uses a 43-foot-long, 14-foot-high and 26,000-pound mobile mammography van to travel through rural areas of Alaska.

The van makes regular trips, usually by river barge, to remote areas in Interior Alaska such as Tanana.

Julie Roberts, a 42-year-old woman of Tanana, who receives regular mammographies from the mobile mammography van, knows the importance of early screening:

There's a lot of cancer here (in Tanana)—a lot of cancer. That's why it's important to have the mobile van here . . . I know that if I get checked, I can catch it early and can probably save my life. I have three children and I want to see my grandchildren.

I am proud to say that the Fairbanks Center now serves about 2,200 women a year and has provided screenings to more than 25,000 Alaska women in 81 villages throughout the state. To help fund the efforts of the Fairbanks Center, each year Nancy and I sponsor a fishing tournament to raise money for the operation of the van and mobile mammography unit. After just three years, donations from the tournament have totalled $830,000.

Mr. President, Nancy and I are committed to raising more funds for this important program so that every women in Alaska can benefit from the advances of modern technology and reduce their risk of facing this killer disease.

The importance of mammography and screening cannot be stressed enough—however, there has long been a tragic result of the disease that Congress has either ignored or failed to recognize—and that is the so-called "drive-through" mastectomy.

Currently victims of breast cancer who receive mastectomies are being forced to get out of their surgery bed and vacate the hospital only hours after their surgery. The reason? Because far too often it is the practice of insurance companies to treat the procedure of a mastectomy as merely an "out-patient service."

Here's the horror that many insurance companies cause:

Nancy Couchot, a 60-year-old woman had a radical mastectomy at 11:30 a.m. She was released from the hospital only hours later at 4:30 p.m.—even though she was not able to walk or use the rest room without assistance.

Victoria Berck, had a mastectomy and lymph node removal at 7:30 a.m. and was released at 2:30 p.m. She was given instructions on how to empty two drains attached to her body and sent home. Ms. Berck concludes, "No civilized country in the world has a mastectomy as an out-patient service."

Mr. President that is why I am proud to co-sponsor of S. 249, the Women's Health and Cancer Rights Act. This bill would put an end to the drive-through mastectomies.

Specifically, the Act will require health insurance companies to allow physicians to determine the length of a mastectomy patient's hospital stay according to medical necessity. In other words, the bill makes it illegal to punish a doctor for following good medical judgment and sound medical treatment.

Another important provision of this bill ensures that mastectomy patients will have access to reconstructive surgery. Scores of women have been denied reconstructive surgery following mastectomies because insurers have deemed the procedure to be "cosmetic" and, therefore, not medically necessary.

Mr. President, far too often breast cancer victims, who believe that they have adequate health care coverage, become horrified when the learn that reconstruction is not covered in their health plan.

In Alaska, the problem is even more tragic. Of the 324 mastectomies and lumpectomies performed in Alaska in 1996, reconstruction only occurred on 11 of the patients. That means that only 3.4% of women who have their breast removed have reconstructive surgery, compared to the national average of 23 percent.

The simple reason for this tragically low figure is simple: women can't afford the procedure.

Breast reconstruction costs average about $5,000 for just the procedure. If hospital, physician and other costs are included—the cost averages around $15,000.

Dr. Sarah Troxel, of Providence hospital in Anchorage, states the importance of reconstruction:

Women who are not able to receive reconstructive surgery suffer from depression, a sense of loss, and need more cancer survivor counseling . . . Additionally, reconstructive surgery can be preventative medicine—women who don't have reconstructive surgery often develop back problems and other difficulties.

Mr. President, insurance companies commonly provide reconstructive surgery for other types of cancers that alter or disfigure the surface of the skin—such as melanomas and all skin cancers.

Here is why federal legislation is needed: Thirty-four states, including Alaska have no state law requiring breast reconstruction after surgery. And in addition, 70 million Americans receive health benefits through federally regulated self-funded ERISA plans which are not covered by state insurance requirements.

These issues are not partisan issues. We may have our differences regarding managing and financing health reform, but I think we all endorse accessible and affordable health care that preserves patient choice and physician discretion. Cancer does not look to see the politics of its victims.

Mr. President, I urge my colleagues to support this important legislation.

Mr. FAIRCLOTH. Mr. President, I rise to support the efforts of my good friend Senator D'AMATO in his efforts to assure that women who need surgery for breast cancer will be able to do so in the hospital if that's what they desire.

I'm disturbed by the recent trend that takes choice away from patients and their doctors in the name of cost savings.

There are some things we just can't sacrifice. Patient's rights to seek care from specialty doctors and have access to cherished healers is a basic right we need to protect.

Breast cancer is a traumatic enough experience for a woman and her family to suffer through. These families need our help in gaining as much support from our medical care system as they can get to bring them through this terrible time in their lives.

This bill is simple. It simply guarantees a woman's right to a proper length of time in the hospital following her surgery. It guarantees the right to have a complete reconstruction of her breast to restore her body and sense of self-esteem.

The bill gives every person diagnosed with cancer the right to a second opinion, and would direct the HMO to pay for this second opinion. Also, the bill directs HMO's to pay for a specialist even if that doctor happens to be outside the plan.

Lastly, and most importantly, this bill prohibits HMO's from paying doctors to reduce or limit their patient care.

This is managed care's dirty little secret. They pay doctors to limit the time spent with their patients and pay doctors not to provide care.

I've heard from many, many, many constituents and doctors who are frustrated with this situation. If a doctor needs to spend time with a patient—time essential to healing—if a woman needs to be supported as she decides what to do for her breast cancer, I say give them all the time they need!

I rise to support Senator D'AMATO's bill today. We need to support our doctors and our women and their families.

Mr. D'AMATO. Mr. President, I believe my colleague from California has a question.

Mrs. FEINSTEIN. Mr. President, I have a question for the author, the Senator from New York. I believe this bill has strong support and a low cost. Its cause is just and correct, and it would be passed by this body overwhelmingly. When might we expect a vote on this bill?

Mr. D'AMATO. Mr. President, I am glad my colleague raised that question. Let me say this: It is disingenuous to say that the women of America are being denied proper health care here when something so basic and elementary is being tied up by procedures. That is exactly what is taking place. This legislation would stop the kind of abuse we see taking place every day. I have women calling and saying they are being denied reconstructive surgery, being denied the kind of health

care that everybody agrees on. We have found a methodology of paying for this, and it is not right to tie it to something so comprehensive and say, "unless we get this one, we are not going to get the other."

The women of America are being denied this. I intend to hold hostage, with my colleagues, important legislation that moves through until we get a vote on this—whether it is on a defense bill, a tobacco bill, appropriations bills. When we come down to the floor and—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER (Mr. ROBERTS). Is there objection?

Mr. HARKIN. Reserving the right to object, Mr. President. By unanimous consent, yesterday, we were supposed to come up with the research bill at 11 o'clock. We are up against kind of a time problem here. I would like to have some idea as to how soon that will happen. I see the chairman of the Agriculture Committee is here. We are here to begin our debate. I wonder how much longer can we expect to wait.

Mr. D'AMATO. Mr. President, I will withdraw my request and ask that I be given just 2 minutes, because I have yielded more time to more people. I want to set the stage.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mr. KENNEDY. For 2 minutes?

The PRESIDING OFFICER. Yes.

Mr. KENNEDY. No.

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

Mr. D'AMATO. Mr. President, let me say that we have been thwarted time and time again, procedurally—by both sides, I might say. But now I find what took place today absolutely horrendous.

Again, it is disingenuous to suggest that we would have to consider both when one is so clear cut, and the need is so necessary, and women are being denied. That is what is going on here. It is wrong. So when we have a bill that is going to be acted on, I will come to the floor—I hope with a number of my colleagues—to offer this legislation as an amendment and get a vote. Let the people of America see this. The people are going to be so full of pride that we will not allow something that is so obviously necessary that they are going to hold it hostage, because that is what is taking place with this legislation. It has been held hostage, and it is disingenuous to come down here and say you have to take this great big piece of legislation or we can't even let the women of America have freedom from the fear that they will be denied that which they should have—reconstructive surgery and to stay in the hospital until their doctor says now is the time to go home, not a bean counter, someone who limits you to 24 or 48 hours.

I hope my colleagues will join with me in this endeavor, making it a bipartisan fight to see that the women and families of America get justice.

Mrs. FEINSTEIN. Mr. President, I certainly will. I thank the Senator for his leadership and commitment to this issue.

AGRICULTURE RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the conference report.

The clerk will report.

The bill clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1150), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 22, 1998.)

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana is recognized to speak for up to 30 minutes.

Mr. LUGAR. Mr. President, I will consume much of my time at this juncture, reserve the balance, and yield to other colleagues.

I am very pleased that the Senate is now prepared to debate the conference report on S. 1150, the Agriculture Research, Extension and Education Reform Act of 1998.

I thank especially Senator TOM HARKIN, the ranking minority member of the committee, and all committee members for their efforts to work together to fashion legislation to garner the support of 74 Senators and a large host of agricultural, nutrition and religious organizations.

I point out that we had a good conference with our House colleagues. This is complex legislation. This is not the first time the Congress has had a conference report. It is usual, at least in matters of this variety, for the report to attract less attention. But ours is important. And I appreciate this opportunity to highlight that importance this morning.

Our initiatives will help farmers in this country to produce food for the world's people and to do so at a profit while guarding the environment of this country and the world. S. 1150 also resolves a funding crisis for the Federal Crop Insurance Program, preventing the loss of coverage for farmers in every State. The bill extends an important initiative from the 1996 farm bill that provides resources for rural development and research priorities. And, finally, S. 1150 allows food stamp benefits to be provided to limited groups of the disabled, the elderly, political refugees, and children who immigrated to this country legally.

Many of our colleagues have called for dramatic increases in funding for Federal scientific research. This advocacy is altogether appropriate. Unfortunately, agricultural research has received much less attention. Funding has declined in real terms for some years, and Mr. President, has declined in some areas to a point that we are no longer prepared to resist some of the insect and other disease pests that endanger our food supply.

It took visionaries like Nobel Peace Prize winner Dr. Norman Borlaug who came before our committee and eloquently pointed out how agricultural research is the future of mankind. It is the basis upon which mankind will be able to persist by the year 2050. Millions of people are now alive who would have died from malnutrition had it not been for the food productivity gains from people like Dr. Borlaug, and the thousands of other scientists. Whether it is through the "Green Revolution" of the 1960s, or today's biotechnology, researchers have found ways to coax more food from each acre, tapping more fully the potential of plant and animal food sources.

Further gains in output are not only possible but they are essential if the food needs of the 21st century are to be met. An increasing world population with rising incomes will require more and better food, feed and fiber. It is estimated, as a matter of fact, that their demand will be three times the demand for food which we now have in this year.

Not every farm around the globe is well suited for food production. We have an interest in avoiding the further deforestation and the exploitation of rain forests around the world and other sensitive ecosystems that will be farmed only at a terrible environmental price. Production must be trimmed in areas most appropriate for agriculture such as the United States.

An important part of the answer to this global crisis is our bill, S. 1150. It devotes $600 million over the next 5 years in mandatory funding to the initiative for future agriculture and food systems. These funds will be competitively awarded to scientists who will undertake cutting-edge research in priority areas such as genome studies, biotechnology, precision agriculture, and other critical fields of work. The new funds will augment the $1.8 billion existing annual budget for research within the Department of Agriculture.

To make certain the existing budget is spent in the most efficient way, S. 1150 also makes a number of reforms to the Nation's research and extension statutes. These reforms will establish benchmarks and set new requirements for coordination of work among universities, placing new emphasis on activities that cut across several disciplines,

involve multiple institutions, and integrate research with public dissemination of those results.

S. 1150 will provide $200 million per year in mandatory spending to continue fully funding the Federal Crop Insurance Program. These funds, which under current law would need to be appropriated from discretionary accounts, are an integral part of the agreement between private insurers and the Agriculture Department that allows affordable crop insurance to be afforded to the Nation's farmers. Current caps on discretionary spending do not take these expenses into account. Therefore, if the conference report is not approved soon, Congress will either search for discretionary accounts in USDA and other agencies that can be sacrificed to provide the crop insurance funding, or, failing that, contemplate the prospect of insurance policies being canceled for thousands of farmers who annually face the uncertainty of how the weather will affect their crops.

S. 1150 offsets about half of these crop insurance costs. For the remaining half, the conferees found reforms and spending cuts within the Crop Insurance Program itself that saved the requisite amount of money. These cuts, such as reducing the level of reimbursement provided for companies' administrative costs, set the stage for further reform and improvement of the crop insurance system in the future.

The conference report also provides for $100 million in new funding for Funds for Rural America, recognizing the pressing needs of those in rural areas and working to improve the quality of life for those living in rural America.

The conference report restores food stamp benefits to about 250,000 legal immigrants who otherwise would be ineligible for this portion of the Nation's safety net. Generally, the categories of immigrants covered by S. 1150 correspond to those who last year regained access to the Supplemental Security Income—the SSI Program—under separate legislation; namely, the balanced budget amendment. These immigrants, the elderly, the disabled, political refugees, and seekers of asylum, were either in the United States legally before the passage of the historic 1996 welfare reform law—and that is the case for the elderly, the children, and the disabled—or in the case of asylees and refugees, were subject to political persecution for other circumstances that makes their residence here less than fully voluntary. In addition, immigrant children under 18 who were in the United States legally before the passage of welfare reform will also become eligible. There was no corresponding restoration of SSI benefits last year since children are generally not eligible for SSI.

Senate bill 1150 fully offsets all costs. It reduces expenditure of mandatory funds for computer acquisition by USDA, a practice generally not available to other departments or even to most agencies within USDA. The bill scales back some recent increases in employment and training funds within the Food Stamp Program.

Finally, the bulk of savings in S. 1150 are achieved by correcting an unintentional provision in the welfare reform law which would otherwise allow States to be paid twice for the same administrative costs of providing food stamp benefits determining eligibility and performing other such functions.

S. 1150 is the result of lengthy negotiations, careful thought, and dedicated work. It will help our Nation increase its food supply at a profit to our farmers. The bill shores up the crop insurance system in a timely way, allowing producers to manage risks intelligently. It gives access to the Food Stamp Program to vulnerable individuals who reside in this country legally.

A large coalition of organizations who support this conference report are actively seeking Senate passage. Commodity groups, bankers, those involved in the crop insurance industry, scientific societies, and nutrition advocates, religious organizations, and 67 land grant colleges and universities have voiced their support for this legislation.

Mr. President, I appreciate that many Senators who have written in favor of this legislation by petition or through individual letters to the majority leader have indicated strong support for all of these provisions. But obviously there are Senators—and we shall have a debate this afternoon on the specific question of refugees and asylees and food stamps for these persons as legal immigrants.

Let me dwell for just a moment on the particulars of that issue.

Refugees are immigrants whom the State Department has permitted to enter the United States for the purpose of escaping persecution in their home country based upon their political or religious beliefs.

I want to underline that, Mr. President. These are not persons seeking access to our country illegally, coming across the Rio Grande or the Canadian border or some other nefarious way. They are persons who, by definition, the State Department—and by direction of the President, working with the Judiciary Committees of Congress—has permitted to enter because they are being persecuted for their religious beliefs. Asylees are immigrants who meet the same standards as refugees except they have made it to the United States on their own and applied for permission to stay to avoid having to return to a dangerous situation of jeopardy in their country of origin.

It is not easy to gain either category status. In order to gain admission as a refugee or asylee, someone ordinarily must show that he or she has "a well-founded fear of persecution in his or her own country of origin." The mere fact the would-be immigrant's native country is repressive or enmeshed in civil war is insufficient to support application for refugee or asylum status. The applicant must be able to show individually that he or she is specifically and personally at risk. Many people who have not been able to satisfy this strict standard have been imprisoned or killed by oppressive regimes as they went back, sadly enough. The casualty list of those who failed the test individually, a very rigid test, is very long and death occurred to many of these people as they were forced to return.

Now, a somewhat more lenient standard currently exists for applicants from Vietnam, Laos, and Cambodia and for Jews and Evangelical Christians from the former Soviet Union. Under the Lautenberg amendment, these persons must only show that they have a "credible basis" for their fear of persecution in their homeland. The Lautenberg amendment liberalized the ability of persons from these countries to seek refugee status, but it is scheduled to expire at the end of the current fiscal year.

Although some Members may wish to extend this amendment, CBO has said an extension would have a cost. But I point out that even as we discuss this conference report today, the House of Representatives is about to take up a religious liberty and freedom situation. In the Foreign Relations Committee, we will have a hearing on the very same subject today. And I would just say that those who are rigorous in rooting out food stamps need to consider Jews and Evangelical Christians. Specifically, we are talking about those in other fora. We don't need to talk about them in the Chamber. And these are very important issues, leaving aside ag research, crop insurance, and whatever brought us to this point.

Now, the overwhelming majority of refugees come from just a handful of countries, and I want to go through these specifically. Communist countries: Vietnam, Cuba, Laos; countries making difficult, often violent, transitions: The former Soviet Union and Bosnia; brutal authoritarian regimes: Iraq and Iran; and countries where Christians are persecuted for their beliefs: Parts of the former Soviet Union and Sudan; or Somalia where the central government is dissolved and the land is ruled by myriad petty warlords.

In recognition of the difficult circumstances of their departure from their home countries and their lack of sponsors in the United States, the Immigration and Nationality Act does not require refugees and asylees to refrain from becoming public charges here. Indeed, a specific program of cash and medical assistance is authorized to support newly arrived refugees. Limited appropriations have forced this

program to serve only as an adjunct to the basic Federal benefit programs such as Medicaid and food stamps.

As I mentioned before, the agricultural research conference report, one in which we are involved, did not make all of this up from scratch. We simply have adopted precisely the sections of last year's Balanced Budget Act on which we all voted, and at that time at least there was a recognition that people who are in these difficult straits really ought to be treated in a humane manner. Among the provisions of the Balanced Budget Act that the ag research bill would apply to food stamps—and we have already adopted it once before—is a 2-year extension, from 5 years to 7 years, of the eligibility for benefits of refugees and asylees for the food stamp situation.

The 1996 welfare law set the exemption for refugees and asylees at 5 years to correspond roughly with the earliest date that most refugees and asylees can apply. So, Mr. President, we philosophically already have crossed that bridge in the Welfare Act quite apart from the Balanced Budget Act—refugees, the same people, asylees, 5 years. The argument is whether that 5 years should become 7 years; it is not whether we should be paying these refugees and asylees support in a humane way.

Most refugees and asylees cannot apply to naturalize until they have been in our country for 4 years and 9 months. That limit soon proved unrealistic because of long, long backlogs in Immigration Service processing and adjudication of applications to naturalize and in swearing in successful applicants—no fault of the refugees and the asylees, Mr. President, an administrative hassle at INS. In a number of INS offices, the backlog exceeds 2 years. If a refugee's and asylee's eligibility ended after only 5 years in our country, they could be left without recourse while their applications to naturalize are in the INS pipeline.

The extension of their eligibility for SSI and Medicaid to allow them to receive benefits during their first 7 years in the country was not controversial last year. It was included in all major Republican and Democratic proposals for legal immigrants. I repeat that—all Democratic and Republican proposals. The change was not made applicable to food stamps technically, because the money for restoring benefits to immigrants was allocated to the Finance Committee and the Agriculture Committee has jurisdiction over food stamps, and on that basis a change that clearly would have automatically flowed did not occur.

Finally, Mr. President, it should be noted that this provision does not assure refugees and asylees of receiving 7 years of benefits; it only exempts them from the new restrictions on legal immigrants' eligibility during their first 7 years. Refugees and asylees will still have to meet all the criteria for everyone else in America to qualify for the benefits. Even refugees and asylees who are self-sufficient for much of their first 7 years in the country will lose the benefit of that exemption after 7 years. They cannot carry it over in terms of months of eligibility beyond the 7-year time. By conforming food stamp rules to those already adopted for Medicaid last summer, the ag research bill will avoid imposing multiple inconsistent eligibility rules on State and local agencies that finally have the responsibility to administer all of this.

The number of refugees entering the country is controlled primarily by ceilings—ceilings, Mr. President—adopted by the President each year in consultation with the Judiciary Committees prior to the beginning of each fiscal year. These ceilings have been declining and are expected to decline to reflect generally improved world conditions since the collapse of the former Soviet Union. For example, in fiscal year 1992, some 114,000 refugees were admitted under the quotas. But by 1996, this number had declined to just under 75,000.

In fiscal year 2000 and thereafter, CBO now estimates the annual quota will be 65,000; approximately 15,000 additional people are granted asylum each year. So, Mr. President, this is a total of 80,000 persons—or 90,000, as of 1996.

Each year, many more people apply for admission as refugees than can be accommodated under the quotas. Thus, an increase of immigrants seeking admission as refugees would not increase the number admitted; it would merely swell the backlog and the waiting lists. The only significant exception to these quotas is Cubans escaping Castro's regime and admitted under the Cuban Entrant Program. That number has fluctuated in recent years from a low of 3,000 in 1991 to a high of 19,000 in 1996.

The number of refugees and asylees coming to the United States is controlled by Congress and the administration. The major current example of this, as I pointed out, an exception, is the Lautenberg amendment, which allows the southeast Asians, Jews, and Evangelical Christians to gain admission as refugees under more lenient rules than those applied to other applicants. CBO has concluded enactment and repeated extension of this provision has prompted the administration to increase the quota on the number of refugees admitted, and a further extension is likely to cause the administration to raise the refugee quotas by about 18,000 per year.

The number of refugees admitted in the early 1990s as described above includes refugees admitted under the Lautenberg amendment. CBO estimates the increased number admitted will increase Federal costs for means-tested programs, but three-quarters of the cost will come in the Medicaid and SSI Program.

Let me point out, Mr. President, and there is no way that Members would know this without the research of our committee, but it is unlikely that the modest amounts of money available in the food stamp benefits would make, under any circumstances, coming to America more appealing for prospective refugees. The average monthly food stamp benefit for these persons will be under $72 per month, less than one-fifth of the SSI benefit, which is now estimated by CBO as roughly $411 per month. It is estimated the fiscal cost of the refugee situation will be $50 million a year.

I conclude this part of the argument by saying the distinguished occupant of the Chair, as chair of the House Agriculture Committee, and I, worked together on a farm bill which, in conjunction with welfare reform, cut food stamp costs by roughly $24 billion. There are many in the Finance Committee who deserve great credit for rearranging the circumstances of welfare. But when it comes to significant changes in the cost of welfare in this country, significant reform of food stamps, there are no persons, in my judgment, better able to address this problem than the distinguished occupant of the Chair and myself. We were there. That was the bill that created the entire framework for savings under welfare reform, created the entire framework for fairness, for oversight.

I think that simply needs to be said, at a time when we are talking about, at most, 80,000 persons escaping persecution, and as to whether they should be given an extension of 2 more years due to INS hassles and administration, to become citizens. I think that is a very serious point.

Finally, some have raised the question that this is an entitlement program. I point out that the proposals we are making do not entitle anyone to anything. Essentially, we have several multiyear proposals in the farm bill of 1996. They include the Conservation Reserve Program. They include payments, annually, to farmers who are now leaving various crops, or maybe farming altogether, as the case may be, but without regard to planting. In essence, for years we have adopted multiyear programs in farm bills because it was the preference of the Congress not to return to agricultural legislation annually. We are, in this bill, mandating that for 5 years we should do something very important, at the rate of $120 million per year, and that is try to find out, if we can, how to triple our food supply so our acres are more productive, our farmers are more productive, and so the rest of the world will not starve.

I believe that is a very important undertaking. I hope all Senators will see

the wisdom of this and support this humane and farsighted measure.

I yield the floor and reserve the remainder of my time.

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

The Senator is recognized.

Mr. GRAMM. Mr. President, I rise today in opposition to the pending conference report. At 2:15, I will be recognized to offer a motion to recommit. What I would like to do in my limited time today is sort of outline how a good bill goes bad through the legislative process.

We passed, in the Senate, a bill funding ag research. The House passed a bill funding ag research. These were not controversial matters, although the method of funding the Senate bill was to some degree controversial. But what happened is when the two Houses met, a simple bill to fund ag research for $517 million suddenly became a $1.9 billion program. Three brand new mandatory, or entitlement, programs—depending on which term you prefer—were created, and suddenly we are voting in a conference report which is technically unamendable on provisions that were never voted in either House of Congress.

One of my predecessors, Lyndon Johnson, used to say, "I deeply resent a deal that I'm not part of." And I understand how these things happen, but I simply want to talk about the problems with this bill and focus on the big problem with the bill, which is related to overturning welfare reform.

Going back to where we started, we had an ag research bill in the House, we had an ag research bill in the Senate. We went to conference, and we ended up with a bill that funds crop insurance, which was in neither original bill, and not only funds it but, for the first time ever, makes it a mandatory program which Congress will not vote on again, funding will be automatic over the next 5 years as a result of this program.

The original bill had no hint of food stamps in it. The issue was never debated. I do not believe that a similar provision, if brought to the floor of the Senate under our rules for full debate, could have possibly passed. And, yet, in a simple bill on ag research, we now have $818 million of funding for food stamps. All of these food stamps go to immigrants who have come to the country and who now have legal status. We had, through the welfare reform bill, eliminated these benefits in a bill which passed both Houses of Congress overwhelmingly and, by the way, is, in terms of the public's mind, the most popular bill that we have passed in the last 3 years. This bill, in a provision that was voted on in neither House of Congress, overturns a substantial portion of our welfare reform bill and gives $818 million of food stamps to immigrants.

The bill also sets up a brand new funding mechanism for the Fund for Rural America and provides a $100 million entitlement, which spends out very slowly, but it ultimately spends out every penny of $100 million. So we now have four entitlement programs in a simple bill that set out to fund ag research. And every program that becomes an entitlement, since we are under a spending cap on discretionary spending—every penny that would have been spent on these programs is now free to spend on other programs. So, in addition to creating four new entitlement programs, we have, in this bill, broken our commitment to limit the growth of discretionary spending, because we have taken discretionary programs and funded them as entitlements, so that now new spending can occur in the discretionary area.

The biggest problem with the bill is it puts a great big neon sign on the border of the United States of America, and the neon sign says: "Come to America and get welfare. We have a welfare office on every corner." That is the biggest problem with this bill.

I remind my colleagues that when a Member of the minority tried to reduce the level of immigration, I helped lead the effort to kill limiting legal immigration. I believe in legal immigration. I do not believe America is full. I don't want to tear down the Statue of Liberty. The story of the immigrant is the story of America, and I don't think that story is finished telling. I believe that we need to let people with a new vision and new energy come to America as long as they don't violate our laws and they come legally, but I want them to come with their sleeves rolled up ready to go to work, rather than with their hands held out going on welfare.

I will offer a motion to recommit with instructions at 2:15 p.m. That is a very simple motion. All it says is one little provision in this bill, which I think is a relatively minor cost, because we are scoring the bill over 5 years, but it is clearly the most destructive element in this bill, and that is we have an element in this bill that says that no matter how far in the future you come to America, if you come 75 or 100 years from now, under the provisions of this bill, if you come as a refugee, you can get food stamps for 7 years. That is a new provision of law in place in this conference report.

It is a provision where we are moving in exactly the opposite direction of the welfare reform bill, and we now make it permanent law that anyone who comes to America in the future as a refugee can be guaranteed they are going to be able to apply for and get almost immediately 7 years of food stamps.

Now, look, my concern is adverse selection. My concern is that we are going to be attracting people to come to America to go on welfare. I think it is a destructive policy to have active enticements to draw people to America for the purpose of going on welfare rather than for the purpose of going to work.

I don't have any doubt that this provision will affect the decision of people to come to America to try to live off the fruits of someone else's labor. There are millions of people who go to bed every night dreaming the American dream. They want to come to America. They want to share what we have shared. Many Members of the Senate are Members whose grandfathers and grandmothers or great grandfathers and great grandmothers came to America looking for opportunity. I don't believe that process should end. But I think it is suicidal for a nation to set up procedures that attract people to come to its shores, not with a dream of opportunity, not with a dream of achievement, but with a dream of benefiting from the fruits of someone else's labor.

My wife's grandfather came to this country from Korea. He didn't know the language. He didn't know a single soul here. He certainly did not come here looking for welfare or food stamps. He came here looking for opportunity and freedom, and he found both.

From the period of the Civil War to the turn of the century, we had 20 million people come to America, most of them desperately poor. But they came here with willing hands and willing hearts, they rolled up their sleeves, and they built a great nation in the process.

My strong objection to the provisions in this bill really boils down to a series of things: Should we be creating four new permanent, mandatory entitlement programs? I say no. And secondly, should we be changing the law to say to people all over the world, "Come to America and we will give you 7 years of food stamps"? I want people to come to America, but I want them to come to work.

The PRESIDING OFFICER (Mr. LUGAR). The time of the Senator from Texas has expired.

The Senator from Iowa is recognized for 10 minutes under the previous order.

Mr. HARKIN. Mr. President, I was trying to listen to the remarks of the Senator from Texas. It is hard to know where to begin to correct the mistakes that he made in his statements because there were so many.

First of all, I say to the Senator from Texas that this was not a $500 million bill when it started. As a matter of fact, when it passed the Senate, it was a $1.3 billion bill and, in fact, it passed unanimously, so the Senator from Texas obviously voted for it.

Secondly, I also point out that crop insurance has always been a mandatory program—always. In 1996, a small portion of it was made discretionary, but the basis of crop insurance has always been mandatory. So this is not some change in that program.

Thirdly, I tell the Senator from Texas that food stamps has always been a part of this bill. It was a part of this bill when it passed our committee, and it was a part of the bill when it passed the Senate. Food stamps was used as an offset to pay for the research portion of the bill. So it was a part of the bill as an offset. The administration said if we are going to use it as an offset, we had to replace some of the nutrition programs, which I will get to.

I also point out that the Senate-passed bill had nutrition provisions in it. It was not just a research bill, as the Senator from Texas has said. It had a provision in there to expand some child nutrition programs with an expanded breakfast grant program. That was taken out in conference, but it was in the Senate-passed bill.

Lastly, I point out that in terms of the mandatory programs the Senator is talking about, the Fund for Rural America was part of the bill as passed in October, for which the Senator voted. It was in the bill at $300 million. Now it is only $100 million. So if the Senator from Texas supported it at $300 million, he shouldn't be too upset that it is now at $100 million. I wanted to make those corrections in the RECORD.

I made my opening statement yesterday on the bill itself in terms of the important research and crop insurance provisions that are in it. Again, I commend my chairman, Senator LUGAR, for all of his hard work in getting the whole research program revamped and restructured to meet the needs of the next century. Senator LUGAR has been a leader in this effort. I was pleased to join him, and, again, I thank Senator LUGAR for his close cooperation and for working together to get a really good research bill passed.

I also commend Senator LUGAR for his leadership in getting the necessary wherewithal to extend our Crop Insurance Program for the next 5 years. I daresay, without his strong leadership, we would not have the provisions that our farmers could rely on for their crop insurance this year.

Again, if, in fact, this motion to recommit is successful, that is the end of this bill. Make no mistake about it, this is not just some motion to recommit to change a little bit. This is a motion to recommit to kill this bill. If this goes back to conference, I don't know that the votes are there to take out the food stamp provisions. Even if they are, it will never pass the House of Representatives, and certainly the Senator from Texas knows that. This is a careful compromise, a careful balance that was worked out in this bill.

Let me get to the issue of the food stamps themselves. The Senator says it is like putting a big neon sign out there, "Come to America." Well, let us take a look at that.

What are we doing in this bill? What we are saying is that for refugees and asylees from religious persecution and political persecution, who cannot exist in their homelands because they are going to be tortured or killed, we say to them that if you come to America under a quota—we have a quota every year; not every refugee gets into this country; we have a quota—but if you get in under that quota, right now as a refugee you are eligible for food stamps and Medicaid and SSI. You are eligible for food stamps for the first 5 years, but you are not after that. And so what it says is that you can come in, you can get Medicaid, you can get SSI for up to 7 years, but you cannot get food stamps after 5 years. As a refugee, it takes 4 years and 9 months to be able to apply for citizenship. We know that, because of the backlog at INS, it takes at least 2 more years, maybe 3 years to get full citizenship.

Let me also point out something else. These food stamps are not automatic. It does not mean because you are a refugee and you are here that you get food stamps. No. You still have to meet the requirements, the work requirements and the income requirements, to be able to qualify for food stamps like anyone else. So we are not talking about automatic food stamps.

The 5-year period, the Senator is correct, was set in the welfare reform bill. But it did provide an exception for refugees and persons granted asylum. They would be able to receive food stamps for 5 years.

In the Balanced Budget Act that we passed last year, we extended that for the elderly, the disabled, and the children of legal immigrants who were here in 1996. And then we looked at what we did. We looked at the 5-year period and said, this is unrealistic because a refugee who is here, as I said, has to be here 4 years and 9 months—and it takes 3, sometimes 4 more years to become a citizen. And it is impossible for a refugee to complete the citizenship process in less than 7 years.

As I said, the Balanced Budget Act last year provided that in the case of Medicaid and SSI, refugees and asylees would be eligible to receive benefits for up to 7 years if they qualify. Not automatic. There is no neon sign. It says, if you qualify.

There was bipartisan agreement on this point. Food stamps were not included because that bill came out of the Finance Committee, and food stamps is not under the jurisdiction of the Finance Committee. They are under the jurisdiction of the Agriculture Committee. And that is why we had to fix it here.

Let me read from a letter from the Council of Jewish Federations that came to our office just today asking that we oppose Senator GRAMM's motion. Let me just read one paragraph. It says:

> The welfare law provided a 5 year exemption from the bar on food stamps for refugees and asylees because Congress acknowledged that these individuals typically come to the U.S. with few, if any, resources. They have no sponsors to rely on and may have difficulty working because of disabilities. Those that can work may find that the training and skills they gained in their home countries are inadequate for most jobs here. As a result, many start in low paying jobs [so] they need food stamps to get an adequate diet.

That is just it. These are refugees and asylees. They do not have sponsors. A lot of them come with a shirt on their back. Let me give you one example. Mr. Wang Dan, the young Chinese man who we have all been reading about, who has now come to this country, came with a shirt on his back. We know how he was persecuted and imprisoned in China. What this amendment says to Wang Dan is, OK, up to 5 years, if you fall on hard times—you have to otherwise qualify; you do not automatically get food stamps—but otherwise if you fall on hard times, yes, you can get some food stamps. But after 5 years—you have worked here; you have worked hard; you have applied for citizenship; it is in the bill; you are going to become a citizen in 2 or 3 years—all of a sudden you lose your job, you get sick, you fall on some hard times, sorry, no food stamps. Is that a neon sign? Not in any way. Not in any way.

That is why, Mr. President, we have this letter from the Council of Jewish Federations, which I ask unanimous consent to have printed in the RECORD, and also a letter from John Cardinal O'Connor, Archbishop of New York, also asking us to support the restoration of food stamp eligibility in this bill.

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

COUNCIL OF JEWISH FEDERATIONS,
New York, NY, May 12, 1998.

DEAR SENATOR: This morning, Senator Phil Gramm (R–TX) is expected to offer a motion to recommit the *Conference Report on the Agriculture Research, Extension, and Education Reform Act*, S. 1150, with instructions to limit the provision extending food stamps for asylees and refugees from 5 to 7 years to only those individuals who were in the country prior to August 22, 1996. On behalf of the Council of Jewish Federations, I am asking that you oppose Senator Gramm's motion.

Senator Gramm's motion would impose undue hardship on people who have been forced to flee persecution in their homelands. These are people who were persecuted, and in some cases tortured, for their political or religious beliefs. In their homelands, they were subjected to persecution ranging from harassment to beatings and job loss to having their homes burnt down. The U.S. has a long history of providing a "safe haven" to refugees and asylees and Congress has repeatedly stood up in support of this tradition.

The welfare law provided a 5 year exemption from the bar on food stamps for refugees and asylees because Congress acknowledged that these individuals typically come to the U.S. with few, if any, resources. They have no sponsors to rely on and may have difficulty working because of disabilities. Those that can work may find that the training and skills they gained in their home countries are inadequate for most jobs here. As a result, many start in low paying jobs where they need food stamps to get an adequate diet.

Congress set the exemption at 5 years to correspond roughly with the earliest date that most refugees and asylees can apply to become a U.S. citizen. This time-line has proven to be unrealistic because of the backlog in processing naturalization applications. In many INS offices, it may take over 2 years from the date of application to a person's naturalization ceremony. If refugees and asylees are left without access to food stamps after 5 years, they would be punished and left without any nutritional support because of government inefficiency.

For these reasons, I again urge you to oppose Senator Gramm's motion to recommit the S. 1150 to the conference committee.

Thank you.

Sincerely,

DIANA AVIV,
Associate Executive Vice President for Public Policy.

OFFICE OF THE CARDINAL,
New York, NY, April 29, 1998.

Hon. ALFONSE M. D'AMATO,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR D'AMATO: I write to request your support for making legal immigrants once again eligible for food stamps and restoring $818 million in Food Stamp benefits. This would permit 250,000 children, elderly and disabled persons and refugees to seek Food Stamp assistance if they are in need. I am told that the provisions to do this are contained in the conference Report on S. 1150/H.R. 2534, the Agriculture Research, Extension and Education Reauthorization Act of 1997.

Since 1984, as Archbishop of New York, I have been privileged to assist immigrants from almost every country in the world. These many immigrants have enriched the Catholic Church of New York and other churches, just as they have enriched the New York metropolitan area. (In our Catholic churches alone, every Sunday our Divine Services are held in 30 different languages.) From my own experience I know those who migrate to the United States today are essentially no different from our parents and grandparents who came to America fifty or a hundred years ago. The vast majority of immigrants are individuals who come to this country seeking opportunity for themselves and their families. Unfortunately some immigrants—just as those born in this country—fall on hard times.

Under the 1996 Personal Responsibility and Work Act, legal immigrants needing assistance to feed themselves are ineligible for support from the very program their tax dollars help fund. Many are now forced to find emergency and unstable ways to feed themselves and their families. Catholic Charities has been supporting an emergency ecumenical food pantry in the Washington Heights section of New York City—the home and hope of so many newly arriving Dominican immigrants. During the past year, the number of those served at this pantry has doubled—at least in part due to the changes in the 1996 laws. While we try to treat those who come to the pantry with dignity, the availability of food stamps to tide people over the rough times is much more dignified than having mothers and children line up in the street at food pantries and soup kitchens.

I urge you to take this opportunity to ameliorate some of the more severe impacts of that 1996 legislation by supporting the restoration of food stamp eligibility for legal immigrants.

With gratitude for your consideration, and

Faithfully in Christ,

JOHN CARDINAL O'CONNOR,
Archbishop of New York.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. It is the fair and decent thing to do. Let us not kill this bill because of doing the fair and decent thing.

The PRESIDING OFFICER. The Senator from Kansas is now recognized, under previous order, for 10 minutes.

Mr. ROBERTS. Mr. President, I rise today in strong support of the conference report to the Agricultural Research, Extension, and Education Act of 1998. I would like to associate myself with the remarks of the distinguished chairman. This is going to be the most important bill to be passed in the 105th Congress in relation to agriculture. I commend the chairman, the ranking member, and the members of the conference for their efforts in reaching what I consider to be a good and a very bipartisan bill.

This bill has been in the making for 2 years. Due to time constraints and the need to more thoroughly evaluate the future direction of agricultural research, these programs, the research programs, were not dealt with in the new farm bill back in 1996. But we promised our farmers and our ranchers, all of us involved in agriculture, all of the land grant universities and consumers, that Congress would move to complete this important piece of the ag policy puzzle as soon as possible.

After 2 long years, we will soon vote to "reform" our agriculture research programs. We will not only vote to extend these programs and commit funds to feed America, and a very troubled and hungry world, but to reform them as well to make them more competitive. We are also going to provide important funding for crop insurance and rural development and, yes, limited food stamp benefits to a specified group of legal immigrants.

The distinguished chairman, the distinguished ranking minority member, and the distinguished Senator from Texas have talked about that at length. I am going to try to briefly address the importance of funding in each of these areas.

First of all, this bill provides $600 million in new funding for agriculture research. Why is that important? Mr. President, in the last several decades we have seen the population double in this world, and yet we continue to feed this country and, as I have said before, a troubled and hungry world on the same amount of ground. That is a modern miracle. People used to get peace prizes for that. And the main reason is agriculture research. When we passed that new farm bill, producers were promised that funding would be provided to help develop new crops, higher yields and stronger resistance to disease and pests.

In recent weeks, we have heard our colleagues from the northern plains discuss the problems caused by wheat scab. This bill provides funding for research on fighting this disease that has ravaged the wheat crop in many areas of the northern plains.

Let us talk about food safety. We have heard an awful lot of comment in the press and concern—understandable concern—about E. coli. This bill provides funding for research on the implementation of the Hazard Analysis and Critical Control Point Systems (HACCP). It addresses the problem of E. coli.

The bill provides funding for important research into discovering and analyzing trade barriers that prohibit the movement of U.S. ag products on the world market. With the Asian flu today, and our markets declining, nothing could be more important. This research will provide important information to help us move toward these goals in regard to becoming much more market oriented and competitive.

Let me talk about the environment. The one thing that agriculture can do through precision agriculture is to contribute to being more and better stewards of the soil and the environment. Precision agriculture will become one of the most important tools available to producers in the future. It allows them to protect the environment by using satellite technology to determine the proper rates of pesticide and fertilizer applications to the square foot. This has implications all over the world.

I am pleased also that this bill will provide important funding for the Federal Crop Insurance Program. The Crop Insurance Program is currently facing a $200 million funding shortfall in each of the coming 5 years.

Let me just say that this lack of funding is a "train wreck" waiting to happen for American agriculture. Without full funding of this program, farmers could face cancellation of hundreds of thousands of crop insurance policies. Let me repeat that. Hundreds of thousands of farmers, this spring, are facing the cancellation of their crop insurance. That would be devastating.

Obviously, many farmers are required to maintain their crop insurance coverage in order to obtain loans from their rural banks. Without crop insurance policies backing these loans, many loans would be recalled, and it

could send agriculture into a credit and financing crisis. Farmers and ranchers were also promised increased access to viable risk management tools with the passage of the 1996 farm bill. Crop insurance ranks at the top of the list of these important and necessary tools.

This bill provides approximately $500 million in new funding for crop insurance over the next 5 years. It also makes internal changes in the program. This $1 billion in combined funding changes solves the funding shortfall in the program and ensures producers access to adequate crop insurance.

Are all the changes made that we need to make in regard to crop insurance? No. There are changes and reforms that are still needed in the program. With the most important issue facing us—the funding shortfall—now solved, the chairman and I, Senator KERREY, and others, in a bipartisan way, will confront this, and we will work to achieve the needed crop insurance reform in the next session of Congress.

Rather than going into the food stamp issue, which the chairman has addressed, Senator GRAMM expressed his concern, and the distinguished ranking member, Senator HARKIN, has addressed, I will go on and point out several other important facts in regard to this bill.

Well, let me say this in regard to food stamps. The very first thing we did in the House Agriculture Committee 3 years ago, when we started to address the farm bill, was take up the issue of food stamps. That is the first hearing we had. Billions and billions of dollars were being spent on food stamps—a program out of control and obviously in need of reform. Working with the distinguished chairman of the Senate Agriculture Committee, and others, we had hearings. We exposed $3 billion to $5 billion in fraud and abuse and organized crime in the program. We instilled reforms, and we saved $23 billion to $24 billion, plus $10 billion in regard to savings with the farm commodity programs. There isn't any other segment of Government that has gone through that kind of savings. No member of any committee of this Senate or of the House previously has ever achieved those kinds of significant cuts and reform in the Food Stamp Program or any other program. So the chairman is right. We would like to think we know a little bit about it.

The 1996 welfare reforms eliminated benefits from 800,000 to 950,000 to illegal immigrants. I know that. This bill extends the benefits back to children, elderly, and the disabled who were in the country before August 22 of 1996. It also extends benefits to refugees and asylees who may have entered after the August 22 date. Benefits will be returned to approximately 250,000 people—not 900,000, but 250,000 people. The trend line is down in regard to refugees.

I point out that a refugee is defined as "a person who is fleeing because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, and who is of special humanitarian concern to the United States."

With all due respect, I don't think that is a beacon. I think they are fleeing, and I think it is certainly within the boundaries of the United States and what the Statue of Liberty is all about that we consider that. There is a cap. Most of the European numbers are used largely for Soviet, religious minorities, and Bosnians. The East Asian numbers are for former Vietnamese reeducation camp detainees, and Laotians. As I have indicated, these numbers are down. It has gone from 100,000 in 1980 to 75,000 in 1998.

In closing, let me say this. This agriculture research bill and this crop insurance bill will likely be the most important piece of legislation we pass for our farmers and ranchers during the 105th Congress.

During the debate on the 1996 farm bill, we promised our farmers, ranchers, and researchers, who depend on the markets, a more market-oriented agriculture. We promised to get the Government out of our decisionmaking, no longer do you put the seed in the ground as dictated by Washington. In return for less government support, we said we would provide the research and the risk management tools. That was a promise. We will endanger the significant reforms that we made in the new farm bill if this bill is not passed.

Let me make one other observation. The amendment by the distinguished Senator from Texas to recommit is, in fact, a killer amendment; $1.7 billion in regards to the way that States are administering the program, based on the reform we passed, will disappear. We do not have the money in the appropriations bill to pay for the research or the crop insurance, and we will face an agriculture crisis.

Mr. President, during the debate on the 1996 Farm bill, we promised our farmers, ranchers, and researchers that we would pass this bill and provide the tools needed to feed a troubled and hungry world. It is unconscionable that at a time when producers are facing low commodity prices, reduced international markets due to the Asian Crisis, and new crop diseases, this bill has languished. The tools included in this bill allow producers and researchers to directly address these issues.

I applaud and thank the Chairman, ranking member, and the greater majority of the members of the Agriculture Committee for their work on this bill.

The PRESIDING OFFICER (Mr. SESSIONS). The time of the Senator has expired.

Mr. ROBERTS. I urge my colleagues to oppose the motion to recommit and support the bill.

The PRESIDING OFFICER. The Senator from Mississippi has 5 minutes.

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished chairman of the Agriculture Committee, Senator LUGAR from Indiana, and my good friend from Kansas, the distinguished Senator who was formerly chairman of the House Agriculture Committee, in asking the Senate today to support this conference report.

Senators may remember that when the 1996 farm bill was written, it reauthorized agriculture research programs for only 1 year. There was included in the committee report a suggestion that there be a thorough reevaluation made by the committees of jurisdiction of the way the Department of Agriculture awarded grants to colleges and universities around the country and funded research programs at Agricultural Research Service facilities. That study was undertaken throughout 1997. I think it began in March of last year. The committee held a series of hearings and reviewed suggestions and options for improving these programs. This conference report is the product of that study and that carefully developed improvement to the Agricultural Research Service programs that are funded by the Department of Agriculture.

I am convinced that we will do a better job under this conference report of identifying the priorities in production agriculture, in food production, and in management of our resources in agriculture than we ever have before under the way we were handling the funding of these programs.

That is the driving force behind this conference report. The reason it is so important for the Senate to approve this conference report is that it puts this in place now.

Mr. President, if that were all this legislation accomplished, some may say that this legislation is unnecessary, but it does more. It also provides $600 million over the next five years for new competitive agricultural research grants at federal laboratories and colleges and universities.

Our appropriations process is beginning at this point. We have the job of allocating, under the discretionary funding allocations that our appropriations subcommittee will receive, funds for these agriculture research programs. With the guidance of this legislation, it will be a much more coherent process and an orderly process, and I can't contemplate what a mess we would be in if this conference report were not agreed to.

Under current law, about $200 million of the delivery expenses for catastrophic crop insurance must be provided annually in the agriculture appropriations bill. This legislation would provide full mandatory funding

for those expenses over the next five years. This conversion from discretionary to mandatory spending will ensure that farmers will not have to be concerned with the uncertainty of annual funding bills and whether catastrophic crop insurance protection will be available in the coming growing season.

In addition to the support this bill has from the agriculture community, it also enjoys support from those interested in the provisions which will bring parity between the Food Stamp Program and the Supplemental Security Income Program for those immigrants legally residing in the United States. This was an important component of the compromise we reached with the House of Representatives.

This bill has received support from almost every sector of agriculture. I ask unanimous consent that a letter I received from over 100 organizations, colleges and universities in support of the conference agreement be printed in the RECORD.

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

MAY 4, 1998.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: We are writing to ask you to vote "yes" on the conference report for S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998, when it is considered on the floor. This legislation has succeeded in balancing several competing interests and will help prepare the agriculture and food industries for the challenges in the next Century.

This conference report addresses a number of issues that are vitally important to producers, processors, and consumers of food and fiber. The bill provides funding for agricultural research and rural development programs. It provides funding for crop insurance that otherwise will create a severe strain on discretionary budget accounts. Finally, the legislation restores food stamp benefits for some legal immigrants. These funds are fully offset, and the bill is budget neutral.

The House and Senate Committees on Agriculture have worked long and diligently developing this much needed legislation. We believe they have done a remarkable job, and we thank them for their accomplishments.

We respectfully request your assistance in passage of this important legislation. Its impact on the future of our nation will be significant.

Sincerely,

Alabama Farmers Federation.
American Farm Bureau Federation.
American Beekeeping Federation.
American Honey Producers Association.
American Sheep Industry Association.
American Soybean Association.
Grocery Manufacturers of America.
National Association of Wheat Growers.
National Barley Growers Association.
National Broiler Council.
National Cattlemen's Beef Association.
National Corn Growers Association.
National Cotton Council.
National Council of Farmer Cooperatives.
National Farmers Union.
National Food Processors Association.
National Grain Sorghum Producers.
National Milk Producers Federation.
National Peanut Growers Group.
National Pork Producers Council.
USA Rice Federation.
American Association of Crop Insurers.
American Bankers Association.
American Society of Farm Managers and Rural Appraisers.
Crop Insurance Agents of America.
Farm Credit Council.
Independent Bankers Association of America.
Norwest Corporation.
Norwest Ag Credit.
Rural Community Insurance Services.
Agicultural Research Institute.
American Association of Veterinary Medical Colleges.
American Phytopathological Society.
American Society of Agronomy.
American Society of Animal Science.
American Society of Plant Physiologists.
American Veterinary Medical Association.
Coalition on Funding Agricultural Research Missions.
Council of Scientific Society Presidents.
Council on Food, Agricultural, and Resource Economics.
Entomological Society of America.
Crop Science Society of America.
Federation of American Societies of Food Animal Sciences.
Illinois Council for Food & Agriculture Research.
Society of Nematologists.
Soil Science Society of America.
Weed Science Society of America.
Alabama A&M University, School of Agriculture & Home Economics.
University of Alaska, Fairbanks, College of Natural Resource Development & Management.
Alcorn State University, School of Agriculture.
University of Arizona, College of Agriculture.
University of Arkansas, Dale Bumpers College of Agricultural, Food & Life Sciences.
University of Arkansas, Pine Bluff, College of Agriculture and Home Economics.
Auburn University, College of Agriculture.
University of California Systemwide, Division of Agriculture & Natural Resources.
Clemsom University, Public Service & Agriculture.
Colorado State University, College of Agricultural Sciences.
University of Connecticut, College of Agriculture & Natural Resources.
Cornell University, College of Agriculture & Life Sciences.
Delaware State University, School of Agriculture, Natural Resources, Family & Consumer Sciences.
University of Delaware, College of Agriculture & Natural Resources.
Florida A&M University, College of Engineering Sciences, Technology & Agriculture.
University of Florida Agriculture & Natural Resources.
Fort Valley State University, School of Agriculture.
University of Georgia, College of Agricultural & Environmental Sciences.
University of Guam, College of Agriculture & Life Sciences.
University of Hawaii at Manoa, College of Tropical Agriculture & Human Resources.
University of Idaho, College of Agriculture.
University of Illinois at Urbana-Champaign, College of Agricultural, Consumer & Environmental Sciences.
Iowa State University, College of Agriculture.
Kentucky State University, Land-Grant Programs.
University of Kentucky, College of Agriculture.
Langston University, Research and Extension.
Lincoln University, College of Agriculture, Applied Sciences & Technology.
Louisiana State University Agricultural Center.
University of Maine, College of Natural Resources, Forestry & Agriculture.
University of Maryland, College Park, College of Agriculture & Natural Resources.
University of Maryland, Eastern Shore, School of Agricultural & Natural Science.
University of Massachusetts—Amherst, College of Food & Natural Resources.
Michigan State University, College of Agriculture & Natural Resources.
University of Minnesota, College of Agricultural, Food & Environmental Sciences.
Mississippi State University, Division of Agriculture, Forestry & Veterinary Medicine.
University of Missouri—Columbia, College of Agriculture, Food & Natural Resources.
Montana State University, College of Agriculture.
University of Nebraska, Agriculture & Natural Resources.
University of Nevada, College of Agriculture.
University of New Hampshire, College of Life Sciences & Agriculture.
New Mexico State University, College of Agriculture & Home Economics.
North Carolina A&T State University, School of Agriculture.
North Carolina State University, College of Agriculture & Life Sciences.
North Dakota State University, College of Agriculture.
Oklahoma State University, Division of Agricultural Sciences & Natural Resources.
The Ohio State University, College of Food, Agricultural & Environmental Sciences.
Oregon State University, College of Agricultural Sciences.
Pennsylvania State University, College of Agricultural Sciences.
Prairie View A&M University, Department of Agriculture.
Purdue University, School of Agriculture.
University of Rhode Island, College of Resource Development.
Rutgers—The State University of New Jersey, College of Agriculture & Natural Resources.
South Carolina State University, 1890 Research & Extension Programs.
South Dakota State University, College of Agriculture & Biological Sciences.
Southern University A&M College, College of Agriculture and Home Economics.
Tennessee State University, School of Agriculture & Home Economics.
University of Tennessee—Knoxville, College of Agriculture.
Texas A&M University, College of Agriculture & Life Sciences.
Tuskegee University, School of Agriculture & Home Economics.
Utah State University, College of Agriculture.
University of Vermont, Division of Agriculture, Natural Resources & Extension.
Virginia Polytechnic Institute & State University, College of Agriculture & Life Sciences.
Virginia State University, School of Agriculture Science & Technology.
Washington State University, College of Agriculture & Home Economics.

West Virginia University, College of Agriculture, Forestry & Consumer Sciences.

University of Wisconsin-Madison, College of Agricultural & Life Sciences.

University of Wyoming, College of Agriculture.

Mr. COCHRAN. So, Mr. President, Senators should know it's very important that the conference report be adopted. It is a good compromise between the Senate and the House. It involves other provisions that have been discussed eloquently and forcefully by my friends who have spoken before me. I urge the Senate to approve this conference report.

Mr. KYL. Mr. President, when Congress passed the Personal Responsibility and Work Responsibility Reconciliation Act of 1996, it ended public welfare for most aliens who had not worked to earn their benefits.

The 1997 Balanced Budget Act reversed some of the provisions of that bill by reinstating eligibility for the Supplemental Security Income (SSI) program for disabled and elderly immigrants who were in the country before August 22, 1996, the day the omnibus welfare reform package passed into law. But the act also reinstated SSI for immigrants who were in the country as of August 22, 1996 and become disabled in the future. The SSI program is fraught with fraud. According to the General Accounting Office (GAO), the Social Security Administration sends out $27 billion in SSI checks annually. Approximately $4 billion in checks are sent out erroneously. Immigrants, who make up just 6 percent of the population, currently receive over half the cash benefits from the SSI program.

The agriculture research bill we are debating today restores food stamp eligibility for the elderly and the disabled, and for children, as long as they were in the United States before August 22, 1996. But, the agriculture research bill also includes the restoration of food stamp benefits for all immigrants who were in the country as of August 22, 1996, but who become disabled in the future. The Congress is going to spend approximately $800 million to restore all of these benefits. The food stamp program, like the SSI program, does not require that an individual have contributed to the Social Security base. And, the food stamp program is also susceptible to fraud and abuse—in a just released GAO report, it is estimated that recipients were overpaid an estimated $1.5 billion, or 7 percent of the approximately $22 billion food stamps program. And, that is only the fraud that is quantifiable by the government. The GAO believes there are other forms of fraud in the food stamp program that are too difficult to quantify.

As a result of the 1997 Budget and this bill, those individuals who were in the country and disabled on August 22, 1996 will continue to be eligible for SSI and for food stamps. But, the Congress has to draw the line somewhere. The sponsors of currently healthy immigrants who entered the country before August 22, 1996 should be responsible for those immigrants' care should they fall on hard times. That has always been the law. In fact, since the early part of the century any immigrant who becomes a public charge can actually be removed from the United States.

For those individuals who do become disabled and for whom there is no sponsor support, the Immigration and Naturalization Service already has the authority to waive the normal requirements of becoming a citizen. By becoming a citizen, such individuals would automatically be eligible for SSI and for food stamps should they qualify.

Mr. President, now is not the time to reverse our course on welfare reform, as such reform applies both to our U.S. citizens and to our immigrants. America is a land of immigrants, yes. But, we must not perpetuate dependence on public benefits. Our nation must be one of opportunity for our immigrants, not one that skirts the law by providing a loophole for some immigrants to become dependent on public assistance in the future. The Senate should remove the provisions of the conference report that continue food stamp benefits for immigrants in the future.

Mr. KENNEDY. Mr. President, later today, we are voting on a motion by Senator GRAMM to recommit the conference report on the Agricultural Research bill. I strongly oppose Senator GRAMM'S motion.

The 1996 welfare law allows refugees to receive federal benefits, including SSI, Medicaid and food stamps, for their first five years in the United States. It made this exception because refugees and asylum-seekers generally come to the United States with little more than the shirts on their backs after escaping persecution abroad. They have no sponsors. The may have disabilities which make it difficult to work. They need time to get on their feet, and begin to recover from the persecution they fled in their former country.

After five years in the United States, refugees can apply for citizenship. Unfortunately, there are serious backlogs of naturalization applications at INS. In many parts of the country, it takes two years to complete the naturalization process and obtain citizenship—and these backlogs are not expected to go down in the near future. Often, the earliest a refugee will gain citizenship is after 7 years in the United States.

As we did last year with SSI and Medicaid, the Agricultural Research bill extends the time that a refugee can receive food stamps from 5 to 7 years. Senator GRAMM wants to deny this extension to refugees who entered the United States after the welfare law was enacted.

If we do not extend this time limit from 5 to 7 years, thousands of refugees who have applied for citizenship could lose food stamps as they wait in the naturalization backlog for their applications to be processed.

This group includes refugees like Dien Nwin, who fled Vietnam in 1992 with his wife and children. Dien fought on the side of the United States during the Vietnam War and was imprisoned in a Communist re-education camp for 9½ years. He was worked hard and supported his family for over 5 years. He applied for citizenship, but he's stuck in the backlog.

Now, Dien and his family have fallen on hard times. In the past 2 years, Dien has developed nasal cancer and lung cancer. He has been unable to work since then, and his family has had to use food stamps to survive. Dien is lucky. He entered the United States before the passage of the welfare bill. Under Senator GRAMM's motion to recommit, Dien would be cut off from receiving food stamps after his initial 5 years in the United States.

Last year, over 25,000 refugees came to the United States fleeing religious persecution in the Former Soviet Union. These refugees included Jews, Evangelical Christians, Mormons and other religious minorities fleeing the restriction of their religious liberties. Under Senator GRAMM's amendment, these refugees will only be eligible for food stamps for their first 5 years in the United States. Since refugees cannot apply for naturalization until they have lived in the United States for 5 years, there will be a gap in their food stamp eligibility, depending on how long the naturalization backlog is at the time they apply.

The naturalization backlog is expected to increase without an increase in INS funding. Record numbers of legal immigrants are applying for citzenship—more than a million per year. This number is not expected to decrease.

Few actions are a more important part of our time-honored commitment to freedom around the world than opening America's doors to those who are denied freedom and face persecution in their own lands.

Whether it is Vietnamese fleeing communism, Bosnians exiled by ethnic cleansing, Jews from the former Soviet Union fleeing anti-semitism, Burmese seeking safe haven from oppression, or Africans escaping political retribution and genocide, our refugee program stands ready to aid, protect, and resettle those who need our help. Part of such help is ensuring that these refugees' needs are met in their new home in this country. Those needs will not be met if their eligibility for food stamps is not extended to 7 years.

I urge my colleagues to oppose Senator GRAMM's motion.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I want to summarize our debate—which has been a good one this morning—by saying that it is very important that we act today to pass the conference report. As the distinguished Senator from Mississippi stated eloquently and correctly, failure to do that will throw into chaos farmers who are now planting and who count upon crop insurance, reformed albeit as we have reformed it, as an underlying safety net in the year of El Nino, remarkable weather circumstances, it is unthinkable simply to kick away that safety net through our indifference.

Secondly, Mr. President, the agriculture research, which has been characterized as an entitlement, along with crop insurance and other provisions, of course, is a 5-year program, as is our farm bill program.

We have payments to farmers and Conservation Reserve Program payments for the environment. We have designated $120 million for vital research which we believe is necessary simply to fight back the pest diseases that are now jeopardizing our growth.

Mr. President, the yield of wheat in our country has been flat in yield per acre over the last 15 years of time. The breakers are not occurring, and we must triple and not have a zero gain.

Finally, let me simply say that there will not be people lined up all over the world trying to get into America to ruin our welfare reform. As a matter of fact, welfare reform has brought about a better America. This bill will help preserve that in a humane way. Provisions that were made under SSI for income for the very persons who are being talked about today—the elderly, the children, the disabled, and those who have come with a well found sense of persecution to escape torture—will, in fact, be aided in a humane way that I believe all Senators would want to support.

I thank the Chair.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1997

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes of debate equally divided on S. 1046, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1046) to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

The Senate proceeded to consider the bill.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 2386

(Purpose: To authorize appropriations for fiscal years 1998, 1999, and 2000 for the National Science Foundation, and for other purposes)

Mr. JEFFORDS. I understand there is a substitute amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. JEFFORDS), for Mr. MCCAIN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. FRIST, Mr. ROCKEFELLER, and Ms. COLLINS, proposes an amendment numbered 2386.

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

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

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

Mr. MCCAIN. Mr. President, I rise to offer an amendment to the S.1046, the National Science Foundation Authorization Act of 1998. This amendment authorizes the National Science Foundation for a period of 3 fiscal years, 1998, 1999 and 2000.

I am very pleased to see that this amendment represents a bipartisan effort by both the Commerce and the Labor Committees. These two Committees share jurisdiction of the National Science Foundation. I would also like to thank the co-sponsors of this amendment, Senators JEFFORDS, HOLLINGS, KENNEDY, FRIST and ROCKEFELLER, for their support of this amendment.

The National Science Foundation (NSF) plays a critical role in the development of much of this country's science and technology infrastructure. Its efforts cover a variety of issues such as education—from the kindergarten to the post-doctorate levels—research and development, and Internet development.

Given that half of the new economic growth in the economy is due to technological advancements, the role of the National Science Foundation in basic research is an important one. Many companies in the private sector have indicated that they cannot afford to conduct the long term basic research required for many of these technological advances. They have come to rely upon the basic research of the National Science Foundation and other government agencies as the basis for many of their commercial products. For it is through the commercialization process of these research results that the government and the American public benefits. From this process, new industries are started, jobs are created, and many new products are generated to improve our quality of life of all people.

Because of the research at the National Science Foundation, we have the Internet today. The growth of the Internet and the role it is playing in electronic commerce today is far beyond anyone's expectations when the project was started. We look forward to the National Science Foundation's involvement in the Next Generation Internet project.

In a time when we are hearing of the terrible performance of America's students in math and science education, it is important that we do our jobs as members of the Senate and authorize agencies' such as the National Science Foundation to ensure that the Federal Government is doing its share to improve upon the lives of all Americans through education and other related research activities.

I urge the other members of the Senate to support this amendment and the final passage of the bill. Again, I would like to thank the co-sponsors of this amendment for their support and hard work.

Mr. JEFFORDS. Mr. President, I know of no objection to the amendment. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2386) was agreed to.

Mr. JEFFORDS. Mr. President, it is a great pleasure to come before you today to seek Senate approval of S. 1046, the National Science Foundation Authorization Act of 1998. I introduced this legislation, along with my colleagues Senators KENNEDY, FRIST, and COLLINS, on July 22, 1997. The bill was reported unanimously by the Senate Committee on Labor and Human Resources on October 15, 1997. This bipartisan proposal will be further enhanced by the manager's package I am bringing to the floor on behalf of my colleagues Senators MCCAIN, HOLLINGS, KENNEDY, FRIST, ROCKEFELLER, and COLLINS. This package reflects similar bipartisan cooperation, builds upon the foundation contained within S. 1046 and contains improvements proposed by both Committees. This legislation will make an important investment in our Nation's scientific and technological future.

S. 1046, as amended, will authorize more than $9 billion for research and development activities, and $2 billion for math and science education activities over the next 3 years. The bill will support more than 19,000 projects at 2,000 colleges, universities, primary, elementary, and secondary schools across the Nation.

This authorization bill also recognizes that the future of science in this country will be determined by our basic educational policy. Two billion dollars is authorized over the next 3 years for K through 12 math and science systematic reform, undergraduate science education activities, graduate education, and efforts to advance the public understanding of

science. These efforts will continue to contribute to improvements in the education we offer to our children and maintain a strong cadre of scientific leaders needed to remain competitive well into the next century.

S. 1046 provides a strong bipartisan response to the research and science education challenges facing the Nation.

The strong bipartisan support which NSF enjoys is a reflection of its historic contribution to both our national security and our economic competitiveness. The prominent role of science in the American war effort during World War II left us with a new appreciation of the importance of research in establishing and preserving economic and military security. Federally funded research led to the development of radar, sonar, blood plasma, sulfanilamide, penicillin and the atomic bomb. In 1944, President Roosevelt charged Vannevar Bush, his chief science adviser, with evaluating the most effective way to harness this technological infrastructure in peacetime. The Bush report—Science—The Endless Frontier—established a strategy and rationale for Federal support of basic research. The report argued, and argued correctly, that "a nation which depends upon others for its new basic scientific knowledge will be slow in its industrial progress and weak in its competitive position in world trade regardless of its mechanical skill." This report provided the blueprint for creation of the National Science Foundation.

NSF was established in 1950 to "develop and encourage the pursuit of a national policy for the promotion of basic research and education in the sciences." Following the 1957 Soviet launch of the Sputnik satellite, this mission was expanded to provide greater support for science education and literacy. Over the next 3 decades, NSF became the primary Federal sponsor of basic research in mathematics, physical sciences, computer science, engineering and environmental science at colleges and universities. Equally important to the future of our Nation, NSF became a catalyst for the reform of math and science education.

The manager's amendment which we are bringing to the floor authorizes more than $11 billion for research and development activities at NSF over the next 3 years—$3.5 billion in fiscal year 1998, $3.7 billion in fiscal year 1999, and nearly $3.9 billion in fiscal year 2000. This Federal funding will be very well invested. Although the National Science Foundation's budget accounts for only 4 percent of Federal research and development funding, NSF provides 25 percent of Federal support to academic institutions for research. NSF grants support more than 19,000 research and education projects at 2,000 colleges, universities, primary, elementary, and secondary schools, businesses, and other research institutions. Competition for these grants is fierce. NSF funds only about one-third of the 30,000 proposals it reviews annually and the grants that survive this review process represent the finest proposals that the research community can put forward.

The importance of this investment in basic research cannot be exaggerated. Over the past decade, private sector investment in research and development has eclipsed Federal investment in public science. However, the Federal investment in basic science is a major contributor to industrial innovation in the United States. A recent review of American industrial patent applications revealed that the Government or nonprofit foundations supported 75 percent of the main papers cited as the foundation for new industrial innovation.

A few of NSF's contributions illustrate the importance of our investment in basic research and development:

The Internet—Over the past decade, NSF has transformed the Internet from a tool used by a handful of researchers at the Department of Defense to the backbone of this Nation's university research infrastructure. Today the Internet is on the verge of becoming the Nation's commercial marketplace.

Nanotechnology and "Thin Film"—50 years ago scientists developed the transistor and ushered in the information revolution. Today 3 million transistors can fit on a chip no larger than the first fingernail-sized individual transistor. NSF's investments in nanotechnology and "thin films" are expected to generate a further 1,000-fold reduction in size for semiconductor devices with eventual cost-savings of a similar magnitude.

Genetics—A great deal of attention is paid to the effort conducted by the NIH to map the human genome. What is often overlooked; however, is the critical role played by NSF in supporting the basic research that leads to the breakthroughs for which NIH justly receives so much credit. Research supported by NSF was key to the development of the polymerase chain reaction and a great deal of the technology used for sequencing.

Magnetic Resonance Imaging—MRI technology is widely utilized to diagnose a wide array of illnesses. The development of this technology was made possible by combining information gained through the study of the spin characteristics of basic matter, research in mathematics, and high flux magnets. The Next Generation Nuclear Magnetic Resonance Imager, currently under construction, will allow for the identification of the 3-dimensional structures of the 100,000 proteins whose genes are being sequenced by the HGP.

Buckeyballs—One of the most exciting recent discoveries in the world of material science was the discovery of carbon-60. Although this occurs in nature, its discovery (which won the researchers a Nobel prize) was the product of work by astronomers. This in turn led to the discovery of the nanotube which has been found to be 100 times stronger than steel and a fraction of the weight. Nanotubes may produce cars that weigh no more than 100 pounds.

CD Players—CD players rely on data compression algorithms that were developed using an NSF grant. These algorithms were first used in the transmission of satellite data and now provide the foundation for new developments in data storage.

Jet Printers—The mathematical equations that describe the behavior of fluid under pressure provided the foundation for developing the ink jet printer.

Plant Genome—Research into the genome of a flower plant with no previous commercial value, led to the discovery of ways to increase crop yields, the production of plants with seeds having lower polyunsaturated fats and to the development of crops that produce a biodegradable plastic.

Artificial Retina—Researchers at North Carolina State University have designed a computer chip that may pave the way for creation of an artificial retina. Problems with bio-compatibility have been solved by researchers at Stanford who developed a synthetic cell membrane that adheres to both living cells and silicon chips.

Cam Corders—Virtually all camcorders and electronic devices using electronic imaging sensors are based on charge-coupled devices. These devices, sensitive to a single photon of light, were developed and transformed by astronomers interested in maximizing their capacity for light gathering.

I could go on at length about the many technological advances that we enjoy today that are attributable to basic research supported by NSF. These advances would not be possible, however, if we as a nation did not continue to train and support a cadre of the world's most talented researchers. S. 1046 recognizes the importance of maintaining an investment in human resources and authorizes more than $2 billion for the education and human resources directorate over the next three years. This directorate has primary responsibility for NSF's education and training activities. In contrast with the programs of the Department of Education, NSF science and math education programs are experiments which link learning and discovery. Proposals are selected by outside peer review panels on the basis of their potential to provide long-lasting and broad impact. NSF has made notable contributions in the areas of curriculum and instructional material development, professional development, and improved the

participation in science research and science education of women, minorities, and individuals with disabilities. The legislation before you strengthens and enhances these efforts.

The Education and Human Resources Directorate also provides funding for the Experimental Program to Stimulate Competitive Research. As noted in the Committee report, this program plays an important role in ensuring that small states, like Vermont, build the capacity to more fully participate in NSF's research programs. The program has been particularly successful in developing infrastructure in those states where a limited research base has made the attraction and retention of young faculty, equipment purchases, network connections, human resource development, research project development, and technology transfer difficult. Such infrastructure building remains a crucial part of guaranteeing that the participating states are competitive and must be continued.

The Foundation has initiated a new co-funding effort which is designed to integrate the research community in the EPSCoR states more completely into the larger research community. As research funding for NSF increases in general, I expect that the matching requirements for cofunding will not result in the displacement of non-EPSCoR NSF funding which institutions would otherwise receive. I look forward to working closely with the Foundation to ensure continued growth in the co-funding initiative without reducing the amount available for standard grants.

And finally, I want to proudly note the partnership that has been forged between the National Science Foundation and the State of Vermont. NSF currently supports over 74 projects in the Green Mountain State. Grants have been provided to the Barre Town Elementary School, Middlebury College, Mountshire Museum of Science, Woodbury College, Cabot School, Charlestown Elementary School, St. Michael's College, Johnson State College, Trinity College, and the University of Vermont. In 1992, the Vermont Institute for Science, Math and Technology received a five-year award of $7.9 million to establish a collaborative statewide education reform effort linking business, higher education, government, and community sectors. This year, as a result of the success of this collaboration, NSF has elected to extend the award for an additional five years. In addition, Trinity College was this year awarded $1.2 million to improve the instruction of math and science in our primary, secondary, and elementary schools.

This legislation builds upon partnerships like that forged with the State of Vermont. It provides a strong bipartisan response to the research and science education challenges facing our Nation. I also want to note that it reflects the hard work of staff for both Committees. I particularly want to express my appreciation for the work of Scott Giles of my staff, Danielle Ripich, Marianna Pierce and Jonathan Halpern of Senator KENNEDY's staff, Floyd DesChamps of Senator MCCAIN's staff and Lila Helms of Senator HOLLINGS' staff and I urge all my colleagues to support this package.

I urge all of my colleagues to support this package.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I strongly support passage of the National Science Foundation Authorization Act. It is a privilege to join Senator JEFFORDS, Senator MCCAIN, and Senator HOLLINGS in sponsoring this bipartisan legislation, which looks to the future by strengthening our national commitment to research and development. It also ensures the continued success of the teacher training and professional development programs of the NSF. In addition, it will improve science and math education from kindergarten to graduate school, and help maintain America's competitive edge into the 21st century.

Few federal agencies deliver as much "bang for the buck" as the National Science Foundation. It is now funding 20,000 peer-reviewed science and education projects at more than 2,000 colleges, universities, schools, businesses and research facilities in all parts of the United States.

Last year, these projects involved 27,000 senior scientists, 21,000 graduate students, 28,000 undergraduates, 110,000 precollege teachers, and 14,000 students from kindergarten through the twelfth grade. Almost 15 million people are affected by NSF activities through museums, television programs, videos, journals, and outreach activities.

NSF accounts for 4 percent of total federal research and development funding. But it provides 25 percent of basic research support at academic institutions. It provides as much as half of all federal funding for research in fields such as mathematics, computer science, environmental science, and the social sciences.

NSF also plays an important role in training teachers and developing math and science curricula to prepare students for tomorrow's challenges. It promotes innovative education programs in partnerships with colleges, universities, elementary and secondary schools, science museums, and state and local governments. These programs encourage the discovery of new knowledge and its application to real-world problems.

NSF support for basic research and science education has also had an important role in encouraging economic growth over the last fifty years. According to a recent study, each dollar that the federal government spends on basic research contributes 50 cents or more to the national output each year. In other words, investing in NSF pays for itself in two years. These benefits are spread throughout the economy, enhancing the productivity of the nation's workforce and improving the quality of life for all Americans.

At the Massachusetts Institute of Technology, for example, NSF funds have enabled scientists to explore the commercial applications of their research. Technology developed at MIT had a role in the launching of 13 companies in 1995. They manufacture products ranging from computer chips to communication networks. These enterprises have bolstered the state and local economies, and provided jobs and opportunities for many citizens. In fact, a 1997 report by BankBoston found that research and development at MIT has created 125,000 jobs in Massachusetts.

In our state, NSF is funding a wide range of other projects on the cutting edge of research. NSF grants have been instrumental in building the state's biotechnology industry, mapping the oceans at the Woods Hole Oceanographic Institute, developing new superconductors at the Material Research Science and Education Center at Harvard, and creating cooperative partnerships with schools, parents, businesses, and community organizations to strengthen math and science education.

Nationwide, NSF grants cover a broad range of projects from providing health care to fighting crime to protecting the environment. Specific grants are improving the treatment of arrhythmia, facilitating more accurate identification of crime suspects, developing new biotechnology techniques to cleanup hazardous waste sites, enhancing the speed of semiconductors in processing information, and even analyzing the Antarctic meteorite to determine whether life existed on Mars.

NSF funds benefit the humanities as well. The Next Generation Internet Project will give researchers access to information from the world's libraries and museums at rates that are 100 to 1,000 times faster than today's Internet.

This authorization Act will put research and development on a more secure footing over the next two years. It will increase NSF funding by 10 percent in FY1999 and 3 percent in FY2000, which are consistent with the levels recommended in President Clinton's FY1999 budget. The increased funding will provide larger award amounts, so that scientists can undertake longer-range projects.

The legislation also strengthens efforts to improve science, mathematics, engineering, and technology training for teachers and students. In addition,

it authorizes the Office of Science and Technology Policy in the White House to prepare a report analyzing indirect costs, which play a vital but little understood role in federal R&D spending.

The National Science Foundation is doing an outstanding job in fulfilling its missions. Passage of this bill will strengthen America's leadership in science and technology, and I urge all of my colleagues to support this important legislation.

I congratulate our chairman for bringing us to this point in the legislative process.

Mr. MCCAIN. Mr. President, I would like to engage Senator LOTT, Senate Majority Leader, and Senator JEFFORDS, Chairman of the Labor and Human Resources Committee, in a colloquy on certain programs within the National Science Foundation.

Mr. LOTT. I would be pleased to join Senator MCCAIN and Senator JEFFORDS in a colloquy on this subject.

Mr. MCCAIN. As Chairman of the Commerce Committee, I have noted with great pleasure the success and impact on the NSF's program to establish outstanding research and education centers at colleges and universities in partnership with industry. These centers are making great contributions to research, science, and technology education, and the economic development and global competitiveness of our nation.

Mr. JEFFORDS. As Chairman of the Labor Committee, I too have been a strong supporter of the NSF's efforts to strengthen research and education efforts at colleges and universities across the nation. NSF provides support to over 2000 colleges and universities and nearly 17,000 researchers nation-wide.

Mr. LOTT. A particular success is the Engineering Research Centers Program which has stimulated focused university-industry partnerships in research and education, and has served as a catalyst for economic development within the United States. Much success can be attributed to the Foundation's leadership in ensuring each center establishes a clear vision and conducts careful strategic planning involving their industry partners. Among the impacts of this program are: Next generation engineering systems developed from new knowledge discoveries and new technological developments; Technology transferred to hundreds of companies and governmental agencies; Technical assistance and training provided for industry and government; Thousands of undergraduate and graduate students involved in the research of the centers and exposed to next generation systems research and development; and Outreach to K-12 and to underrepresented groups.

NSF Science Technology Centers and other NSF university centers have likewise cultivated strong university-industry affiliations with centers focused on specific research areas related to industry needs. For example, the modern Internet browser was developed at the NSF National Center for Supercomputing Applications at the University of Illinois; a turbomachinery computational model developed at the Engineering Research Center for Computational Field Simulation at Mississippi State University is now used by all jet engine manufacturers; the Center for Molecular Biotechnology at the University of Washington is developing tools for industry use to analyze and interpret the information content of biological molecules such as DA and proteins, to analyze and interpret the information content to biological molecules; and the Center for High Pressure Research at the State University of New York at Stony Brook works with several companies to develop new ways that industry can use high-pressure technology to produce exotic materials, such as industrial-grade diamonds. Hundreds of similar contributions can be cited from these and other NSF-funded university centers.

I believe this program should be greatly expanded and that the NSF should become even more active in ensuring the development of long-term vision and strategic planning of each center. Further, NSF should build on successful centers and seek ways to sustain the investment with continual support when appropriate. Areas that show great potential for the future include: computation engineering, biotechnology and bioengineering, manufacturing, and industrial systems, electronics and communications systems, materials processing including polymers and composite materials, manufacturing systems, remote sensing systems and technologies, and optical systems as well as ship building, telecommunications and super-computing supercomputer technology for university research centers.

Mr. MCCAIN. I thank the distinguished Majority Leader and the Labor Committee Chairman, for their insights into these matters and how important research and education is to the overall National economy.

Mr. JEFFORDS. The distinguished Majority Leader should be commended for his strong support for basic scientific and engineering research and I look forward to working with him to strengthen the engineering research centers program.

Mr. LOTT. I also would like to thank Senator MCCAIN and Senator JEFFORDS for their leadership in these areas of science and technology.

SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Mr. ENZI. I would like to raise an issue that has been brought to my attention since the Labor Committee reported this bill in October. It relates to the Small Business Innovative Research (SBIR) program and I want to highlight the fact that recent NSF decisions may have a negative effect on this very successful program. I have worked closely on small business issues with my friend from Montana, Senator CONRAD BURNS, who also serves on the Small Business Committee with me. It is not my intention to hold up this legislation by offering an amendment at this time, but I want the Chairman, Senator JEFFORDS, to know that it is a very important issue for me. I would like to yield to Senator BURNS for a minute and ask him to describe the situation.

Mr. BURNS. On August 8, 1997, Ms. Linda G. Sundro, Inspector General for the National Science Foundation (NSF) recommended that NSF reduce their SBIR set-aside by approximately $2.5 million by excluding certain education and training costs, as well as program support overhead costs from their total extramural R&D budget. Although funded by the Congress as part of their overall R&D budget, the Inspector General concluded that these costs could be excluded because they do not fit the statutory definition of R&D as set forth in the Small Business Research and Development Enhancement Act of 1992, (Public Law No. 102.564, 15 U.S.C. Part 638(e)(5)).

The Inspector General's recommendation does not take into consideration the guidance provided by the Congress in determining the calculation. The legislation requires each agency "which has an extramural budget for research or research and development" (15 U.S.C. Part 638(f)(1)) to set-aside a percentage for the SBIR program. The legislation clearly defines extramural budget as "the sum of the total obligations minus amounts obligated for such activities by employees of the agency in or through Government-owned, Government-operated facilities * * *" (15 U.S.C. Part 638 (e)(1)). Under existing law, the only exclusion from the calculation is for funds dedicated to intramural R&D efforts.

In its April 17, 1998 report on the SBIR program, the General Accounting Office identified the calculation of the extramural budget as an issue for the SBIR program. Their analysis found that each participating agency was utilizing different methodologies in the calculation. The GAO recommended that the SBA issue guidance to the participating agencies to ensure consistency across the program. The SBA agreed with this recommendation.

Accordingly, I believe the NSF Inspector General's recommendation is inconsistent with the current law and would ask that the Director of the National Science Foundation hold the recommendation in abeyance until such time as the SBA issues guidance to the participating SBIR agencies.

Mr. ENZI. Would the Senator yield for a question? This is clearly a very important issue for members of the Small Business Committee. Would the Senator agree that NSF's coordination with SBA is critical to ensuring a strong SBIR program?

Mr. BURNS. I believe the NSF and all agencies participating in the SBIR program should coordinate with the SBA in determining their extramural research budgets. This is what the GAO recommend.

Mr. ENZI. I thank the Senator from Montana and I thank you, Senator JEFFORDS, for considering this important issue.

Mr. HOLLINGS. Mr. President, I rise today to encourage my colleagues to support passage of S. 1046, the National Science Foundation Authorization Act of 1998. University research continues to be a great American success story, and NSF can be proud of its role in helping to create and sustain this great research enterprise. We continue to ask much of NSF and our universities because we know what this system has contributed to the Nation in the past, and we know that greater contributions await us in the future.

Mr. President, by themselves, universities cannot solve our national problems such as technological competitiveness, the environment, and social issues like crime, poverty, and education. However, the research and trained young people provided by our universities will continue to play a major role in addressing these pressing issues. S. 1046 authorizes the continuation of the vital programs of NSF that support these efforts, including EPSCoR which has helped strengthen science and technology in many of our smaller states.

I would like to take a moment and thank Senator MCCAIN, Senator KENNEDY, and Senator JEFFORDS for their efforts in getting this bill passed. The managers' amendment before the Senate today reflects agreement by the Commerce Committee and the Labor Committee on many issues relating to NSF's programs and funding. The two committees worked well together within the guidelines set forth in the standing order of March 3, 1988. Because of this bipartisan effort to address issues that are within the jurisdiction of the two committees, this is a good bill, and I encourage my colleagues to support its passage.

Mr. BURNS. Mr. President, I am pleased to support the National Science Foundation (NSF) authorization bill, which is before us today. Prior to this Congress, when I became chairman of the Communications Subcommittee, I served as chairman of the Subcommittee on Science, Technology and Space, which has jurisdiction over the authorizations for the NSF. I conducted several hearings on NSF during that time. I am also a member of the Senate Appropriations Subcommittee on VA-HUD Independent Agencies, which funds the NSF. As a result, I have had the opportunity to get to know this agency and its program as well.

I will have to tell you that when I came to the U.S. Senate, I did not expect to become a champion for the National Science Foundation and for scientific research, education and technology. But, I quickly became a strong supporter.

I have seen what this agency can do, and its importance to the people in our states. NSF is about seeking new scientific knowledge and using that knowledge. It is about helping the researchers and teachers in our colleges and universities and helping them to make certain that their students receive a good education, with scientific, mathematical, engineering and technological opportunities. It is about offering better training and materials for our K-12 teachers. And, it is about developing infrastructure, such as advanced telecommunication and computing opportunities. Such infrastructure is particularly important for rural states, such as Montana.

NSF has funded research which led to Montana State University's Jack Horner's now famous work on dinosaurs. It has helped us start new program in computational biology. It has funded an Engineering Research Center, which has undertaken cutting edge research in networking connection and supported other networking and telecommunications programs. There is interest in new research opportunities on life in extreme environments, which could include the Yellowstone area, and in the plant genome initiative.

I also want to say a few words about a program that is of particular importance to my state—the Experimental Program to Stimulate Competitive Research (EPSCoR). EPSCoR was created to assist states such as Montana become more competitive in the federal R&D arena. Unfortunately, federal R&D funds are highly concentrated in a few universities in a few states. That is not justifiable. Today's global economy requires that all parts of our nation share in scientific and technology development if we are to keep our entire nation and its industries and workforce competitive. Today, we know that scientific and technological problems and issues in one area of the country are likely to affect people in other areas. And, we know that we cannot have a healthy national science and technology system unless there is widespread support throughout our country for it.

The EPSCoR program is the base for much of our rural states' scientific and technological activities. It helps Montana and 17 other states develop infrastructure. It helps us develop new programs and take advantage of special opportunities. It has recently been assisting our states on participating more fully in other NSF programs. And, it was instrumental in ensuring that the EPSCoR states participate in the vBNS connections program and the Next Generation Internet initiative. I believe in the EPSCoR program, and would like to see the program expanded in terms of financial assistance, especially when NSF funding overall is increasing and also since the co-founding, which is scheduled to increase in this budget year, should be matched by a similar increase in the base EPSCoR program.

I know that the report prepared last fall by the Senate Labor and Human Resources Committee endorsed by EPSCoR program, and we on the Senate Commerce, Science, and Transportation Committee are equally supportive.

The PRESIDING OFFICER. Under the previous order, S. 1046 is deemed read a third time, the Labor Committee is discharged from further consideration of H.R. 1273 and the Senate will now proceed to its consideration. Under the previous order, all after the enacting clause is stricken, the text of S. 1046, as amended, is inserted in lieu thereof, and the bill is deemed read a third time.

The bill (H.R. 1273), as amended, was deemed read a third time.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the role.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—99

Abraham	Craig	Helms
Akaka	D'Amato	Hollings
Allard	Daschle	Hutchinson
Ashcroft	DeWine	Hutchison
Baucus	Dodd	Inouye
Bennett	Domenici	Jeffords
Biden	Dorgan	Johnson
Bingaman	Durbin	Kempthorne
Bond	Enzi	Kennedy
Boxer	Faircloth	Kerrey
Breaux	Feingold	Kerry
Brownback	Feinstein	Kohl
Bryan	Ford	Kyl
Bumpers	Frist	Landrieu
Burns	Glenn	Lautenberg
Byrd	Gorton	Leahy
Campbell	Graham	Levin
Chafee	Gramm	Lieberman
Cleland	Grams	Lott
Coats	Grassley	Lugar
Cochran	Gregg	Mack
Collins	Hagel	McCain
Conrad	Harkin	McConnell
Coverdell	Hatch	Mikulski

Moseley-Braun	Rockefeller	Specter
Moynihan	Roth	Stevens
Murkowski	Santorum	Thomas
Murray	Sarbanes	Thompson
Nickles	Sessions	Thurmond
Reed	Shelby	Torricelli
Reid	Smith (NH)	Warner
Robb	Smith (OR)	Wellstone
Roberts	Snowe	Wyden

NOT VOTING—1

Inhofe

The bill (H.R. 1273), as amended, was passed.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent that I may speak as in morning business for 3 minutes.

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

PATIENTS' BILL OF RIGHTS

Mrs. BOXER. Mr. President, earlier this morning, some of us were on the floor urging the Senate to bring up the Patients' Bill of Rights, a very important bill that would essentially protect patients from decisions made by accountants and bureaucrats in insurance companies and have their health care decisions made by physicians.

I was talking with the Senator from North Dakota who has been presenting a number of cases that proves our point as to why this legislation is needed, and he shared with me a most extraordinary case coming out of California. I am going to tell the Senate about this case, because we cannot close our eyes to what is happening.

I share with you the case of Joyce Ching from Agoura, CA. Joyce Ching lived with her husband David and 5-year-old son Justin. In 1992, when David switched jobs, he was offered an array of plans, but Joyce convinced him to join an HMO because she wanted the entire family to go to the same place to get their care.

In the summer of 1994, Joyce got sick. She began to suffer from severe abdominal pain and from rectal bleeding. The pain was so excruciating that some days she couldn't even get out of bed to be with her son. She visited her HMO doctor and was refused referral to a specialist.

I am not a physician, but I know enough people who have had problems, and when you have rectal bleeding, that is a sign that something is amiss. Yet, this HMO did not refer her to a specialist. Do you know what her doctor in the HMO told her? That her symptoms would be alleviated by a change in diet.

She changed her diet, and the symptoms were not alleviated. Fearing that her illness could hamper her chances of having a second child, she continued to complain to the physician that her pain was getting worse, and the doctor said, "Give your diet time," and still would not refer her to a specialist.

Finally, after nearly 3 months and countless visits, she was referred to a gastroenterologist, but it was too late. Joyce, 34 years old, was diagnosed in the final stages of colon cancer.

What is so shocking about this case is that her doctor never really listened to her concerns and never sent her to a specialist. When you find out why, it will send chills up and down your spine. There was a deal in that HMO. They looked at Joyce's profile and they decided: A healthy woman in her thirties, we can't spend more than $28 a month on Joyce.

I will conclude with this, Mr. President. The HMO's accountants decided that Joyce should cost the HMO $28 a month, and they told the doctor, "If she costs you any more than that, your clinic will have to pay out of its own pocket." So there was a deal made to give incentives to that clinic not to treat this woman, and she is gone. She is gone forever from the lives of her husband and her beautiful son, and she died at 34.

I have to say, when we stand up here day after day with these cases, it is not to hear the sound of our own voices, because there are thousands and thousands of stories like this, and people want action. They want decisions made by physicians. They want patients and physicians to be honest with each other. They don't want incentive payments to doctors so that they will not be treated. This is a tragedy that you cannot even measure, Mr. President. I call on the leadership to allow us to bring up the Patients' Bill of Rights. I yield the floor.

RECESS UNTIL 2:15 P.M.

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

Thereupon, at 12:47 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senator from Texas is recognized to move to recommit the conference report accompanying S. 1150.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Mikki Holmes, an intern, be allowed on the floor for the duration of this debate.

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

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

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

The Senator is recognized under the previous order.

MOTION TO RECOMMIT

Mr. GRAMM. Mr. President, I send a motion to the desk and ask for its immediate consideration. I will have it read.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] moves to recommit the conference report on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998 to the committee on conference with instructions to the managers on the part of the Senate to insist that the expansion of Food Stamp eligibility in Title V, Subtitle A, section 503 shall only apply to refugees and asylees who were lawfully residing in the United States on August 22, 1996.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is clear to me, from the debate we had earlier, that it is going to be somewhat difficult to get people to debate this issue. However, let me try by being frank and yet fair to everybody. I would like to outline what happened to this bill in conference, and why I believe it is important that this motion pass.

First of all, let me remind my colleagues that the Senate adopted a bill to promote ag research. It is a bill that I would assume 100 Members of the Senate support.

My State is a very substantial beneficiary of ag research. The institution which I love more than anything, other than my family, Texas A&M, is a major ag research institution. Needless to say, no one should be surprised that I am in favor of ag research. In addition, I am a supporter of research in general.

In 1965, we were spending 5.7 cents out of every dollar we spent in the budget on general research. That is now down to 1.9 percent of the budget on research, because rather than investing money in new technology, new products, and new science for the next generation, we are being driven by politics to invest in the next election by spending money on programs that have big constituencies in the next election rather than beneficiaries in the next generation. Again, I support agriculture research. The Senate bill went to conference on a unanimous vote, and the House passed a bill that was an ag research bill. However, the nature of the bill changed in conference, and it changed dramatically. Many other provisions were added to the conference report that were never voted on in the Senate and never voted on in the House.

The major provision that I want to address in this motion to recommit with instruction is the provision having to do with food stamps. My colleagues will remember that while we had a contentious debate on welfare reform, when it came time to call the roll on August 22, 1996, we passed a comprehensive welfare reform bill on an overwhelming bipartisan vote. Part of that welfare reform process was setting much higher standards on food stamps and eliminating the attractiveness of welfare in general, and food stamps in particular. We were trying to change the law to eliminate a situation where, over the last 25 years, we had seen a change in the welfare law. People were actually being attracted to America not with their sleeves rolled up, but with their hands held out seeking benefits paid for by someone else's labor.

This bill, unfortunately, takes a major step backward. This bill re-institutes $818 million worth of food stamps that were eliminated in the welfare reform bill. I remind my colleagues that the Senate did not vote on the food stamp provisions in this bill. In addition, the bill, as it was voted on in the House, did not contain these food stamp provisions. Yet, in conference, as part of the age-old logrolling process of putting a bill together to be a grab bag for everybody, a provision was added that provided $818 million worth of food stamps for immigrants. The President was a major supporter of this provision. In fact, yesterday, our distinguished ranking member, Senator HARKIN, called this provision a major step toward fulfilling a promise that was made by our President.

Well, our President was not for welfare reform when it was debated and basically was shamed into signing it. What he said at the time was that he intended to go back and undue major parts of it. This provision, in fact, fulfills part of that commitment.

This motion is drafted very, very narrowly. It simply says to not touch the welfare benefits added back for people that were already here on August 22, 1996. Go ahead and take those provisions, but don't set out a provision in law that is giving new food stamps to people who might choose to come in the future.

There is a provision in this bill that would give 7 years of eligibility for food stamps to people who come and who declare themselves refugees in the future. Under the provision in the bill, whether they come next year or 20 years from now, they can come and declare themselves refugees and qualify for 7 years of food stamps. Mr. President, I think that is providing the wrong incentive for people to come to America.

Let me also say that I am a strong supporter of legal immigration. I don't want to tear down the Statue of Liberty. I don't want to build a wall around America. There is still room for hard-working, dedicated people with big dreams to come to America. But I want the dream to be of working and succeeding, not getting on welfare and food stamps.

What my amendment simply says is that the one provision of this bill that is prospective whereby providing food stamps into the future for seven years would be stricken. However, the refugees and asylees who are already here on August 22, 1996, would be able to receive food stamps for seven years.

Our colleagues are going to say that the world is coming to an end if we go back to conference and that somehow this bill will die. Everybody in the Senate and everybody in the House knows that ag research is not going to die. Everybody in the House and everybody in the Senate knows that crop insurance is not going to die.

If we send the bill back to conference, we have an opportunity to begin to correct problems with the bill. Both the Speaker and the majority leader of the House have said, in one forum or another, that they are not in favor of this bill being considered in the House. By sending it back to conference, we have an opportunity to begin the system of inducing moderation into the bill, which I believe can speed up the day we obtain funding for agriculture research and crop insurance.

Let me say again that I support agriculture research, and crop insurance. I don't think we should have to pay tribute every time we put together a program to try to promote job creation and economic growth in America. I don't think that every time we have an agricultural bill that tries to move us toward a more competitive agricultural system, we should have to pay tribute to people who always want an add-on such as the food stamp provisions in this bill. The provision adding food stamps was little more than a tribute for allowing this bill to move forward.

We can pass this bill without the food stamp provisions, but I am suggesting that we deal with one narrow part of the bill. I urge my colleagues to support this provision, because in this provision we don't take any benefits away from the restoration contained in the bill for immigrants who were here when we passed the welfare bill in 1996. Certain legal immigrants who were here when the welfare bill passed will have benefits restored by this provision. This motion, if defeated, would send the signal that we want to create new benefits in the future that would allow you to come to America and can obtain food stamps.

That, I think, is the wrong signal. It is not a signal I want to send. It is a signal that I think is destructive for those of us who believe in legal immigration.

So I urge my colleagues to support this motion to recommit with instructions. I remind my colleagues that the conference has not been discharged. We can go back to conference this afternoon, and this provision can be voted on. If it is adopted in conference, it can come back to the Senate, and it would probably pass unanimously. If it is rejected in conference, we at least know there has been a vote in conference.

The point is, this bill is not going to die if we adopt this motion. I want people to look at this provision and vote on it on its merits. If they will do that, I will be satisfied.

I reserve the remainder of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes.

Mr. WELLSTONE. Mr. President, I will try to do this in 3 minutes. First of all, I say to my colleague from Texas, what he is now willing to do is hold up, delay, and potentially kill, crop insurance, which is extremely important to farmers in Minnesota and across the country, and research on alternative uses for agriculture products, crop disease, and research on scab disease in northwest Minnesota.

He is willing to do this because he thinks there is some terrible wrong in this bill. I think it is a right. I think we are doing something that lives up to the very best in America. I say to my colleague and to people in the country, my colleague from Texas wants to hold this bill up because he finds it to be an offensive proposition that we should say that for legal immigrants we will make sure there is some assistance for those people who are elderly, disabled, and for small children.

The Physicians for Human Rights released a report this past week finding an alarming amount of hunger and

malnutrition among these legal immigrants. Food stuff use is on the rise. In the United States of America today at the peak of our economic performance we have people who are hungry and in jeopardy. What we ought to do here is restore some assistance for these legal immigrants. These asylees and refugees are people who have fled oppression in countries like Indonesia, China, you name it. They come to our country in the hope that we would be willing to extend a helping hand.

My colleague from Texas talks about that as if it is a bad thing to do. I thought that is what we were about—people who fled persecution, people who were legal immigrants. Many of them were parents. My dad fled persecution from Russia. For the U.S. Senate to say, "Look, we want to correct the harshness. We want to make sure there is some assistance for you to make sure you don't go hungry if you are elderly, if you are disabled, if you are a small child, if you fled persecution from a country." That is the right thing to do. Certainly we ought not to be holding up the agriculture research bill, which is so important to agriculture in our country and so important to farmers in Minnesota.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERTS addressed the Chair.

Mr. LUGAR. Let me inquire of the distinguished Senator from Kansas. Does the Senator require time at this moment?

Mr. ROBERTS. I tell my distinguished chairman, if he could yield to me maybe 5 minutes.

Mr. LUGAR. I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I suppose that some of what I am going to say is repetitive in that most of this was discussed during the general debate. But I feel compelled to speak again because of the strong personal interest in this in behalf of myself and many of my colleagues who served on the House Agriculture Committee, and for that matter the Senate Agriculture Committee back in 1996.

There has been a real success story in regards to the Food Stamp Program and reforms that have been initiated. In 1996, with all due respect to that program and others who supported it, it was a program out of control. It couldn't even be audited. The inspector general came in, an inspector general from New York—a tough cop, by the way, named Roger Viadero, who has done an outstanding job, basically said that the Food Stamp Program could not even be audited due to the fraud, abuse, and organized crime involvement. As a matter of fact, he had a tape that we showed during the Committee hearings which ended up on 60 Minutes. And we know all the stories about the Food Stamp Program, about the waiting in line, people with food stamps exchanging them for cash and then buying things that obviously did not represent a nutritious market basket of food.

They got a new inspector general. We exposed the fraud and abuse on 60 Minutes and saved $3 billion to $5 billion in regard to the fraud and abuse. Then we instituted major reforms. I am talking about the Senate Agriculture Committee and the House Agriculture Committee—$24 billion, as the distinguished chairman has pointed out. I just do not think that is a success story that can be equaled.

As a matter of fact, as to the person in charge of the Food Stamp Program there were many allegations made in regard to the performance of duty. She resigned. It is in better hands. Then we gave these reforms to the States. The States have come back with administrative savings. That is where the $1.7 billion comes in that has been referred to in terms of entitlement. And that money, I think, should be used for agriculture research, and I believe it also should be used for crop insurance and risk management. And, yes, there is some limited assistance in regard to food stamps.

But let me refer to the comments made by the distinguished Senator from Texas whose concern I share. I certainly don't want any social welfare program, food stamps or otherwise, to be a beacon for people to come to this country when they wouldn't otherwise.

But we are talking about refugees, and a refugee is defined as follows: A person who is fleeing because of persecution, or well-founded fear of persecution, on account of race, religion, nationality, membership in a particular social group or political opinion, and who is of special humanitarian concern to the United States.

I don't think people choose to be a refugee. That is just not the case. People are not fleeing their country to come to the U.S. with a beacon held out there saying "I am coming because of food stamps." And we have a cap on the number of refugees. It will be 75,000 admissions for the fiscal year as of 1999. Who are these people? The European numbers are used largely for Soviet religious minorities and Bosnians. East Asian numbers are for former Vietnamese, reeducation, camp detainees, and Laotians. I could keep on going down here. Basically, refugee admissions have fallen significantly from over 100,000 per year during fiscal year 1989. Now they are down to 75,000, and they are headed further downward.

Here is the difference. The agriculture research bill's food stamp provisions mirror the SSI provisions of last year's Balanced Both Houses have approved that.

Let's go back to the original food stamp reform that was passed in 1996 that I just talked about. These welfare reforms eliminated the benefits for anywhere from 800,000 to 950,000 noncitizens. This bill extends those benefits back to the children, the elderly, and the disabled who were in the country before August 22. That is the day of enactment of the bill. And, yes, it does also extend the benefits to refugees and asylees who may have entered after the August 22, 1996, debate. That means the total of the benefits will be restored to 250,000 people, not 900,000. I do not think this represents a step back from the far-reaching food stamp reforms that were passed back in 1996.

I think if you take a hard look at these people, I don't think the Food Stamp Program represents a beacon in regard to any kind of a reason that they would come to the United States. I have already read the definition.

I thank the distinguished chairman for yielding me this time.

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the Presiding Officer, and I thank especially the chairman of our committee.

Mr. President, I rise to speak on behalf of the research bill that we have before us. It has the title of "agricultural research." I think that is really somewhat misleading because this bill has a lot more in it than agricultural research, although agricultural research is critically important. Some who are not in agriculture may wonder: "Why is it so important?" Let me just give them an example from my home State of North Dakota, one of the most agricultural States in the Nation, traditionally one of the largest wheat producers, one of the largest barley producers, one of the largest sunflower and sugar beet-producing States in the Nation, and the State that produces the vast majority of the durum wheat that goes to make pasta which is enjoyed by all of America.

Last year, we lost a third of the crop in North Dakota to a disease. That disease is called scab. Scab is a fungus. In North Dakota we have had 5 years of extremely wet conditions. People may recall that last year we had an extraordinary set of disasters in North Dakota. That is just the continuation of a very severe weather pattern. Because of those overly wet conditions this fungus is growing in the crops of North Dakota; this scab. It destroyed a third of the crop last year. That is stunning. That is a loss of $1.1 billion just in my little State of North Dakota in 1 year.

In this bill there is a provision to provide $26 million over 5 years on scab research so we can attack this problem. That is a reason that this bill is important. That is not the only reason.

There are many other important agricultural research priorities to keep

America on the cutting edge and on the leading edge of production agriculture. It is very important for our people to understand that our chief competitors are spending far more supporting their producers than we are spending supporting ours. In Europe they are spending about $47 billion a year to support their producers. We are spending about $5 billion.

So we are asking our farmers to go out and compete against their farmers with their farmers having a substantial competitive edge.

It is critically important that we not take everything away that our farmers are using to try to stay ahead of the competition.

In addition, in this bill is the money to shore up the crop insurance system, also critically important to those areas that are experiencing losses as a result of these unusual weather patterns we are experiencing. Here on the east coast we have had, I think it is now, 13 days of rain. We have already had 50 percent more rain at this time of the year than is normal. And that is affecting crops as well, because just like overly dry conditions have an adverse effect, so do overly wet conditions. That is what we are seeing, a very odd weather pattern across America this year. The crop insurance system needs to be strengthened and preserved. The funds to do it are in this bill.

Now, our colleague from Texas comes along and he tells all of us, "I want to send this bill back to committee. I want to get some changes made. It won't really endanger the legislation at all."

That is not true. Those of us who are on the Budget Committee understand what is at stake here. We understand that there is a budget resolution that has already passed this Chamber and is over in the other Chamber, and it takes a big chunk of the savings that are from the Agriculture Committee and uses them for another purpose. If this bill does not get passed and get passed quickly, we may lose these funds from agriculture altogether, and that would be a tragedy.

I thank the Chair and yield the floor.

Mr. REED. Mr. President, I rise today to express my support for the Conference Report on S. 1150, the Agricultural, Research, Extension, and Education Reform Act of 1998. Certainly, there are a number of important issues addressed in this bill, but none more critical than the provisions that would restore food stamp benefits to many elderly, children, and disabled legal immigrants.

While I am pleased that over 70 Senators joined the effort to bring this Conference Report to the floor, I am disappointed that action on such an important and bipartisan bill has been needlessly delayed. My colleagues have demonstrated overwhelming support for this Conference Report.

Like many of my colleagues, I was deeply concerned about provisions of the 1996 welfare reform law which denied benefits to legal immigrants, particularly children, the disabled, and the elderly. The welfare reform law was necessary to help people move from dependency to work, but it was not perfect. That is why we worked to restore Supplemental Security Income and Medicaid to legal immigrants in last year's balanced budget agreement.

With the Agricultural Research Conference Report, we take another important step to address the needs of our most vulnerable legal immigrants. Some states, including my home state of Rhode Island, have provided temporary benefits to fill the void created by the welfare reform law, but a permanent and uniform federal solution is needed for this group of immigrants.

Under the Conference Report, food stamp benefits would be restored to those legal immigrants who were in the United States when the welfare reform law went into effect on August 22, 1996, if they met certain conditions such as: (1) they are or become disabled; (2) they are children; or (3) they were over 65 years old at the time the welfare reform law was enacted. In addition, the Conference Report restores food stamp eligibility to Hmong immigrants. While this Conference Report does not restore benefits to all legal immigrants, it is a positive and essential first step.

Mr. President, our nation has prospered from the tremendous contributions of immigrants who have strengthened our economy and brought vitality to our communities. Today, we have the opportunity to restore benefits to children, elderly, and disabled legal immigrants—many of whom have worked and paid U.S. taxes. I urge my colleagues to oppose the motion to recommit and support the Conference Report on S. 1150.

Mr. LEVIN. Mr. President, I am pleased to support the conference report to accompany S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998. This legislation contains very important provisions that will help improve the delivery of safe, healthy, and value-added agricultural products to the American and world marketplace, and keep rural America strong.

The conference report contains a provision very similar to one in S. 1597, a measure I introduced as a companion to a bill introduced in the House by Congresswoman STABENOW. This provision directs the Department of Agriculture to assemble FEMA-like Crisis Management Teams to respond to emergencies, like threats to human health from food-borne pathogens. And, USDA must work with other agencies to ensure coordinated information and actions in the event of such a crisis. This is a very important and non-regulatory way for the Federal government to identify, correct, and prevent future food supply contamination.

S. 1150 contains a host of other important provisions, not the least of which is a funding mechanism to ensure that these new authorizations are paid for. USDA will be the site of a new Food Safety Research Information Office that will centralize and make public research and scientific data on food safety issues. Wheat scab, which has been a multi-billion problem in Michigan and in other barley and wheat producing states in the North Central region, will be the subject of a new research initiative. The crop insurance system will be made solvent. Precision agriculture, which uses high technology to reduce inputs like fertilizer and pesticides, will get new emphasis. And, USDA will conduct focused research to help diversify the crops that make up our main food supply, so that it will be less vulnerable to disruptions due to weather, pests or disease.

Mr. President, this is an important bill and I hope my colleagues will not vote to recommit the conference report. That would send the wrong message to a major sector of our economy and call into question Congress' commitment to a safe and abundant food supply.

Mr. LUGAR. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 7 minutes.

Mr. LUGAR. Mr. President, the report with regard to the conferees on agriculture reform is supported by 17 out of the 18 members of our committee. I make that point because the 17 have written to our leader asking him for this debate. They are grateful for that opportunity. The 18th was predictably our colleague and a very valued member of the committee, the Senator from Texas, Mr. GRAMM, who objects to the conference report and has offered this recommittal motion as a way, in my judgment, of defeating the conference report.

Let me just offer a word of clarification. As the chairman of the conference and one of the conferees, along with Senator COCHRAN and Senator COVERDELL on the Republican side, we supported the conference report after meeting with House colleagues who had very considerable enthusiasms of their own. This is not the first time that the Senate and House have met in a conference and have had to wrestle with issues that were distinctly different in the bills and have come to a compromise which, in my judgment, is a sound one, which was supported immediately by all the conferees in the House and the Senate in both parties and by 74 United States Senators who have written to the majority leader supporting this conference report. They do so because it is extremely

timely. There are farmers in the field now dependent upon the crop insurance provisions.

If we are not successful today, of course, we will return to the conference, but I have already turned to the conferees and they are unanimous that we should proceed with the same bill and we will be back in the Chamber delayed by days or weeks as the case may be. The Senate may then pass the conference report. Perhaps the distinguished Senator from Texas is correct that this is going to pass by a very large majority. But is it any more certain that this same conference report will pass days and weeks hence, if we can get floor time, than today? I doubt it.

Now, the reason why conferees will not change the conference report is that the distinguished Senator from Texas has asked for a very narrow change that does not make a lot of sense. Let me review, Mr. President, respectfully, why I make that comment.

Before welfare reform, all legal aliens were eligible for food stamps, for SSI, the Social Security income payments, and for Medicaid. Before welfare reform, all of these persons were eligible. With the passage of welfare reform, most legal aliens became ineligible until such time as they became citizens.

But, Mr. President, follow carefully if you will. Refugees and asylees continued under welfare reform to be eligible for SSI, for food stamps, and for Medicaid. No new entitlement here. Welfare reform simply continued their eligibility from the pre-welfare reform days.

Now, the balanced budget amendment restored Social Security to some of the legal aliens; namely, to children, elderly, the disabled who were in this country on August 22, 1996, when we passed welfare reform. And it made asylees and refugees who already had benefits, who retained those, eligible now for 7 years of Social Security income and Medicaid.

Mr. President, you might ask, while we were at it we all passed this bill, the balanced budget amendment with enthusiasm. Why did we not change the food stamp provision from 5 years, which the refugees and asylees had, to 7 years to conform with what we were doing on income and the rest? Well, we did not because the Finance Committee had jurisdiction over that particular money. The Agriculture Committee has jurisdiction over food stamps. We were not in the picture. We are today. The intent of the motion of the Senator from Texas is in essence over the idea that the 5 years the refugees and asylees already had should not go to 7 years, and we should go back to conference to apparently knock back the 7 to 5. It is something which most Members find incomprehensible.

The distinguished Senator has a larger point, I believe, in his motion. He believes that however you phrase the food stamp situation, it is a beacon of hope for persons to come to our country, as he says, for years, for decades. Well, perhaps, but the asylees and the refugees are not swarming across our borders. They are people one by one who must present themselves and say and affirm: I am a potential victim of persecution, well-founded, and they have to prove that. If they do not prove it, they do not get in. And frequently people who had not gotten in went back and were killed. There are consequences to those decisions.

The people presenting themselves are Evangelical Christians; they are Jews from the former Soviet Union; they are Cubans who have tried to escape Castro; they are people who have fled from Somalia and from racial persecution in Bosnia recently. These are tough cases, and we recognized that in the welfare reform bill. We said keep them with a safety net because they do not have sponsors. They come with the shirts on their backs. And we have done so because we are a humane people. What sort of people are we to think about denying persons who have come in these circumstances to our shores? This is not a neon sign advertisement. It is simply a fact of the kind of country we are.

To send all of this back to conference over the fact that 5 years of eligibility these people now have should be changed to 7 seems to me to be an item the Senate should reject and do so decisively.

Finally, let me just simply say that LARRY CRAIG, the distinguished Senator from Idaho, has said:

> This is more than just a reauthorization bill. Legislation before the Senate today is an investment in the future and represents our commitment to America's farm families. By providing the technical assistance and extension activities that help expand farm income, improve resource management, and develop new crop varieties, federally funded agricultural research assures that our Nation will continue to lead the world in farm production and help bolster the stability of our rural areas.

I concur with that. This is not a question of an entitlement. It is the question of our commitment in the farm bill.

We committed to America's farmers, for a 7-year period of time, a proposition—freedom to farm, the idea to manage your own land and plant for the future. And American farmers have responded to that. They have planted over 10 million more acres. They have raised their income. They have raised exports for America. But we said there will be a safety net in this transition from the old days of supply management. It includes payments to farmers that decrease over the next 5 years. It includes the CRP, the Conservation Reserve Program, that tries to protect the environment for a 5-year period of time. We believe it needs to include farm research during this same period of the next 5 years, and crop insurance with those guarantees. The argument is, it could be done year by year, but this is not of great assurance to our farmers.

So, for all these reasons, I ask the Gramm amendment be defeated and we move on, then, to prompt passage of the conference report. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me explain why the amendment does make sense. And let me do it by going back to our welfare reform bill. I would like to remind my colleagues, not that public popularity is the be-all and end-all—it can often be misleading in the short term—but I am sure many of my colleagues are aware that when asked what action by Congress in the last 4 years they most approved of, the American people, in a set of polls taken last month, said "welfare reform." What we did in welfare reform is, we set higher standards for welfare and we defined work as the norm, and we defined welfare programs as temporary programs to help people help themselves.

When we wrote the welfare reform bill in 1996, and I was active in it and was a conferee, this provision with regard to refugees was a hard-fought provision. Prior to the 1996 bill, there was no limit on the amount of time that a refugee could get food stamps. Many people, including myself, wanted to set a strict limit on it, again with the idea that we were talking about transitional help, but we wanted people to come to America, as millions have come—and millions of Americans have come as refugees; millions of Americans have come as refugees since World War II.

We know that many of these refugees are really economic refugees but they claim to be political refugees, and often it is very difficult to tell the difference because countries that have bad political systems normally have bad economic systems.

So, after a real battle in conference, endless days of negotiations, we settled on a 5-year limit. Now, in this bill, in a bill that, when it was considered in the Senate where it was amendable, there was no food stamp provision, there was no debate on this issue. When it was considered in the House, there was no provision expanding food stamps, no debate, no ability to amend it. Now we have a conference agreement that adds $818 million back in food stamps that were denied as part of welfare reform. This bill is a major step toward overturning the welfare reform bill.

I have singled out this provision because I think it is critically important. Whenever proponents of the provision in the bill debate it, they always like

to talk about children, disabled, and elderly—and don't we all?—because, obviously, that is where we can focus our concern. But the provision that I am trying to deal with here has nothing to do with children, disabled, elderly, who were in the country on the day we passed the welfare reform bill. The provision that I am trying to deal with is the prospective provision which simply tries to draw a line and says that we passed a welfare reform bill, we negotiated this out, and here we are, 2 years after it went into effect, raising the number of years that you can be on food stamps under the new welfare bill as an immigrant by an additional 2 years.

Why are we doing it? To quote one of the proponents, "It provides seamless protections so people can come, get food stamps, become citizens, and continue to get food stamps."

I want people to come to America to go to work. I want our assistance program not to be a way of life. We debated this issue 3 years ago, and those who believe that welfare should not be a way of life won on an overwhelming vote. Yet, over and over and over again, in little parts and parcels, we are undoing one of the major legislative activities that we have undertaken in this decade. This bill is such an activity.

So, I am not for the food stamp provision, but I am not asking my colleagues to strike it out. I am asking my colleagues to ask the conference to reconvene and to remove the prospective provision which says that anyone coming in the future can qualify as a refugee and get 7 years of food stamps. I believe that we are, through this provision, taking a step to go back to the days, which we have recently put behind us, where we were asking people to come to America, not with their sleeves rolled up ready to go to work, but with their hand held out ready to go on welfare.

This is a little issue. We are not talking about big amounts of money, but we are talking about a big principle: What do you want the beacon drawing people to America to be? Do you want the beacon to be welfare and food stamps? Or do you want the beacon to be the opportunity to live and work in the greatest country in the history of the world?

So, to some people this may look like a small issue. We are not talking about much money, because this bill is a 5-year bill. Obviously, there are very few people—since you can get food stamps now for 5 years, extending it to 7 will affect only a few people in the last year of the bill. But the principle is a big principle, and the principle is, "what kind of America do you want, and what kind of American do you want?" I want people from all over the world, from all kinds of backgrounds, who share one thing—a dream of having the opportunity to come to America and work and build their dream and the American dream. That is what I am for. That is what this provision is about.

I would like now, Mr. President, to yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Presiding Officer will inform Senators that the Senator from Texas has 12 minutes 10 seconds remaining on his time. The Senator from Indiana has 8 minutes.

The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, I have few superlatives that I can claim as a Member of the Senate, but one of them is that I have spent 52 years in active agriculture, farming, and in all phases of it. I would be hard pressed to find the crop or the livestock interest that I have not, at one time or another, been involved in.

North Carolina is home to some of the most productive and largest farms in the Nation and the finest agricultural research universities, by far, in the Nation. I don't think that I play second fiddle to any Senator in support for reauthorization of the agricultural extension bill. It is critical to the farmers of this country and to the universities and the ag research universities. But the bill also makes important reforms to the Crop Insurance Program that will benefit farmers and taxpayers. Planting season is here, and we need to get it settled, and I am ready and anxious to do it.

However, despite what I have just said, let me add, I don't play second fiddle to any Senator in my support of real welfare reform. Workfare, not welfare, was the platform I ran on for the Senate in 1992. The 1996 welfare reform bill, although watered down, was a real accomplishment for the 104th Congress. I preferred the first two bills that were vetoed by the President, but the third was still a good bill. That is why I am so disturbed that we are gutting the welfare reform and doing it in an agricultural research bill.

This bill restores food stamps for 250,000 immigrants. We sit here and say very nicely, "But it doesn't amount to much; it is only 2 years on to 5, so let the 2 years go." Will next year be at 10? In the following session of Congress, do we go to infinity? That is the reason we have a $5.5 trillion debt today, because 2 years wasn't very much, but 3 would be fine, and we kept going.

In effect, it says,

> Welcome to America. Come on, you don't have to be productive. You know when you leave where you are and come to this country that you are going to be eligible for food stamps for 7 years, and by the time you get settled in, we will change the law where you will be eligible and you won't ever have to work because we will feed you.

We already restored SI payments. Now we are throwing food stamps for another $80 million.

We also said that the welfare reform bill ended welfare as we know it. Unfortunately, this agricultural research bill is welfare reform as we did it. These changes to the welfare reform law come at the insistence of President Clinton. He vetoed the first two welfare reform bills, and he has succeeded in rewriting the one that he signed. If he was going to start trying to rewrite it before the ink dried on it, he never should have signed it.

I want the agricultural research bill without the food stamp provision to pass. Nobody is more in support of agricultural research and the whole agricultural bill than I am. It is critical to North Carolina, but the food stamp provision is a another step toward reversal of the welfare reform bill.

Mr. President, the Statue of Liberty holds a torch of freedom, not a book of food stamps and a lifetime right to not to have to work. That is the flag we are waving to people coming into this country: "Sit down, relax, you are home free." The Senator from Texas is doing the right thing, and I am proud to support him. I thank the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Who yields time?

Mr. LUGAR. Mr. President, I yield 3 minutes to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 3 minutes.

Mr. BOND. Mr. President, I rise in strong support of the conference report and urge my colleagues to oppose the motion to recommit. For those in agriculture, it is critical that we move this in a prompt and expedited fashion and avoid any additional delay. The time for passage is now.

I congratulate Chairman LUGAR, Senator HARKIN and their staffs who have labored for months to bring this legislation before us. Simply put, agriculture needs this now. Included in it are urgent reforms and funding necessary to avoid a crisis which would undermine the viability of crop insurance—a safety net that farmers in my State and across the country cannot do without. This legislation is fully offset and paid for and is supported by a united agriculture industry. After months of careful and deliberate negotiations, a bipartisan agreement with the administration has been developed. It was an agreement with the administration and it takes into account the need to get the President's signature on it. I believe the work of the conferees should be applauded and endorsed with our support today.

I am particularly interested in the research title. We expect to see the world's population double in the next 30 years. The demand for food is expected to triple in the next 50 years. The world's population wants more food, cheaper food, more nutritious food, safer food, food that is easier to

prepare and they want it produced on less land with fewer chemicals and in a more environmentally sensitive manner.

Those individuals who produce food and fiber for this world today—encumbered with what otherwise would be conflicting mandates—have never faced a greater challenge. Technology is the answer.

Remarkably, plant technology in this half-century has helped make it possible for the farmer, who in 1940 fed 19 people, to feed 129 people today.

Nobel prize-winning chemist Robert F. Curl of Rice University proclaimed that: "* * * it is clear that the 21st will be the century of biology." The March 27 article in Science Magazine entitled: "A Third Technological Revolution,"—after the Industrial and Computer-based revolutions—contends that: "Ultimately, the world will obtain most of its food, fuel, fiber, chemicals and some of its pharmaceuticals from genetically altered vegetation and trees."

The possibilities are breathtaking and the U.S. is poised to lead the third technological revolution as we unlock the secrets plant-by-plant and now, genome-by-genome.

Simply put, this research is about meeting the world's growing nutritional needs, protecting U.S. jobs and preserving the environment.

The legislation before us looks ahead to the challenges of the 21st century by providing additional funding on what all of us back home say is a priority; research. It provides $600 million for the Initiative for Future Agriculture and Food Systems. This will augment our federal commitment to undertake cutting-edge research in priority areas such as genome studies, biotechnology, food safety, precision agriculture and new use development.

I cite as an example, the University of Missouri has just tested a new hybrid corn which when fed to swine reduces phosphorous in manure by a whopping 37 percent. The Monsanto Company, in my State, is using biotechnology to produce cotton plants with genes that produce colors to reduce the need for chemical dyeing. From the corn plant, they have produced a human-like antibody that holds promise for allowing cancer patients to tolerate more frequent doses of a tumor-shrinking drug. The possibilities are breathtaking and the U.S. is leading the charge.

Let me say one thing to those who represent agriculture states. Almost 70 percent of the USDA budget is not for research or export promotion or conservation or for subsidies to farmers—it is for food and nutrition programs, primarily the food stamp program. For those who have watched over the years as a greater and greater percentage of USDA funds have gone to welfare, often at the expense of programs that assist farmers and conservation, this legislation moves $1 billion back to agriculture.

While I understand that some here today would like to see less money for food stamps for legal immigrants, others would like to see more. I recall that the Administration proposed in their budget that all this administrative savings go for legal immigrants and have threatened to veto crop insurance and research if it didn't also include funding for food stamps for legal immigrants.

The food stamp provisions of this act are an essential step to providing much needed assistance to certain legal immigrants. Attempts to undo this carefully-crafted bipartisan compromise will result in delay and ultimately undermine the entire bill.

The bipartisan leaders have worked hard to craft a bill that the President will accept. There should be no further delay and I urge my colleagues to reject the motion to recommit and move swiftly to final adoption of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I don't have any time, but I ask if somebody will give me a couple minutes.

The PRESIDING OFFICER. Who yields time to the Senator from New Mexico?

Mr. GRAMM. How much time do we have on both sides?

The PRESIDING OFFICER. The Senator from Texas has 6 minutes, 47 seconds; the Senator from Indiana has 4 minutes, 43 seconds.

Mr. DOMENICI. Do we have a time certain to vote, or when the time expires?

The PRESIDING OFFICER. The vote will occur when all debate time has expired.

Mr. GRAMM. I ask unanimous consent that the Senator might have 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, and I won't object, but I hope if we are going to go down this path that the other side be afforded equal opportunity to have additional time, if so requested. I don't request it, but in case somebody does request it.

Mr. DOMENICI. Mr. President, I say to the Senator from Indiana, what does he think about this? Does he want 5 minutes himself if I get 5?

Mr. LUGAR. Yes, Mr. President. Can we amend the request that there be an additional 5 minutes for me to speak?

Mr. GRAMM. Mr. President, the Senator is not going to speak on behalf of my amendment; he just wants to speak on the bill itself.

Mr. DOMENICI. Will the Senator give me 2 minutes, and that will be enough.

Mr. GRAMM. Let me repeat my request. Since the Senator is not going to engage in the debate before us, but has relevant comments about the bill before us, and we hope, obviously another motion, infinite number of motions are in order, but we hope this will settle the order, I make a unanimous consent request that the Senator have 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object, I renew my request that Senator DOMENICI have 5 additional minutes and I have 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I would like 5 additional minutes, then, as well.

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection is heard. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. 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. GRAMM. Mr. President, I yield the Senator from Alabama 3 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. SESSIONS. Mr. President, I am very, very reluctant to rise in opposition to this conference report as it is presently constituted, and in support of the motion to return this legislation to the conference committee. I believe, however, that returning this legislation to the conference committee is the proper and appropriate thing to do. Having said that, I feel that there are some marvelous provisions contained within this bill. For example, agricultural research is very important, and this legislation will strengthen and improve the work being done to advance this field. Similarly, crop insurance will be made sound under this legislation. Both are matters of critical importance to me.

I do not believe that sending the legislation back to the conference committee to fix this bill's entitlement expansion in the Food Stamp Program will kill this bill or extraordinarily delay it or in any way jeopardize the fundamental reforms that are contained in it. Sending the bill back to conference simply reflects routine business practices in this Senate.

Under this legislation's expansion of the food stamp entitlement, 250,000 new people will be added to the food stamp rolls. In my last campaign, I talked about the fact that the President had committed to undermining the welfare reform bill that was passed several

years ago. These provisions have proven that statement to be true. This bill expands from 5 to 7 years the amount of time noncitizens can draw food stamps. It is an expansion of that policy, and it is the kind of expansion I think is not justified. Will we next year come back for 10 years? Will it be 15 years? What will be the next revision?

There will always be pressure for us to expand and expand and expand. I think we have to show some integrity and some fortitude on this issue. And so, with great reluctance, I have to say to the distinguished chairman of the committee and the members of that committee that I cannot vote for this bill. I cannot vote for it because I told the people of Alabama I was not coming up here and voting for the undermining of the welfare bill that was passed last time. I cannot justify this expansion of the Food Stamp Program. So if we cannot send it back, I will be forced to vote no. I will hate to have to do that. I think supporting this motion to recommit the bill is the best way to address this issue.

I thank the Senator from Texas for his leadership and courage in raising this important issue, because we have to get to a point in this country where we can contain our spending tendencies, and if we do not, we will never maintain a balanced budget.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield 2 minutes to the ranking member.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. HARKIN. I thank my colleague and compliment him on his leadership on this bill and all aspects of the bill, on research on crop insurance and food stamps.

I listened with some amusement to my friend and colleague from Texas talking about this issue, saying that it is principle, that he is doing this on principle. I know we passed the Balanced Budget Act last year in the Senate. That extended from 5 to 7 years Medicaid and SSI to the same refugees and asylees we are talking about. I do not recall the Senator from Texas then offering an amendment to strike it out of the Balanced Budget Act.

Mr. GRAMM. I voted no, I would like the Senator to be aware of that.

Mr. HARKIN. I believe the RECORD will show the Senator from Texas voted when the Balanced Budget Act passed the Senate.

Mr. GRAMM. I did. And I voted no.

Mr. HARKIN. I believe the Senator voted aye when the Balanced Budget Act passed the Senate—maybe not on the conference report but when it passed the Senate. And that provision was in the Senate bill to extend it to 7 years.

Secondly, the Senator from Texas may be philosophically opposed to food stamps. That is fine. That is his position—that may be his position. That is another debate for another time. We settled that in welfare reform, and we settled it in the Balanced Budget Act last year.

All we are doing now is making food stamps compatible with Medicaid and SSI. So I hope the Senator would not hold our farmers hostage, because that is what is happening. We know full well, if this goes back to conference, it is dead. We have hundreds of thousands of farmers who need crop insurance this summer. Over 106,000 winter wheat policies right now will be up on September 30. Farmers all over the plains States will not be able to renew their policies. Many farmers use their crop insurance policies as collateral in order to secure an operating loan. So if we do not have that, thousands of farmers will not have access to the credit they need to get the crop in. That is why we need to pass this bill.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Indiana has 2 minutes 40 seconds.

Mr. LUGAR. I yield myself that time.

Mr. President, let me make as clear as I can the parliamentary situation. We have tried, in the Ag Committee since last fall, to pass a sound research bill. We succeeded last fall. The House did not act finally until the end of the session and did not appoint conferees until a short time ago.

It has been a very difficult conference—not the first time such a thing has occurred. Conferences in the Congress have occurred frequently. Compromises are made.

Mr. President, to suggest glibly that we can go back to conference if the motion made by the Senator from Texas passes, simply excise what he wishes, and return to the Senate with a bill, is inaccurate. I have tested the conferees, and they will not change. The Senator from Texas may not change. Furthermore, if changes are made, the Secretary of Agriculture has written to the committee that he will recommend the President veto the bill. Now we can all estimate, Is the President bluffing? Is the Secretary accurate? Will somebody weaken on the House side—maybe many people—and suddenly see the light? Conceivably, Mr. President. And I pledge I will try. Patiently, for 6 months, I have tried, and if need be, I will continue to do that.

My prediction is, there will be a considerable delay with regard to crop insurance, probably a year or 2 delay in terms of research, and in due course I have no idea what will happen on the food stamp issue.

But, Mr. President, let me simply say, we have a remarkable possibility for achievement here today that I hope will not be defeated on a very narrow point. I understand the objections of our colleagues, but I understand an overwhelming majority, 74 Senators, expressed themselves in writing that this is their will. I hope we will have an opportunity to manifest it in passage of the report.

I yield back our remaining time.

The PRESIDING OFFICER. The Senator from Texas has 3 minutes 23 seconds remaining.

Mr. GRAMM. Mr. President, I yield 2 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. I thank Senator GRAMM.

I did not really think my few words would be this controversial, but I want to share with the Senate a concern. It is not just about this bill. But it seems to me that every day or so we are talking about an approach here in the U.S. Senate which essentially wipes out last year's budget agreement. The cornerstone to last year's budget agreement was the caps we placed on discretionary spending, both defense and domestic. That means, written in the law are numbers that we said we will not violate; that we will not exceed this level of spending.

Everybody who is getting anything from Government would like to turn those discretionary programs into mandatory programs, so they are not subject to the caps. Everybody would like to have a guarantee that their program is going to get funded. That is what we call an entitlement or a mandatory program. We are talking about that in this bill. We are talking about that in the tobacco bill in a very big way.

What is happening now is that we are absolutely breaking the agreement we made, which was so solemn, about getting our budget under control. Every time the budget bites and it squeals a little because a decision is tough, we find a way to avoid it and spend the money in another way. It is money nonetheless, and it is adding to the size of Government nonetheless.

Frankly, I do not agree with Senator GRAMM's position on this bill in terms of the food stamps provisions. But I, frankly, do not believe we ought to shut our eyes to a tendency that could become a very big stream. We are forgetting about appropriated accounts and caps, understandings and agreements, and finding brand new ways to fund programs that will be on automatic pilot.

I submit to you, from the taxpayers' standpoint, there is absolutely no difference. If you are using a dollar of taxpayers' money to break the caps that

we agreed upon or if you are spending a dollar for a new entitlement program, it is the same effect.

I hate to make this statement on this bill because I am not necessarily saying the bill should go down to defeat. But I want to warn the Senate—and I am going to warn the Senate on every bill that circumvents the caps—that this is not the way we got to balance. This is not what we promised the American people and the marketplace in terms of where we were going as a Congress, and I plan to call that to everyone's attention on a regular basis.

I yield the floor and thank the Senator for time.

Mr. GRAMM. How much time do I have?

The PRESIDING OFFICER. There is 1 minute remaining.

Mr. GRAMM. Mr. President, I think Senator LUGAR put his finger on the situation when he said that the President would veto the agriculture research bill and crop insurance if the bill didn't contain $818 million worth of new food stamps adding 250,000 people to the food stamp rolls. I believe that is piracy. I do not believe the President would veto this bill. Further, I am confident that we would override his veto, and I think it is imperative that we start standing up and defending the major actions we take, and welfare is one of those actions.

This bill is going to effectively raise the level of spending in the Federal Government by $1.86 billion, because we are going to pay for four entitlement programs in this bill, and we are going to free up $1.86 billion to be spent on discretionary spending. I intend to oppose the bill. I hope my colleagues will vote for this motion.

I yield the floor.

The PRESIDING OFFICER. All time having expired, the question occurs on the motion to recommit the conference report to the committee on conference with instructions offered by the Senator from Texas, Mr. GRAMM.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 23, nays 77, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—23

Abraham	Hollings	Sessions
Allard	Hutchinson	Shelby
Ashcroft	Hutchison	Smith (NH)
Enzi	Inhofe	Snowe
Faircloth	Kyl	Thomas
Gramm	Lott	Thompson
Gregg	McCain	Thurmond
Helms	Nickles	

NAYS—77

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

The motion was rejected.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I have requests from other Senators wanting to speak on other subjects. I would ask the Chair, is it possible we could move to disposition of the business before us?

The PRESIDING OFFICER. Is there further debate on the conference report?

Is there further debate on the conference report?

Mr. KOHL. Yes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I rise today in strong support of the Agriculture Research conference report. A great deal of thanks and appreciation is due to Senators LUGAR and HARKIN for their hard work and efforts to reform and prioritize USDA's agriculture research, extension and education activities.

This conference report is extremely important to the agricultural community. It invests $1.7 billion in agricultural research to develop the new technology that will be used by farms in the next five to ten years, to solve the projected shortfall in crop insurance funding, and to support the Fund for Rural America.

The nation's Land-Grant Universities work with the USDA on issues ranging from the international competitiveness of our family farms, to new food borne illness problems, to ground water contamination. We need to support their efforts with a robust research budget in line with other agencies' research budgets. This bill puts us on the track to do that, and I support it.

I am also pleased to speak in strong support of the provisions of this bill restoring food stamps to legal immigrants.

Mr. President, I supported the 1996 welfare reform law. The time had clearly come for radical change. We rightly concluded that nothing erodes the human spirit more readily than dependence on handouts, and we instituted reforms based upon the principles of personal responsibility and hard work.

But in some cases, a helping hand is truly necessary, and sometimes so much help is needed that only the Federal government is capable of providing it. This is clearly the case with respect to certain classes of legal immigrants. The welfare law provisions restricting legal immigrant access to food stamps went too far.

Legal immigrants pay taxes and serve in our armed forces. They are not granted all the privileges of U.S. citizenship, but are expected to fulfill most of the responsibilities of citizenship. The ban on food stamps for elderly, disabled and other needy legal immigrants from food stamps was harsh and unfair.

While myself and others argued that point during debate on the welfare bill in 1996, the majority of us have learned it since then. In any case, we should all feel confident that we are doing the right thing today by voting for this bill.

Mr. President, my support for the food stamps restoration is particularly heart-felt due to my concern for the Hmong and other legal immigrants from Laos and their families. As my colleagues may know, the Hmong fought along side our American men and women in the Vietnam War. They risked their lives on behalf of all that we hold dear in this country—freedom from oppression, democracy and the pursuit of happiness—and fled to the United States following the War out of fear of persecution. To them, we truly owe a debt of gratitude.

There are 250,000 Hmong and Lao people living in the United States, approximately 40,000 of whom live in Wisconsin. Of those 40,000, roughly 7000 lost eligibility for food stamps under the welfare law. And 75 percent of those individuals who have lost food stamps in Wisconsin live in households with children.

The Hmong and highland people have enriched our country and enriched Wisconsin. They have worked hard to support their families and give back to their communities. Simply put, we are thankful for all they did and thankful for the contributions they continue to make.

Last year, we took steps to restore SSI benefits to the Hmong and other worthy immigrants, and today we are right to take this step with respect to food stamps.

I urge my colleagues to support the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report?

The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise today to discuss the importance of passing the Conference Report on the Agricultural Research Bill, S. 1150.

This bill has the overwhelming support of over 70 Senators, yet we have continued to struggle here in the Senate to get this critically important legislation passed.

In recent years, American agriculture has greatly changed. Because of the 1996 Farm Bill, our producers rely greatly on the crop insurance program to protect them from production risk. The reforms in agricultural research programs included in S. 1150 provide a roadmap for the future of agriculture. As importantly, it includes a funding stream to fund important new investments in agricultural research and rural development by creating and funding The Initiative for Future Agriculture and Food Systems and by extending the Fund for Rural America.

And yes, to the chagrin of some, this legislation reinstates food stamp benefits for our most vulnerable legal immigrants. I would hasten to point out that these provisions are modeled on sections of last year's Balanced Budget Act that restored eligibility for Supplemental Security Income and Medicaid to some legal immigrants.

I applaud the Chairman of the Senate Agriculture Committee and Senator HARKIN for their leadership in crafting the balanced compromise inherent in this legislation. Attempts to derail this compromise put at risk the important investments in agriculture and the sound research and crop insurance reforms included in the bill.

Living in a state like South Dakota, I know first hand, and as most of you saw during last year's disaster, what continual flooding can do to our precious farm land. Again, this year, eight counties in northeastern South Dakota are again experiencing severe flooding conditions.

Without a strong safety net, crop insurance remains as the only safety net for producers to protect them from the vagaries of nature. This bill provides nearly $500 million for partial funding for this important risk management tool.

I have been informed by several crop insurance agents in South Dakota that the Agricultural Research Bill must be passed soon or many producers face the possible cancellation of their policies. Keep in mind, these policies, are in many cases, the only protection producers have from disasters which are not of their acts of mismanagement but as acts of nature.

The bill covers all facets of federally funded agricultural research, including: the Agriculture Research Service of USDA; the Cooperative Extension Service; Land Grant Universities such as South Dakota State University and competitive research and extension programs open to other entities.

S. 1150 includes comprehensive research provisions for our nation's land grant universities. For example, South Dakota State University (SDSU) and other small state schools are protected in this bill by allowing a great deal of flexibility in how SDSU will meet new requirements that direct a percentage of all research and extension funds toward multi-state, disciplinary, and integrated research and extension activities. For example, if SDSU is working on a project that may need expertise from the University of South Dakota, they will be able to include that toward meeting the multi-state research component.

I am also pleased that the conferees have agreed to authorize a competitive research program for tribal colleges, otherwise known as the 1994 institutions.

Unlike the significant research programs that have existed for decades for 1862 and 1890 land-grant institutions, the 1994 institutions currently do not have authorization for an agriculture research program, and thus are not full partners in the land-grant system.

This legislation mitigates this inequity by establishing a modest, competitive research program for the 1994 institutions. Funded research would address high priority concerns of local tribal, national, and multi-state significance and would be conducted through cooperative agreement with 1862 and 1890 land-grant institutions.

Although it is true that some tribal colleges are not yet ready to conduct research, many of them have the capability. Some current research includes:

(1) Water quality research: Conducted through contracts with Indian Tribes, which are required to meet certain standards under the federal Clean Water Act.

(2) Wildlife research: Conducted by a handful of tribal colleges to evaluate and find solutions for the adverse impact of pesticides on local wild bird and deer populations, and to research problems associated with amphibians and irrigation project lines.

(3) Native plant research: Conducted because new development on and near tribal lands is taking a serious toll on wetland areas. This impacts the niche environment of native plants, which are traditionally used for medicinal and other purposes. This is an example of the kind of research that most larger institutions would not focus on because it will not lead to large-scale production agriculture. Without the research currently being conducted at Salish Kootenai College in Pablo, Montana, the nation risks losing some of our native plants.

(4) Range cattle research: Currently underway at several tribal colleges, to address problems of range cattle traversing streams and impacting water quality (and possibly impacting native trout and other fish populations). In addition, one tribal college is conducting research and development on a new strain of more rigorous cattle.

This is just a sampling of the kind of research currently ongoing at the tribal colleges. The primary focus of this research is on the use of niche products to develop and expand reservation economies; the preservation and cultivation of land; and the strengthening of families and communities.

The tribal colleges have not asked for millions and millions of dollars to conduct costly basic research. Rather, they ask for research authority to protect and improve the earth on which they live and to ensure the viability of the plants and animals with which they co-exist.

Another provision of this legislation addresses an inequity in the 1994 land-grant extension program. Under the reauthorization, 1994 institutions would be permitted to enter into cooperative agreements with any 1862 or 1890 institution in the United States, rather than being limited to agreements with only the 1862 in their state.

This provision is important to the effort to create productive, cost-efficient extension programs in Indian Country. Under current law, to participate in extension programs, 1994 institutions are required to enter into cooperative agreements with the 1862 institution in their state, and funding for the program goes to the 1862 institutions rather than the 1994 institutions.

In the case of Sitting Bull College, which straddles the border of North and South Dakota, and Din College, which has campuses in Arizona and New Mexico, this restrictive language could seriously hamper efforts to create the most productive extension program possible for the relevant service area.

This clarification simply makes good business sense. Why should a 1994 or an 1862 institution be prohibited, for fiscal or bureaucratic reasons, from partnering with an institution that has the expertise and resources that are most beneficial to the students and communities the institution serves?

To correct this problem, the legislation states that 1994 institutions may enter into cooperative agreements with any 1862 or 1890 institution in the United States, rather than being limited to an agreement with only the 1862 in their state. Further, the bill directs the Secretary of Agriculture to fund the 1994 institutions directly, rather than passing the funding through mainstream institutions.

Again, Mr. President, passage of the Agricultural Research Bill is crucial to the future of American agriculture. Our Nation's farmers and ranchers work hard each and every day. Not

only do they produce an abundant supply of food, they produce it at the most inexpensive price to consumers in the entire world.

With the support of over 70 Senators, this bill has enough support to pass with wide-ranging support. This bill enjoys the support of constituencies—both urban and rural, both—nutritional advocates and crop insurers. It would be a great travesty to allow this bill to fall victim to the philosophical ideologies of a very few.

If we do not act on this immediately, it will show our lack of leadership to help some of our most valuable as well as our most vulnerable members of our society.

I urge my colleagues to pass this bill.

Mr. LEAHY. Mr. President, I appreciate the efforts of the chairman of the Agriculture, Nutrition and Forestry Committee, Senator LUGAR and the Ranking Member, Senator HARKIN, on the research conference report.

I want to highlight that over 70 Senators—including myself—signed a letter to the majority leader urging him to give us an opportunity to vote on this conference report as soon as possible.

The conference agreements we worked out represent a very good package with four major components: crop insurance funding, agricultural research funding, rural development initiatives and food stamp assistance for legal immigrants.

I know that farmers who need crop insurance are very worried—and with good reason—that crop insurance policies will be canceled if this report does not pass.

I know that the agricultural research community, with its Land Grant University system, very strongly supports this research funding so that America can be more competitive in world markets.

In addition to benefiting farmers and the agricultural research community, the report benefits all rural residents thorough its rural development programs.

Sometimes it is forgotten that most rural Americans are not farmers—this effort benefits both farmers and other rural Americans.

I also want to speak briefly on the food stamp changes. The food stamp changes simply restore benefits for certain level immigrants. The changes are modeled on last year's Balanced Budget Act that restored eligibility for SSI and Medicaid to some legal immigrants.

For example, the conference report would apply the provisions in the Balance Budget Act—that extended benefits from 5 years, to 7 years, for refugees and asylum seekers for SSI and Medicaid—to the food stamp program.

The 1996 welfare law made an exception for these types of refugees because they typically come to this country with very little after escaping persecution abroad. They often have no sponsors.

In the past many of them fought along with U.S. troops against our common enemies. Some may have escaped from enemy prisoner of war camps.

That 5-year limit proved unrealistic because of long backlogs at the INS. In a number of INS offices, these backlogs exceeded two years. If the eligibility of these refugees ended after five years in the country, they could be left without recourse while their applications to naturalize were in the INS "pipeline."

The extension of eligibility for SSI and Medicaid to allow them to receive benefits during their first seven years in this country was not controversial last year: it was included in all major Republican and Democratic proposals for legal immigrants.

It should not be controversial this year.

It should be noted that this provision does not assure that these refugees will receive benefits for two more years—they still have to be otherwise eligible for food stamps.

Refugees and asylum seekers still would have to meet the same criteria that all other people have to meet to qualify for benefits.

By conforming food stamp rules to those already adopted for Medicaid last summer, the Agricultural Research Conference Report would avoid imposing multiple inconsistent eligibility rules on state and local agencies that administer both programs.

I urge my colleagues to support Senator LUGAR and Senator HARKIN in their efforts to get the agricultural research conference report passed as quickly as possible. America's rural areas, its farmers and the research community are eagerly awaiting passage of this report.

Mr. HAGEL. Mr. President, I rise today in support of the Conference Agreement on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998. This measure will solidify the financial foundation for crop insurance and agriculture research well into the next century. Agriculture research and crop insurance are vital to America's farming and ranching livelihood.

Research, crop insurance, regulatory relief, and expanded markets play a vital role in moving federal farm policy away from government intrusion and toward a free market through the Federal Agriculture Improvement and Reform Act of 1996. Farmers and ranchers now have greater flexibility in their crop and livestock production efforts. Crop insurance and research efforts are both tools that will help farm producers become more competitive as they move toward a greater reliance on the free market and less upon the federal treasury.

No country in the world can match America's efficiency in agricultural production. Not only is this a result of American ingenuity and hard work, it's also the result of our investment in cutting edge research. Our research efforts have led to more efficient production, better products, new uses for our products—all of which have led to new markets where we can sell our products. S. 1150 provides 600 million dollars for the Initiative for Future Agriculture and Food Systems.

The global demand for our agricultural goods will continue to grow as the world's population increases and as more nations achieve higher standards of living, resulting in a demand for better diets. Research allows American agriculture to meet the world's demand for food and fiber. Under S. 1150, research dollars will go toward new and alternative uses of agricultural commodities and products, agricultural biotechnology, agricultural genome research, natural resource management, precision agriculture, food safety, and food technology and human nutrition. These dollars will help our agriculture research facilities, such as the University of Nebraska, to continue to lead the world in crop and livestock production sciences.

Expanded markets and increased trade are a clear byproduct of agricultural research. Research will lead American agriculture into the next century and keep American farmers and ranchers at the forefront of global food and fiber production. Research, global food production, global trade and farming profits are all connected.

Crop insurance is also vital to the long-term health of American agriculture. Farming and ranching involves risk. That's a fact of life in American agriculture. Crop insurance provides a very important management tool for our agricultural producers to withstand fluctuations in the market and changes in weather and production conditions.

For example, in recent years, severe weather conditions have forced some Nebraska farmers to face the loss of their crops and livestock. Protecting farmers and the agri-businesses that depend on them from suffering major losses is what crop insurance alternatives do for America's producers. Comprehensive crop insurance plans will minimize losses for many agricultural producers so that the economic damage from diminished crop yields is not overwhelming for our rural towns and communities. This conference report provides 500 million dollars to partially fund crop insurance delivery expenses.

Research and crop insurance are interconnected with agricultural production and basic farm and ranch income. Research keeps American agriculture on the leading edge of production technology. Crop insurance minimizes the many risks involved with

producing food and fiber for the world's growing population.

I strongly support S. 1150 and urge my colleagues to support its adoption.

Mr. KERREY. Mr. President, I rise today to voice my support for the Agriculture Research Reauthorization bill.

This bill reaffirms our commitment to American agriculture in a number of ways. It reauthorizes existing research programs at our land grant universities and goes one step further in creating a new, competitive research initiative to study some of the most cutting edge agricultural issues of the day: food safety, agricultural biotechnology, precision agriculture and the competitiveness of small and medium sized farms.

As well, it maintains our commitment to the federal crop insurance program, perhaps the most successful public-private partnership our government has to boast of.

And just as importantly, it restores our commitment to legal immigrants who are elderly, disabled, or children. Restoring food stamp benefits to these groups of people is simply the right thing to do.

But while I commend the conferees for their work in satisfying many parties with their work on this bill, I rise to say it does not go far enough.

We have perhaps no more important research need than that of agricultural research. It represents 2% of the total federal research budget. Yet, between today and thirty years from now, we are going to add 5 billion people to the planet. And all those people are going to need to be fed. And they are likely to be fed on less acres, not more.

The caloric requirement to feed those additional 5 billion people will be more than the caloric consumption for the past 10,000 years. It is a huge increase in consumption requirements. And our research is the key to solving that problem. There is a tremendous amount at stake here for those who worry about peace and prosperity.

We take this agricultural research for granted. Indeed, we take all of agriculture too much for granted. But agricultural research has added so much value to our productive capacities, as well as to the quality of our lives, that it is ridiculous to be struggling to pay for it as we are right now.

At the same time, we are going to double the funding for the National Institute of Health, and double the funding for the National Science Foundation. I support both of those things. But it won't do us any good at all to live longer through NIH investments if we short agricultural research and we aren't able to feed ourselves. And that's precisely what will happen if we don't come up with some satisfactory way to guarantee a long-term funding of ag research at higher levels than we have provided in the past.

Mr. SMITH of Oregon. Mr. President, I rise today to speak in support of the Agricultural Research, Extension, and Education Reform Act of 1998. The conference report before us reauthorizes various agriculture research programs at land-grant colleges and universities through 2002. In addition, it provides for $600 million over five years for a new competitive grants program for research in key areas such as agricultural genome, food safety, nutrition, new and alternative uses of agricultural commodities and products, biotechnology, natural resource management, and farm efficiency. This bill also contains important provisions which authorize funding for crop insurance, rural development, and to restore food stamps to certain legal immigrants.

The critics of S. 1150 most often question the costs of the various provisions included in the conference report. However, it is important to note that our investment in agricultural research provides a tremendous return to our economy, generating economic growth and tax revenue through increased agricultural productivity. This return is estimated to be between 35% and 50% nationwide—and even greater in Oregon. Additionally, in terms of constant dollars, federal spending on agriculture research has declined over the last ten years while other non-defense research spending in such areas as health, space exploration, and the environment has increased. As an added assurance that these funds will be spent in the most efficient way possible, the conference report contains provisions which increase the accountability of these research projects, making them subject to competition, requiring more stakeholder input, peer and merit review, and greater collaboration amongst the research institutions involved. Further, the benefits of other important provisions contained in this bill, such as funding for crop insurance, rural development, and restoration of food stamps to certain legal immigrants, far outweigh the arguments against this legislation. I am especially pleased with the food stamp provision which allows the resources of private charitable groups, such as the Oregon Food Bank, to reach a wider spectrum of our communities. What better way to use these funds than to enhance our food production, feed our nation's hungry, and protect America's farmland?

Currently, some of the most important work in the area of agriculture research is being done in my state, where more than 140,000 jobs are tied to farm production, In just one example, research at Oregon State University facilities on wheat strains and diseases has resulted in an estimated $8 million in increased wheat productivity per year. Results of their studies are shared with other states like Idaho, Montana, Utah, Kansas, and Colorado, presented at national and international symposiums, published in scientific journals, and communicated through industry newsletters. Again, this is just one of the many valuable research projects undertaken in my state by OSU through this partnership of federal and state funds.

Agriculture in my state is diverse—reflecting the varied geography, soil, and climate types of Oregon's beautiful mountains, valleys, coastline, deserts, and forests. There really is no such thing as an average farmer in my state. He or she may be a large scale wheat grower, a small orchardist, a producer of high quality nursery plants, or a family farmer maintaining cranberry bogs. Despite the varied backgrounds of Oregon's farmers, all of them, and I think this would apply to farmers across the country as well, are working hard to maintain America's leadership in agricultural production despite unrelenting pressure from all sides—pressure to continue to produce the world's safest food supply while competing with imports that may be heavily subsidized, produced with pesticides illegal in the U.S., or even, as was widely reported in the media just yesterday, not even meeting our food safety standards.

For the small family farmer, who still exists in my state, this pressure is compounded by the struggle to maintain the way of life which fed our grandparents and their parents before them. Every day they defend their farm, perhaps part of their family for generations, from encroaching development, inheritance taxes, and complicated and ever increasing governmental regulations. Breakthroughs brought about as a direct result of the research dollars we will be voting on today may mean that family farmers in Southern Oregon may be able to squeeze enough productivity out of their land to hold onto their farms for a few more seasons. Or it may mean that a grass seed farmer in the Willamette Valley can export more grass straw to Japan due to a quality assurance program. Or it may mean a farmer in the Columbia Basin can use fewer pesticides on pea plants due to new, more pest resistant strains or new growing techniques. For them, the components of this bill represent the American research and technological know-how that has kept them ahead of the curve—and hopefully, with your support today, will continue to do so into the future.

Let's give our farmers the tools they need to continue to produce a safe and bountiful food supply for our families. The conference report before us reaffirms the traditionally strong Congressional support for American agricultural leadership. This legislation enjoys overwhelming bipartisan support and I urge my colleagues to join me in casting a vote in favor of S. 1150.

Mr. KENNEDY. Mr. President, at long last, we are about to pass the Agricultural Research, Extension and

Education Reform Act conference report. I support all its provisions, but I want to speak briefly about one of the most important—the restoration of food stamps for legal immigrants whose benefits were unfairly eliminated by the harsh 1996 welfare law. Although the amount in this conference report is less than half of the $2 billion proposed in the President's budget, it is at least a down-payment toward restoring food stamps to the nation's neediest legal immigrants.

The food stamp program was cut by $25 billion over 5 years in the 1996 law. That reduction was clearly unfair. According to the Department of Agriculture, at least 935,000 low-income legal immigrants lost their federal food stamps as a result of the 1996 welfare law. Nearly two-thirds are families with children. Two years later, we are finally remedying a significant part of this injustice.

This bill restores food stamps only to the most needy legal immigrants—refugees, the disabled, and some poor children. It helps only 250,000 out of the 935,000 immigrants cut off from the food stamp rolls. No one should think our work is done with the passage of this bill.

The effect of the food stamp terminations is not limited to immigrants. Their children born here are American citizens, but they too are facing sharp reductions in their food stamps. These children remain eligible for food stamps themselves, but the removal of their parents from the program means that, as a practical matter, the food stamp benefits for their families have been cut by 50 to 70 percent in many cases. 600,000 poor children who are American citizens live in families where food stamp benefits have been unfairly lost. These children will not be helped by this bill.

Many elderly immigrants will also receive no assistance from this bill. We cannot forget about their plight. We can and must do more in the future. It is unconscionable that their benefits continue to be denied.

So I regard this legislation as an important step, but only a first step.

Mr. SPECTER. Mr. President, I am pleased to support the Agricultural Research, Extension, and Education Reform Act of 1998. This legislation provides funding for the federal crop insurance program, important agricultural research programs and the restoration of food stamp benefits to approximately 250,000 legal immigrants.

I have long been a strong supporter of federal nutrition programs that help to combat hunger. On November 24, 1997, Senator HARKIN and I sent a letter to Secretary of Agriculture Dan Glickman and Director of the Office of Management and Budget Franklin Raines, which was signed by forty-five of our Senate colleagues. Our letter urged the Administration to provide funding for food stamp benefits for some of the most vulnerable members of our society: legal immigrants who are children, elderly, or disabled.

As the Agricultural Research bill was sent to conference, I joined with four of my colleagues in a March 23, 1998 letter urging the conferees to provide relief to poor legal immigrants and refugees who previously were eligible but had lost federal food stamps under the 1996 welfare law. I am pleased that the final conference report restores these benefits. I also joined seventy of my colleagues in an April 24, 1998 letter urging that the conference report be brought to the floor for a vote as soon as possible.

Besides providing food stamp benefits to vulnerable legal immigrants, this bill also provides critical funding for the federal crop insurance program, which will allow affordable crop insurance to be offered to our nation's farmers. Agriculture is Pennsylvania's number one industry, and it is vital that we provide insurance to our farmers who work so hard to provide our country and the world with a stable food supply. The legislation will also provide $600 million over the next five years in funding for agricultural research programs, which are critical to our country's efforts to produce enough food for an ever-increasing world population.

The Agricultural Research, Extension, and Education Reform Act is an important piece of legislation, for legal immigrants, our nation's agricultural community, and the nation as a whole. I am therefore pleased to support this legislation.

Mr. BAUCUS. Mr. President, I rise today to join my colleagues in support of the Agricultural Research, Extension, and Education Reform Act of 1998. At long last, this important piece of legislation is before the Senate for consideration and passage of the Conference Report.

This Act is the result of more than a year of hard work and can boast broad bipartisan support. By providing $1.7 billion in agricultural research and extension activities at institutions of higher learning across the nation, this Act commits the U.S. government to supporting a strong future for agriculture in Montana and across the nation.

I would like to recognize four areas that affect Montana:

The Montana State University Agriculture Extension Service. We have one of the finest examples of an ag extension service in the country, centered at Montana State University in Bozeman, Montana. The College of Agriculture, led by Dean Tom McCoy, has produced numerous innovative projects worthy of recognition. Research at Montana State University has led to more pest-resistant, higher yielding varieties of barley and wheat. MSU scientists have improved the value of barley as a feedstock for cattle. And they are using the remarkable power of biotechnology to develop the answers to the ag challenges of the next century. The agriculture research bill provides the funding necessary for our scientists to carry out, continue and build upon their mission to serve our agriculture industry.

This bill will also continue funding for the good work demonstrated by our county extension agents. Their efforts on behalf of Montana's agricultural industry go above and beyond to provide resources that help our producers meet their bottom line, improve their yield, and enhance their competitiveness in the world marketplace.

Crop Insurance. Today, while we debate the passage of this bill, several counties in Montana are under severe drought and fire alert. Farmers have waited helplessly for rain while their crops wither and die. This is surely a make it or break it year due to low prices, a dry winter, and unfair grain dumping from our foreign competitors. The mere threat of crop insurers canceling policies is an obstacle that many producers simply cannot overcome. For that reason, I am pleased that this Act contains provisions to strengthen crop insurance—just when our producers need it most. Clearly, we must take the final step and pass this conference report.

Food Animal Residue Avoidance Database. I would like to thank Chairman LUGAR for including my bill, the Food Animal Residue Avoidance Database, more commonly known as FARAD, in this Act. I am pleased that the Conference report authorizes the Secretary of Agriculture to make three-year grants to colleges and universities to operate the FARAD program. FARAD is critical in our food-safety regime. Its database provides invaluable information about dangerous residues that affect our food supply. The FARAD program successfully links producers, veterinarians and the general public to an informational resource network that enables us to produce the safest food in the world.

Agricultural Research Service. I am most proud of the work conducted at the Agricultural Research Service stations in Sidney, Montana and Fort Keogh at Miles City. I strongly believe that their efforts are of tremendous importance to our food industry as well as our agricultural trade. The future of agriculture is in their very capable hands. They enjoy strong support from the agricultural community because they are a part of that community. Whenever I am in these towns, I stop by and visit these facilities because the people that work there, and the community that supports them, are very proud of the great work that they do for our ag industry. This bill will continue the critical work at these locations.

I would also like to recognize that this bill supports many other worthy projects, including the National Food Genome Strategy, an assistive technology program for farmers with disabilities, the important Fund for Rural America, Precision Agricultural research, and research of wheat and barley diseases caused by scab.

This Act is worthy of our immediate action. I urge my colleagues to pass the Agricultural Research, Extension, and Education Reform Act of 1998 and recommend that President Clinton sign it without hesitation.

Ms. SNOWE. Mr. President, I rise today in support of the Agricultural Research Conference Report. The bill, S. 1150 reauthorizes our agricultural research programs and provides $600 million in funding on a competitive grant basis for new and alternative uses of agricultural commodities and products, natural resources management, farm efficiency and profitability, agriculture biotechnology, and food safety, technology and nutrition.

This is good news for our scientists and the agriculture community in Maine. They know their chances of receiving more competitive research funding are excellent because they know they can compete head to head with agriculture researchers from all around the country. This bill gives them that opportunity.

As the Chairman of the Committee is aware, I do have some concerns with provisions in this conference report that were not part of either the House or Senate passed bills. In addition to the food stamp provisions, which have been widely discussed on the floor today, I am concerned with addition of the research title of the Northern Forest Stewardship Act that was included in conference. I voted to recommit the report to the conference committee in hopes that these two provisions, which are unrelated to the important agricultural research, would be removed from the report. Since the vote to recommit failed, I will vote for the report, and will continue to work with Chairman LUGAR to address my concerns.

I have been working with the Chairman and Subcommittee Chairman SANTORUM to obtain a field hearing in Maine on the Northern Forest Stewardship Act (NFSA) before any action was taken by the full Senate. I requested this hearing because many people in Maine are both interested and concerned with the potential impact of this bill on the economies of their rural communities.

I was dismayed, therefore, when I learned that the research title from the NFSA bill was included in the Agriculture Research conference report. Also the language inserted in the report does not include the provision which requires that a governor's request is required before federal assistance can be made available to the state. This language is fundamental because it involves an elected state official in the process, ensuring that the state controls its land use decisions. I will be working to restore the role of the states in making the request for federal assistance, and I thank the Chairman of the Agriculture Committee for his offer of assistance in this matter.

Historically, our state has been defined by our agriculture—from the natural resources of its extensive forests, to the potatoes crops of Aroostook County and to the Wild blueberries of the Down East area of Maine. The Wild lowbush blueberry is unique to Maine, and one of only three berries native to the U.S. that are utilized commercially.

Virtually all of the commercial U.S. lowbush blueberries are produced in our state, with 99 percent of the blueberries being processed and used as a nutritious ingredient in many food products throughout the country. The industry is concentrated in the Down East region of Maine, which is an economically depressed region that relies heavily on natural resource based jobs, such as those in the Wild blueberry industry.

An increase in competitive research grants funding will help to continue a series of research projects that target critical aspects of lowbush blueberry culture and processing challenges, and transferring research solutions to the growers and processors. Much of the research completed to date provides techniques for a sustainable approach to production with environmental benefits.

Research objectives include implementation of a research program that is designed to ensure a consistently productive, high quality, low input crop that is successfully marketed in the U.S. and worldwide, with ongoing projects for such as pesticide reduction/efficacy, pollination alternatives, effects and reduction of low temperature injury, micro nutrient fertility requirements, and fruit quality improvements.

The bill also funds the federal crop insurance program that will give a healthy measure of peace of mind to Maine's wild blueberry industry, who, until recently, could not participate in the program. This report will allow the wild blueberry industry to renew their contracts for crop insurance, giving them protection against an economically devastating total crop loss caused by circumstances beyond their control.

Research for the potato industry is being conducted on new chemical-resistant strains of late blight, now detected in virtually every major potato growing state, and the last blight fungus is quickly developing into the most serious threat to potato production in the United States. History reminds of us the great potato famine in Ireland in the last century caused by late blight, and today's research helps us to never again realize such an devastating experience.

In Maine, late blight has already resulted in millions of dollars in crop losses since 1993, which is not only a concern for our largest agriculture industry, but for potato states throughout the eastern U.S. since Maine is the primary source of seed potatoes for these states.

Comprehensive late blight Integrated Pest Management research programs through current grants and future competitive research grants offered in the bill before us today will continue to prevent a full-scale epidemic from occurring in our region. Needless to say, this is one initiative in which a modest federal investment will help prevent a very costly crop disaster.

The Hatch Act and the McIntire-Stennis Act are the cornerstones of the cooperative/federal/state research effort that has made the U.S. agriculture and forestry industries the world's leaders. Under these programs, and under broad federal guidelines, states can continue to further identify their local research priorities.

Additional competitive research grants for the McIntire-Stennis Program will provide continued funding to 62 universities nationwide, including the University of Maine, that conduct research, teaching, and extension programs in forestry and related natural resource areas. The research focuses on the biology of forest organisms, forest ecosystem health, management of forests for wood, and forest product development. Each dollar of McIntire-Stennis funding is now matched with five dollars from nonfederal sources for these university programs.

Wood utilization research contributes to research at six land-grant Regional Research Centers, including Maine. The work conducted at these universities specializes in the efficient use of wood resources, developing new structural applications for wood, exploiting wood chemical extractives for safer and less expensive alternatives to current pesticides, preservatives, and adhesives, and exploring the pharmacological properties of trees. Wood utilization research is particularly important to forest-based economies in rural areas. In Maine, the annual total contribution in forest products manufacturing is over $5 billion.

Mr. President, our agricultural communities, some of the best stewards of our land, produce the safest, the most nutritious and reasonably priced food products in the entire world. Furthering the competitive grants research system through the Agricultural Research bill before us will go a long way towards the continued improvement of our nation's bountiful harvests and the continued health and productivity of our nation's forests.

Mr. GRAMS. Mr. President, I rise in support of the Conference Report to accompany S. 1150, the Agricultural, Research, Extension, and Education Act of 1998. For the purposes of this debate, I will focus on only the research and federal crop insurance provisions contained in this conference report. These are two of the primary issues important to farmers and those involved in agriculture.

Among the important research provisions provided for in this conference report is funding for Fusarium Head Blight, or Scab, research. This disease has had a devastating impact on producers in Minnesota and North Dakota and has caused severe economic losses over the past five years. The conference report now before us is an important step in continuing the public/private partnership that has evolved as we attempt to find a scab-resistant variety of wheat.

Also contained within this report is funding for genome research. This is important in mapping specific traits of corn and other commodities. Isolating those traits which are resistant to drought and other natural enemies could maximize yields and enhance producer efficiency. The flexibility it provides to research is reason enough to pass this legislation in a timely manner.

However, some of my colleagues have expressed concern over the federal crop insurance provisions contained in this conference agreement. While I certainly understand their point, it is important that we look at the "big picture." Currently, there is a budget shortfall in the program which jeopardizes the ability of farmers and agriculture lenders to make management decisions for the upcoming year. I have spoken with hundreds of individuals involved in agriculture who have urged me to support this funding fix, and I am confident they will be just as forthcoming as we explore options to provide producers with greater risk-management tools. It is important to remember that the conference report does not contain any major program reforms. It allows for five years of mandatory funding while market-orientated reforms are phased-in. Once the crop insurance budget issue is resolved, we can begin the process of achieving substantive reform of the federal crop insurance program.

Mr. President, we must design alternatives that encourage innovation and competition among insurers with an eye towards moving crop insurance in the direction of privately developed policies. I have already begun this process with agriculture leaders in Minnesota. I look forward to working with Senator LUGAR and my colleagues in crafting a program which benefits all taxpayers, while providing farmers the opportunity to craft a risk-management policy that fits their operation.

I urge my colleagues to join me in supporting this important legislation and I look forward to its immediate passage.

Mr. CRAIG. Mr. President, I rise today in support of the Agricultural Research, Extension, and Education Reform Act of 1998. As a member of the Senate Committee on Agriculture, Nutrition, and Forestry, I have worked with Chairman LUGAR and the Committee for two years to see this Act crafted and passed. I am pleased that the Leader has allowed it to come to the floor and encourage my colleagues to support its adoption.

Mr. President, the bill reforms and reauthorizes discretionary agricultural research programs that play an important role in keeping our nation's farmers competitive in the ever expanding world market. These programs and extension activities have experienced dramatic returns—in the form of better land management, environmentally sound farm practices, increased crop yield, improved crop varieties, and countless other ways—and represent a sound investment in the future. The bill's reforms will ensure more collaboration and efficiency in federally funded research and provide for greater accountability to the American taxpayers.

The bill also provides $600 million over the next five years in mandatory funding to the Initiative for Future Agriculture and Food Systems. This new mandatory spending will provide $120 million per year on a competitive grant basis for six high priority mission areas: agricultural genome research; food safety, food technology, and human nutrition; new and alternative uses of agricultural commodities and products; agricultural biotechnology; natural resource management, including precision agriculture; and farm efficiency and profitability.

In addition, the bill addresses the immediate concerns facing all those who rely on federal crop insurance, provides for the Fund for Rural America, and funds food stamps for the elderly, disabled, and children of the nation's poorest immigrants.

Mr. President, more than just a reauthorization bill, the legislation before the Senate today is an investment in the future and represents our commitment to America's farm families. By providing the technical research and extension activities that help expand farm income, improve resource management, and develop new crop varieties, federally funded agricultural research assures that our nation will continue to lead the world in farm production and help bolster the stability of our rural areas.

I encourage all my colleagues to support its adoption.

Mr. DASCHLE. Mr. President, I want to express my strong support for the Conference Report on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998, and to thank Senator LUGAR and Senator HARKIN for the tremendous effort they have devoted to this important legislation.

Immediate passage of the conference report is critical for agriculture research funding, crop insurance, and nutrition funding for legal immigrants. The legislation represents desperately needed investment in agricultural research, essential to the continuing production of safe, plentiful, diverse, and affordable food and fiber. Furthermore, failure to pass this legislation will result in massive reductions in crop insurance delivery around the country, especially in high risk areas such as the Northern Great Plains.

Not only will terminated policies expose farmers to tremendous risk of crop loss due to events beyond their control, such as weather, but without crop insurance, producers will not be able to take out operating loans essential to planting crops. This will hit young, beginning farmers hardest, which is terrible for agriculture—losing these young producers truly threatens the future of the industry.

When the last farm bill was passed, farmers nationwide were promised increased access to risk management tools. This promise was made in exchange for the elimination of a wide range of commodity and disaster programs that had, until then, provided producers some protection against the potentially devastating shocks that occur in agriculture.

Last year, the Dakotas were devastated by extended below freezing temperatures, winter storms that dumped record levels of snow, and spring flooding worse than anyone living had ever seen. Even with the benefit of crop insurance we lost hundreds of producers and farms that had been in families for over 100 years. I cannot imagine what would be left of the agriculture industry in South Dakota today had we not at least had the benefit of crop insurance last year.

The northeast region of South Dakota is currently experiencing severe flooding that is not likely to subside for some time. This is in an area that has been characterized by good farm land for as long as anyone can remember. No one could have anticipated that the farms in these counties and so many of the roads that connect them would be under water today. A strong and affordable crop insurance program will be critical to producers in this area who are struggling to stay in business. Without it, there would be an exodus from this part of my state, which would destroy the economy of the entire region. It is in all of our interest to provide our nation's agriculture producers with the means to insulate their businesses and the local economies of which they are an essential part

against conditions like those we experienced statewide last year, and that our northeast corner is fighting now.

I also want to stress the tremendous importance of the research reauthorization in this conference report. We owe much of the credit for this country's agricultural success to our network of land grant institutions, state agriculture experiment stations, USDA's Agricultural Research Service, and hundreds of county extension offices. These entities work together in a wide range of ways to produce cutting-edge research and then convert it into improved practices and technology meaningful to producers. This report places increased emphasis on collaboration among institutions and disciplines, and encourages pursuit of goals benefiting more than one region or state.

The land grant university in my state, South Dakota State University, currently has a highly regarded record of strong interdisciplinary and multi-state cooperative work. I am extremely proud of the fine research and extension SDSU produces, and I am pleased that this legislation will foster their efforts. It helps level the playing field for small schools competing for limited research funds, and it is sensitive to the relative importance of formula funds for institutions in agrarian states with low populations.

I am pleased that this legislation preserves existing programs that target emerging and critical issues such as the Fund for Rural America. The Fund for Rural America was designed to provide immediate, flexible, and applied research and support to people in rural areas who are adjusting to rapid changes in the agricultural sector since the last farm bill.

The Fund also promotes value-added processing, which is vital to successful rural economic development. Our rural communities must capture more of the revenue their locally produced commodities ultimately generate. Value-added processing keeps that revenue local, which will be critical to the future of those communities.

In conclusion, I cannot overemphasize the importance of this legislation and its prompt passage. If we are to maintain our place in the world as a leader in agriculture production and technology, we absolutely must invest in agriculture research today. If we are to have a vital and diverse agriculture sector in the future, we also must ensure producers have access to reliable and affordable risk management tools like the federal crop insurance program.

The overwhelming bipartisan support for the agriculture conference report is a tribute to the commitment Senator LUGAR and Senator HARKIN have made to assuring passage of this critical legislation. I urge my colleagues to approve the report in its current form.

Mr. MCCAIN. Mr. President, I intend to vote for this conference agreement.

For the most part, the bill provides funding to address legitimate needs of farmers and the agriculture industry for crop insurance, research, and extension and education programs. I applaud the conferees for including provisions throughout the bill which establish competitive, merit-based, or peer-reviewed selection procedures for awarding grants and contracts and allocating funds for various programs.

The bill also requires most recipients of funds to contribute matching amounts from non-federal sources. It also broadens the scope of many established programs to require a national, regional, or multi-state focus or benefit.

While the bill contains language regarding the establishment or continuation of several specific programs, it does not require the Secretary of Agriculture to comply with the direction in the bill, in most cases. For example, the bill authorizes, but does not require, the Secretary of Agriculture to acquire and operate the National Swine Research Center in Ames, Iowa—an institution which has received earmarked funds in appropriations bills for as long as I can remember. I would hope that the Secretary would exercise the discretion provided in this bill and resist the temptation to expand the federal bureaucracy to include this wholly unnecessary swine research facility.

Let me also take a moment to express my support for the provisions in Title V of the bill that make food stamps available to certain categories of legal immigrants who may fall on hard times. These provisions simply restore eligibility for food stamps to certain categories of immigrants who were eligible for assistance prior to August 22, 1996, when sweeping welfare reform legislation was enacted. Only refugees and asylees, disabled and elderly immigrants, children of legal immigrants, certain Indians, and certain Hmong and Highland Laotians, all of whom had to be lawfully residing in the United States on August 22, 1996, are again eligible for food stamps.

In these times of economic prosperity, Americans can certainly afford to be compassionate to our most vulnerable immigrants. Last year, the Congress restored to these same categories of immigrants eligibility for Supplemental Security Income and Medicaid. Finally, it should be noted that the cost of providing assistance to an estimated 250,000 individuals is offset in its entirety by reductions in the administrative expenses of the food stamp program and other programs.

Again, I thank the conferees for including these many excellent provisions in this bill.

However, as usual, there are a number of glaring exceptions to the otherwise good-government approach taken by the conferees.

Mr. President, most disturbing among the objectionable provisions in this bill is Section 401, which establishes a new entitlement program, called the Initiative for Future Agricultural and Food Systems, which is funded at $120 million per year for five years. Although the grants under this new program will be competitively awarded and recipients must provide matching funds, I am concerned that the conferees would find it advisable to establish a brand new mandatory spending program without regard to its effect on other high-priority agriculture programs.

Clearly, this new entitlement is intended to bypass the spending caps that limit how much is spent on agriculture program grants in the annual appropriations process. It violates the spirit and intent of the budget process that has resulted, finally, in a projected federal budget surplus for this year.

Mr. President, I intend to take a very careful look at the appropriations bill for agriculture programs this year. If, as in previous years, another $100 million or more is allocated for the same programs that are to be funded under this new entitlement program, I will be offering an amendment to remove that duplicative funding from the appropriations bill. I hope to have my colleagues' support to prevent this effort to circumvent the budget prioritization process and essentially double the funding for these types of programs.

Other objectionable provisions in the bill establish new bureaucracies and boards to coordinate activities which should be within the capabilities of the existing Department of Agriculture bureaucracy. One such provision establishes a Thomas Jefferson Initiative for Crop Diversification, a program coordinated by a nonprofit center to coordinate cooperative research by public and private entities on new and non-traditional crops. Another is the provision authorizing a grant program for precision agriculture programs and establishing precision agriculture partnerships. Other provisions include the establishment of an Office of Pest Management Policy and a Food Safety Research Information Office, and a mandate to continue the operation of the Food Animal Residue Avoidance Database program.

Funding for these new programs is subject to future appropriations and participants are required to provide non-federal matching funds. However, the parameters and criteria specified in the bill will require new regulations and bureaucracies for implementation. These efforts have both monetary costs and potentially negative effects on other agriculture priorities.

Mr. President, I ask unanimous consent that a list of objectionable provisions in the bill be printed in the RECORD.

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

OBJECTIONAL SPENDING PROVISIONS IN S. 1150, AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Section 241 requires the Secretary of Agriculture to establish an Agricultural Genome Initiative to study the genetic makeup of crops.

Section 242 directs the Secretary of Agriculture to study the control, management, and eradication of imported fire ants, and establishes high priority for 26 specific research and extension programs, including potato blight, ethanol, deer tick ecology, grain sorghum ergot, prickly pear, wood, wild pampas, sheep scrapie, and tomato spotted wilt.

Section 245 directs the Secretary of Agriculture to cede responsibility for awarding grants to develop an agriculture telecommunications network to a consortium called A*DEC, which is made up of private universities and land grant colleges and unspecified international members, with language specifying that grants are to be awarded competitively regardless of the grant seeker's membership in A*DEC.

Section 252 requires $60 million each year for five years to be transferred to the Fund for Rural America.

Section 401 establishes a new entitlement program, the Initiative for Future Agriculture and Food Systems, to provide agriculture research grants at a level of $120 million annually for five years.

Section 405 directs the Secretary of Agriculture to establish the Thomas Jefferson Initiative for Crop Diversification, to coordinate public and private research and promotion of new and non-traditional agricultural products.

Section 604 directs the Secretary of Agriculture to continue the operation of the Food Animal Residue Avoidance Database Program through a program of grants to colleges and universities.

Section 614 directs the Secretary of Agriculture to establish an Office of Pest Management Policy to coordinate pest research and use of management tools.

Section 615 orders the Secretary of Agriculture to establish a Food Safety Research Information Office at the National Agricultural Library, with the direction that the office sponsor a national conference on food safety research priorities within 120 days of enactment of the bill and every year thereafter for four years.

Mr. MCCAIN. Because of the inclusion of these low priority, unnecessary, and wasteful programs, I voted in favor of Senator GRAMM's motion to recommit the bill to conference so that these provisions could be addressed again and, hopefully, deleted from the bill or revised to prevent the waste of taxpayer dollars.

Unfortunately, the motion to recommit was defeated by a wide margin. However, since I believe the many positive aspects of this bill outweigh these onerous provisions, I intend to support the conference agreement.

The PRESIDING OFFICER. Is there further debate on the conference report?

The Senator from Iowa.

Mr. HARKIN. Mr. President, let me just wrap up by again thanking Senators for the overwhelming vote that we just had. I think that vote will send a clear signal to the House to move very rapidly on the bill. We will get it down to the President and hopefully get this important conference report signed in very short order.

I can just tell you, there will be a giant sigh of relief among the agriculture community from coast to coast and border to border as soon as this bill gets signed, because then we can get on to the business of getting our crop insurance policies renewed around the country and we can get on with the business of revamping, revising, and strengthening agricultural research throughout America. But the most important and most vital aspect of the bill in the immediate future is the Crop Insurance Program. Farmers will be assured right away that they will be able to continue their protection against disaster losses.

Mr. President, let me again compliment and thank my chairman, Senator LUGAR, first for his leadership on the ag research provisions of the bill. He has said many times that, entering the new century, we need to have a new approach, and new ways of doing our research in agriculture. He is absolutely right. I was happy and proud to support him in those efforts. It took quite a while to get the bill worked through the hearing processes, through negotiations in conference, getting all the issues worked out on research, but it was done, and we had good, bipartisan support.

I believe the chairman has fashioned an Ag research bill that is really going to help us move ahead in the next century in producing new kinds of crops, new products from and uses for crops, in biotechnology, in improving agricultural productivity and natural resource protection. So I believe we will see a whole new focus and revitalization of our agricultural research. It is long overdue, but this bill will move us in that direction.

I thank the chairman also for his leadership on crop insurance, in making sure that we addressed this need to provide that critical element of a safety net for farmers, because, as we all know, they need this crop insurance, both to cover disasters over which they have no control and also to make sure they have the collateral they need for obtaining financing for their farming operations. Farmers rely on crop insurance, and agricultural lenders rely on it.

So, this provision is going to be very, very meaningful to make sure that farmers, and we here in Congress, do not have to be worrying every single year how we will find funding to continue crop insurance—and whether in fact farmers will have crop insurance. That is going to be a great relief to our farming community all over America.

Finally, on the food stamp provisions, again, I thank the chairman for his great leadership in making sure we produced a sound bill and held together our coalition encompassing agricultural and nutrition matters.

I also thank all the staff who worked very hard for a long time, for well over a year now, to get us to this point: Randy Green, our staff director; and Dave Johnson, chief counsel; Ms. Terri Nintemann on the majority side; on the minority side, Dan Smith, Mark Halverson, Phil Schwab and Richard Bender. There are a number of other staff. These are our leaders. They did a great job of pulling this bill together, keeping us on course and making sure we got to conference and got it all wrapped up. We are very blessed with a very good and very capable staff. I thank them for all the long hours and hard work they put in.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the ranking member, Senator HARKIN, was characteristically gracious and generous, and I appreciate his comments. I want to tell him how much I have appreciated working with him and with all of our colleagues on what I believe is a monumental advance for not only American agriculture, but for feeding the world in the next 50 years, as well as the assurance of our farmers immediately in crop insurance and humane measures with regard to nutrition programs.

I simply mention, Mr. President, that Dave Johnson and Terri Nintemann have been mentioned. Of course, our distinguished Randy Green, who does so much on the majority side in likewise guiding all of the committee staff efforts. But I also will mention Marcia Asquith, Beth Johnson, Andy Morton, Michael Knipe, Bob Sturm, Debbie Schwertner, Carol Dubard, Kate Wallem, Kathryn Boots, Chris Salisbury, Danny Spellacy, Terri Snow, Whitney Mueller, and Jennifer Cutshall, because this has been a 2-year effort on the part of all of these individuals and they have contributed highly.

I have consulted with the distinguished majority leader, TRENT LOTT, and with the distinguished ranking member, TOM HARKIN, and it will be our request that there be a final roll-call vote. I alert colleagues that that will be coming, hopefully soon.

I appreciate very much the leader working with us to make this time possible and this opportunity to debate. I mention specifically the importance of the contribution of Senator GRAMM, who is a member of our committee, who argued well a point of view that did not prevail but, at the same time, sharpened the focus of all of us on

those things we believe are important in this legislation.

Finally, I mention Senator DOMENICI, who had only a very small speech but an important one with regard to caps and entitlements in the budget and overall considerations. We are mindful of what he had to say and grateful for his support ultimately of our effort.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). Is there further debate?

Mr. LUGAR. I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—92

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

NAYS—8

Gramm	Inhofe	Sessions
Gregg	Kyl	Smith (NH)
Helms	Nickles	

The conference report was agreed to.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, again I thank all Senators for their strong vote in support of this legislation. Hopefully now we can get it to the President, and get his signature, and again reassure farmers all over the country that they will be able to renew their crop insurance programs for next year.

INDIA'S NUCLEAR TESTS

Mr. HARKIN. Mr. President, I understand that the Senate is not on any legislation right now. I would like to take just a few minutes of the Senate's time to talk about the disturbing events that happened in South Asia yesterday.

Mr. President, to paraphrase a speech that President Roosevelt gave 57 years ago in the House Chamber, yesterday is a day that will live in infamy, for the Nation of India. At a time when world tensions are being reduced, when the cold war is over, when nuclear arsenals are being reduced, at a time when we are on the threshold of signing a Comprehensive Test Ban Treaty, the Nation of India deliberately and provocatively, with total disregard for world opinion and total disregard for regional stability in South Asia, detonated three nuclear weapons. And to make matters even worse, they were detonated near the border with Pakistan.

These tests were conducted without advance warning to the international community. They clearly work against the goals of nonproliferation and international stability. Indian's Prime Minister's principal secretary said afterwards that with the test, "India has a proven capability for a weaponized nuclear program."

Mr. President, India's behavior is clearly unacceptable. These underground tests could well trigger a nuclear arms race in the region.

I believe that the United States should be prepared to exercise the full range and depth of sanctions available under law. For example, the Nuclear Proliferation Prevention Act of 1994 requires the President to cut off almost all U.S. Government aid to India, bar American banks from making loans to the Government, stop exports of American products with military uses such as machine tools and computers, and, most importantly, oppose aid to India by the World Bank and the International Monetary Fund.

An article that appeared this morning in the New York Times pointed out that, "India is the world's largest borrower from the World Bank, with more than $44 billion in loans; it is expecting about $3 billion in loans and credits this year."

Well, I think it is time for the United States to exercise its voice and vote in the World Bank, and let India know that no longer can it come and get that kind of money if all it is going to do is spend its money on developing and testing not only fission weapons but yesterday a thermonuclear weapon, a hydrogen bomb.

Further quoting from this article, Monday's tests "came as a complete shock, a bolt out of the blue" to the White House, one senior administration official said. "It's a fork in the road." "Will India and Pakistan be locked in a nuclear arms race? Will the Chinese resume nuclear testing now?"

What is also disturbing is that our intelligence agencies obviously did not pick up any signs that the tests were imminent and reported that activities at the test site appeared to be routine.

Let's see now. How much did we spend on our intelligence agencies last year? About thirty billion dollars? And they can't even tell us when one of the largest nations on Earth is going to explode nuclear weapons? You wonder what that $30 billion is going for. I think a thorough review needs to be made of our intelligence operation.

Back to the point, Senator JOHN GLENN, our colleague, who is the author of the law, is quoted as saying, "Those sanctions are mandatory," and the only way to delay them is if the President tells Congress that their immediate imposition would harm national security. And that delay can only last 30 days. Congress can only remove the sanctions by passing a law or joint resolution.

"It would be hard to avoid the possibility of sanctions," a senior State Department official said. "There is no wiggle room in the law."

Further quoting our colleague, who is quoted again in the New York Times this morning, Senator GLENN called the tests "the triumph of fear over prudence, a monumental setback for efforts to halt the global spread of nuclear weapons."

Mr. President, the Nation of India is no longer the nation of Mohandas Gandhi, I am sorry to say. The Nation of India has embarked on a new and dangerous course in South Asia, one that I think has ominous foreboding for all of their neighbors in that area, and also for us here in the United States.

Of course, it is my fervent hope that India's neighbors will show restraint. It is my hope and my desire that Pakistan and China and other nations in that region will recognize the importance of caution despite this dangerous, inflammatory and provocative move by India. Again, they should not follow the lead of India but recognize the importance of restraining a nuclear arms race.

I believe that this Senate should also press for appropriate action by the international community. The international community should join with the United States in bringing to bear whatever sanctions it can, especially in the World Bank to cut off all loans to India.

Again, what India has done underscores the need for a nuclear test ban treaty. But now it becomes clear why, in August of 1996, after years of difficult negotiations, we finally got a final treaty supported by all countries for a comprehensive test ban, India refused to sign. Maybe now we know why.

The treaty was endorsed by a 158-to-3 margin at the United Nations. However, India walked out and said they weren't going to sign.

We cannot give up. We cannot let this action by the Government in India deter us from our goal of a comprehensive test ban.

I do not in any way mean my remarks today to implicate all of the wonderful people of India, many of whom I have counted as my friends, many of whom worked very hard on the issues of human rights, social justice, ending child labor. But I do wish by my remarks today to implicate and condemn in the strongest possible language permitted in this body the actions by the Government of India. This was its decision. This was its deliberate decision to conduct these tests in clear disregard for the opinion of the world.

So the Government of India bears a heavy responsibility for what follows. I hope they do not, although my hopes seem to be feint in light of what the Government of India said yesterday, intend to weaponize their nuclear program. Not only have they tested these weapons, they seem to have sent a clear signal that they are going to incorporate these weapons in their military arsenal both for short-range, medium- and obviously perhaps even for long-range purposes.

At a time when India needs to invest in education, when it needs to invest in its infrastructure, at a time when India really needs to reach peaceful agreements with its neighbor, Pakistan, on the issue of Kashmir, which is still a volatile issue. At a time when China and India need to get together to discuss their roles in South Asia in the future, India has thumbed its nose at its neighbors. When the Government of Pakistan came to power under the Prime Minister Nawaz Sharif, it reached out to India, to the previous government. Prime Minister Sharif held out the olive branch. He asked that talks be conducted, that they take steps to reduce the tensions in the region.

Those talks proceeded, tensions were reduced, and then elections were held in India and a new government was elected. The hopes and the dreams, the actions taken by the Prime Minister of Pakistan, Nawaz Sharif, and others in the region are now dashed and doomed if India doesn't make a quick U-turn in its policies. But India has already taken its actions, and its actions, I am afraid, will have very serious repercussions.

But, again, we cannot give up. I know that Pakistan several times called for restraint, to call for talks.

Well, I call on Pakistan and the other nations of the region not give up on their efforts to pursue a peaceful path, to again reach out to India to begin the long and arduous task of negotiations to reduce tensions and to reduce the nuclear arsenal in that area of the world.

I remain fearful not only because of Pakistan but because of China. What will China do now? Will China believe that it must now proceed to further test its nuclear weapons to show India that it is not going to be intimidated? No, Mr. President, what India did yesterday will live in infamy, and it is sad because India has made great progress in the last 50 years. I note at this time the President has recalled our ambassador to India. I compliment him for that action.

Quite frankly, I hope this sends another strong signal to India that it is not going to be business as usual with the U.S. Government because of what they did yesterday. It cannot be said too strongly that India took a terrible, terrible step yesterday and only India can undo it. I hope they will. But their words and their actions indicate to me they may and probably will not. I feel sorry for India. I feel sorry for the people of India. I feel sorry for the kids that are working in the plants and the factories and the carpet looms who want a better future and a better education. I feel sorry for the millions of people in poverty who want a little bit better life in India but are now going to have to struggle because more and more of their money is going into their weapons and their nuclear arsenal. And I feel sorry for the people of Pakistan, too, again, who have made great strides in the last 50 years to build a nation, to build an infrastructure that will allow for a moderate Islamic State to exist in that area, and I feel sorry for the people of China. What is its Government going to do now?

Mr. President, we can only hope and pray that South Asia will now see this as a sign that they must get together and sign a comprehensive test ban treaty now, stop nuclear testing now, stop the arms race now; that India and China and Pakistan must get together and work out their problems through serious peaceful negotiations and not through the bluster of provocative actions taken by India yesterday to increase the arms race, especially the nuclear arms race.

Mr. President, I call on India to disavow what they did yesterday, to admit they made a mistake, to reach out to their neighbors in a serious attempt to sign the Comprehensive Test Ban Treaty, and to stop this madness once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent for 10 minutes in morning business.

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

THE BREAST CANCER STAMP

Mr. FAIRCLOTH. Mr. President, I would like to ask everyone to take a moment to look at the most important stamp ever issued in our history, and that is the one we have the painting of here on the easel. I joined the U.S. Postal Service in unveiling this stamp in Chapel Hill, NC, yesterday, the day after Mother's Day, as my colleague, Senator FEINSTEIN, did the day before in Los Angeles, CA.

For the first time in U.S. history, the public will be able to play a more direct role in funding medical research and setting research priorities because of this stamp.

This may look like a regular first-class postage stamp, but it is not. It is a semi-postal stamp, the first of its kind ever issued in this country. It took an Act of Congress to create it, and we did just that. It was done to raise money for breast cancer research.

Incidentally, the United States is the only Nation around the world that has not issued semi-postal stamps before, but this stamp is different because part of the proceeds of this stamp will go directly to the NIH and the Department of Defense to pay for breast cancer research.

My colleague from California, DIANNE FEINSTEIN, introduced this legislation here in the Senate as Congressman VIC FAZIO did in the House of Representatives. While popular, the bill needed a vehicle to get it passed. I decided that if the Post Office could sell a Bugs Bunny stamp, they could sell a stamp to raise money for breast cancer research. I was able to add the proposal to an appropriations bill, and, along with the support of the majority of my colleagues here in the Senate and the House, the stamp now is born and in existence.

The Postal Service was not excited about doing this stamp, and they were concerned that other groups sponsoring other diseases would be pushing for a similar stamp. I find no problem with that. I just cosponsored a bill introduced by Senator SNOWE and Senator BURNS that would create a semi-postal stamp to raise money for prostate cancer research. I think this is a great way to let the public play a much larger role in helping fund medical research, and the effort should be encouraged. In fact, the Postal Service Board of Governors met today and selected an old friend and fellow North Carolinian, Bill Henderson, to serve as the next Postmaster General. Let me be the first to congratulate an old friend.

I have asked each member of the Postal Service Board to contribute an additional amount to this effort by turning over what would normally be collected for administrative costs to the cancer research fund. In other words, all of the gross money would go to cancer research. This is especially important in light of the fact that the Postal Rate Commission has just recommended that we raise the price of a first-class stamp by 1 cent.

If only 20 percent of first-class stamp buyers decide to buy this postal

stamp—only 20 percent, one-fifth—we will raise $120 million annually. That is the same amount of funding increase we fought for in last year's budget for the National Cancer Institute. The stamp will be sold for 40 cents when it goes on sale in August. The difference in price from 32 cents or 33 cents required to send a first-class letter, either the 7 cents or 8 cents, will go directly to the NIH and the Department of Defense for their breast cancer research studies.

If I could turn this into a "Home Shopping Channel" for a moment and address all the folks who may be watching: Please, I ask that they themselves buy and urge their friends to buy the stamp when it goes on sale this August. It is a wonderful gift, and when so giving it, when you make a gift, No. 1, you are sure the gift will be used, and you encourage the recipients of the gift to in turn buy the stamp themselves after the gift supply has been exhausted.

There may be some confusion because about a year ago the post office released a breast cancer awareness stamp. This was a nice gesture, but it provided no money. This stamp will raise money for all the women and families afflicted by this dread disease. Let's prove the post office wrong and make the sale of this stamp a record-setting event.

I thank all my colleagues, and especially Senator FEINSTEIN, for their help in making this semi-postal stamp a reality. I urge you to join with the Postal Service, corporate sponsors, and breast cancer groups to plan events to launch the sale of this stamp completely around the country and in all the States. It has to be a success.

I thank the Chair, and I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggested the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWNBACK. 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. BROWNBACK. Mr. President, I ask to speak up to 3 minutes as in morning business.

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

THE U.S.-INDIAN RELATIONSHIP

Mr. BROWNBACK. Mr. President, Senator HARKIN from Iowa recently spoke on the floor about the terrible occurrence recently happening in India, the explosion of three nuclear devices, which has been roundly condemned around the world. It is very destabilizing in the Indian subcontinent and is going to trigger a set of automatic sanctions.

In the Foreign Relations Committee, at 2 p.m. tomorrow afternoon, we will be holding a hearing about the actions taken by the Indian Government, its consequences on the U.S.-Indian relationship, and its consequences throughout that subcontinent. I certainly invite all the Members of the U.S. Senate and others interested to watch these hearings and to follow those, because this is a significant event that has occurred. It has significant ramifications on U.S.-India relationships and is an action that is happening in one of the most volatile regions of the world.

I think we all advise and advocate strongly, for our allies and other friends of ours in the neighborhood, for there to be a calm, stable response to this and that there not be further testing to take place. We will explore these issues in the Foreign Relations Committee tomorrow at 2 o'clock.

I yield the floor.

HIGH-TECH WEEK

Mr. LOTT. Mr. President, I am pleased that the Senate will be considering a series of bills that truly impact and shape our lives in this age of ever-changing technology.

Many of us in this chamber can remember a time when the words "Internet" and "intellectual property" had no meaning in our day-to-day activities. That is changing. Rapidly changing. New, competitive markets are emerging, and exploding, thanks to continuing technological advancements and innovations.

The potential benefits of such unprecedented growth is exciting. Besides transforming the structure of the communications industry, high technology is literally changing the way millions of us live and do business.

I would like to share a good Samaritan story about how wireless technology does impact, and possibly save, lives.

Mrs. Debbie Sanders, one of my constituents from the small town of Enid, Mississippi, is the 1998 recipient of the VITA Wireless Samaritan Award for her act of heroism. On her way home from a long day at work as a store's assistant manager, Debbie saw a car flipped upside down in a water-filled ditch. She used her wireless phone to call for help and pulled the victim from the vehicle. Not sure of her exact location on this lonely stretch of deserted, rural road, Debbie had to remain on the phone for over one hour with emergency personnel until she and the victim could be reached.

Mr. President, this is only one example of how high technology can enhance our world.

There will be boundless opportunity in the next century for new technological applications to evolve. With that opportunity will come an absolute necessity for a highly skilled labor work force to ensure America's competitive standing and high-technology leadership. Our vibrant economy is directly tied to this cutting-edge technology. Bills that advance our country's ability to compete will strengthen our future and our children's future.

Several measures will be considered, but I want to particularly mention the Consumer Anti-Slamming Protection Act. We need a public policy to crack down on slamming. We need to protect the telephone consumer. The world indeed is shrinking, and we all have come to depend upon long distance service, not as a luxury but as a necessity. We want to talk to those closest to our hearts, wherever they may be.

The practice of "slamming"—unauthorized switching of long distance telephone service carriers by competing service providers—must stop. It is abusive to the consumer, and has become much too frequent and too disruptive. Our colleagues have told us horror stories in the past, and today we will hear even more illustrations of slamming abuses. With this statute, I join my colleagues in urging the FCC to strengthen its enforcement program to stop this unscrupulous practice. Tougher penalties against companies that intentionally slam will be an effective solution.

I want to thank my Senate colleagues for their diligent leadership and keen focus on tackling these legislative challenges. Their willingness and commitment to work in a bipartisan manner is the reason we are here today. Although some of the issues may be fundamentally noncontroversial, I know the issues are complex, and I appreciate their efforts.

Mr. President, I look forward to the debate. It is also my hope that progress will be continued, and consensus achieved, on other critical pieces of legislation to address a variety of high-technology related concerns shared by many in this Chamber.

CONSUMER ANTI-SCAMMING ACT OF 1998

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1618. I ask further consent there be 2 hours of general debate on the bill, equally divided in the usual form.

I further ask consent that the only first-degree amendments, other than committee amendments, be the following, and that the first-degree amendments be subject to relevant second-degree amendments: Manager's amendment; Collins-Durbin amendment—No. 1, liability, No. 2, penalties, No. 3, report slamming complaints; a Rockefeller amendment on Telecom; a Reed amendment on slamming; Levin

amendment on billing information, surety bonds switchless; Feingold amendment on CB interference; Feinstein amendment on telephone privacy; McCain amendment that is relevant; a Harkin amendment on telemarketing fraud; and a Hollings amendment that is relevant.

The PRESIDING OFFICER. Is there objection? Without objection, it is ordered.

Mr. MCCAIN. Upon disposition of all amendments, the bill be read a third time and the Senate then proceed to vote on passage of S. 1618 with no intervening action or debate; provided further that Senator BRYAN be recognized further to speak on the bill.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, did the Senator from Arizona note Senator MURRAY in his list of amendments?

Mr. MCCAIN. I say to my friend that Senator MURRAY and Senator COATS both agreed to drop their amendments on the assurance that these respective pieces of legislation will be brought up at a later date.

Mr. DORGAN. I have no objection.

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

The clerk will report.

The bill clerk read as follows:

A bill (S. 1618) to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1618

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

SECTION 1. IMPROVED PROTECTION FOR [CONSUMERS AGAINST "SLAMMING" BY TELECOMMUNICATIONS CARRIERS.] *CONSUMERS.*

(a) VERIFICATION OF AUTHORIZATION.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—No telecommunications [carrier shall] *carrier or reseller of telecommunications services shall* submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

"(2) VERIFICATION.—

"(A) IN GENERAL.—In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this section, the telecommunications carrier *or reseller* shall, at a minimum, require the subscriber—

"(i) to acknowledge the type of service to be changed as a result of the selection;

"(ii) to affirm the subscriber's intent to select the provider as the provider of that service;

"(iii) to affirm that [the subscriber] *the consumer is the subscriber or* is authorized to select the provider of that service for the telephone number in question;

"(iv) to acknowledge that the selection of the provider will result in a change in providers of that service; *and*

["(v) to acknowledge that the individual making the oral communication is the subscriber; and]

"[(vi)] *(v)* to provide such other information as the Commission considers appropriate for the protection of the subscriber.

"(B) ADDITIONAL REQUIREMENTS.—The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall—

"(i) preclude the use of negative option marketing;

"(ii) provide for verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form; and

"(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate.

"(3) INTRASTATE SERVICES.—Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

"(4) SECTION NOT TO APPLY TO WIRELESS.—This section does not apply to a provider of commercial mobile service, as that term is defined in section 332(d)(1) of this Act.".

(b) RESOLUTION OF COMPLAINTS.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end thereof the following:

"(c) NOTICE TO SUBSCRIBER.—Whenever there is a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, the telecommunications carrier *or reseller* selected shall notify the subscriber in writing, not more than 15 days after the change is [executed, of the change, the date on which the change was effected, and the name of the individual who authorized the change.] *processed by the telecommunications carrier or the reseller—*

(1) of the subscriber's new carrier; and

(2) that the subscriber may request information regarding the date on which the change was agreed to and the name of the individual who authorized the change.

"(d) RESOLUTION OF COMPLAINTS.—

"(1) PROMPT RESOLUTION.—

"(A) IN GENERAL.—The Commission shall prescribe a period of time, not in excess of 120 [days, for a] *days after a telecommunications carrier or reseller receives notice, for the* telecommunications carrier *or reseller* to resolve a complaint by a subscriber concerning an unauthorized change in the subscriber's selection of a provider of telephone exchange service or telephone toll service.

"(B) UNRESOLVED COMPLAINTS.—If a telecommunications carrier *or reseller* fails to resolve a complaint within the time period prescribed by the Commission, then, within 10 days after the end of that period, the telecommunications carrier *or reseller* shall—

"(i) notify the subscriber in writing of the subscriber's right to file a complaint with the Commission concerning the unresolved complaint, the subscriber's rights under this section, and all other remedies available to the subscriber concerning unauthorized changes;

"(ii) inform the subscriber in writing of the procedures prescribed by the Commission for filing such a complaint; and

"(iii) provide the subscriber a copy of any evidence in the carrier's *or reseller's* possession showing that the change in the subscriber's provider of telephone exchange service or telephone toll service was submitted or executed in accordance with the verification procedures prescribed under subsection (a).

"(2) RESOLUTION BY COMMISSION.—The Commission shall provide a simplified process for resolving complaints under paragraph (1)(B). The simplified procedure shall preclude the use of interrogatories, depositions, discovery, or other procedural techniques that might unduly increase the expense, formality, and time involved in the process. The Commission shall issue an order resolving any such complaint at the earliest date practicable, but in no event later than—

"(A) 150 days after the date on which it received the complaint, with respect to liability issues; and

"(B) 90 days after the date on which it resolves a complaint, with respect to damages issues, if such additional time is necessary.

"(3) DAMAGES AWARDED BY COMMISSION.—In resolving a complaint under paragraph (1)(B), the Commission may award damages equal to the greater of $500 or the amount of actual damages. The Commission may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(e) PENALTY.—

"(1) IN GENERAL.—Unless the Commission determines that there are mitigating circumstances, violation of subsection (a) is punishable by a fine of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

"(2) FAILURE TO NOTIFY TREATED AS VIOLATION OF SUBSECTION (a).—If a telecommunications carrier *or reseller* fails to comply with the requirements of subsection (d)(1)(B), then that failure shall be treated as a violation of subsection (a).

"(f) RECOVERY OF FINES.—The Commission may take such action as may be necessary—

"(1) to collect any fines it imposes under this section; and

"(2) on behalf of any subscriber, any damages awarded the subscriber under this [section.".] *section.*

(g) CHANGE INCLUDES INITIAL SELECTION.—For purposes of this section, the initiation of service to a subscriber by a telecommunications carrier or a reseller shall be treated as a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.

(c) STATE RIGHT-OF-ACTION.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258), as amended by subsection (b), is amended by adding at the end thereof the following:

"[(g)] *(h)* ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that a telecommunications carrier *or reseller* has engaged or is engaging in a pattern or practice of changing telephone exchange service or telephone toll service provider without authority from subscribers in that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such unauthorized changes, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount

of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.

"[(h)] *(i)* STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits unauthorized changes in, a subscriber's selection of a provider of telephone exchange service or telephone toll service.".

(d) REPORT ON CARRIERS EXECUTING UNAUTHORIZED CHANGES OF TELEPHONE SERVICE.—

(1) REPORT.—Not later than October 31, 1998, the Federal Communications Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service.

(2) ELEMENTS.—The report shall include the following:

(A) A list of the 10 telecommunications carriers that, during the 1-year period ending on the date of the report, were subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers.

(B) The telecommunications carriers, if any, assessed fines under section 258(e) of the Communications Act of 1934 (as added by subsection (c)), during that period, including the amount of each such fine and whether the fine was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

SEC. 2. REPORT ON TELEMARKETING PRACTICES.

(a) IN GENERAL.—The Federal Communications Commission shall issue a report within 180 days after the date of enactment of this Act on the telemarketing practices used by telecommunications carriers *or resellers* or their agents or employees for the purpose of soliciting changes by subscribers of their telephone exchange service or telephone toll service provider.

(b) SPECIFIC ISSUES.—As part of the report required under subsection (a), the Commission shall include findings on—

(1) the extent to which imposing penalties on telemarketers would deter unauthorized changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service;

(2) the need for rules requiring third-party verification of changes in a subscriber's selection of such a provider; and

(3) whether wireless carriers should continue to be exempt from the verification and retention requirements imposed by section 258(a)(2)(B)(iii) of the Communications Act of 1934 (47 U.S.C. 258(a)(2)(B)(iii)).

(c) RULEMAKING.—If the Commission determines that particular telemarketing practices are being used with the intention to mislead, deceive, or confuse subscribers and that they are likely to mislead, deceive, or confuse subscribers, then the Commission shall initiate a rulemaking to prohibit the use of such practices within 120 days after the completion of its report.

Mr. MCCAIN addressed the chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, today the Senate begins consideration of a series of bills dealing with critical issues raised by the transformation and rapid growth of the telecommunications industry.

This transformation in telecommunications is being driven by constant changes in telecommunications technology. The small mass media universe of fifty years ago, occupied by a few large AM radio stations, has given way to an electronic marketplace teeming with alternative sources of information and entertainment. FM radio, TV, cable and satellite television, and the Internet have become sometimes competing, and sometimes complementary, mass media outlets. In the world of telecommunications, the days of Ma Bell were numbered by the advent of microwave radio and satellite technology. First there was competition for long-distance service; then wireless services appeared and exploded. Cellular radio, paging, and now personal communications services—all are now an indispensable part of everyday American life.

For those of you old enough to remember back twenty years—and I think the Presiding Officer can do that—think of how different your life is today than it was then. Most of these changes were due to the growth of telecommunications. For those of you too young to remember that far back, I can assure you that twenty years from now, you will look back on today and marvel at the changes you will have seen.

Today the driving force in telecommunications is digital technology. Digital technology has not only made some of today's new services possible—it is also causing formerly different services to converge, and it is promising Americans new and exciting services in the future. The convergence of your television and your computer is on the horizon. So also is a telephone that can simultaneously translate conversations held in different languages.

We need no longer talk about the Information Age in the future tense. It's here and now, and it's reshaping our world.

As telecommunications technology changes the way we live, our laws must change to keep pace. The growth of competition in the long-distance industry now gives consumers over 500 companies to choose from. Because of that competition, the consumer is better off. But the growth in long-distance competition has also given rise to cutthroat marketing practices.

The first bill we will consider and debate today is S. 1618, the Consumer Anti-Slamming Act of 1998. It is offered by myself and my good friend and distinguished colleague Senator FRITZ HOLLINGS of South Carolina, the distinguished Ranking Democrat on the Commerce Committee. Joining us as cosponsors are the distinguished Majority Leader, Senator LOTT, and Senators FRIST, BRYAN, JOHNSON, KERRY, ABRAHAM, SHELBY, SNOWE, FEINGOLD, and BOB SMITH.

The Consumer Anti-Slamming Act is designed to put a stop, once and for all, to inexcusable marketing tactics that lead to a consumers' long-distance telephone company being switched without consent. Right now two consumers are "slammed" every minute of every day, which makes slamming far and away the most pervasive consumer problem in telecommunications today.

We will then shift our focus to Internet-related issues. The information

technology industry is estimated to account for one-third of our real economic growth. Currently, electronic commerce is in the neighborhood of several billion dollars per year, but that figure is expected to skyrocket into hundreds of billions in only a few years more.

The growth and continued expansion of the information technology industry has vastly increased the need for highly-skilled individuals to work in this industry. We need these workers, and their skills, to retain our nation's leadership in Information Age technology. Unfortunately, however, our country isn't producing them in the numbers needed. Therefore, temporary solutions must be found to enable our high-tech industries to remain competitive, while we address problems in the educational system that have led to our inability to produce the needed workforce in this country.

S. 1723, The American Competitiveness Act of 1998, will increase the yearly cap on H-1B immigration visas for skilled workers, while creating new educational opportunities for Americans to join the information technology workforce that is now so critically short of the skilled personnel we need.

Mr. President, I am proud to be a cosponsor of this measure. I commend my colleague, Senator ABRAHAM, for his leadership on this issue, and I am proud to be a cosponsor of this bill in company with Senators HATCH, DEWINE, SPECTER, GRAMS, BROWNBACK, ASHCROFT, HAGEL, BENNETT, MACK, COVERDELL, LIEBERMAN, BURNS, Senator BOB GRAHAM of Florida, and Senator GORDON SMITH of Oregon. I would also like to compliment Senator FEINSTEIN for her efforts at reaching a consensus on this issue with her fellow members of the Judiciary Committee.

Should we fail to pass this measure, our industry will not be able to access the wealth of talent not currently available here at home. This reality will have a quantifiable negative impact on American jobs and American industry. Without passage of this bill, we are forcing companies to shift jobs overseas.

A letter signed by the CEOs of fourteen leading companies, including Microsoft's Bill Gates, Netscape's James Barksdale, and Texas Instruments' Thomas Engibous, put this point well:

> Failure to increase the H-1B cap and the limits that will place on the ability of American companies to grow and innovate will also limit the growth of jobs available to American workers * * * Failure to raise the H-1B cap will aid our foreign competitors by limiting the growth and innovation potential of U.S. companies while pushing talented people away from our shores * * * [this] could mean a loss of America's high technology leadership in the world.

Mr. President, our competitors abroad are waiting for the opportunity to surpass us. They can only do this if we allow them to. We cannot allow our high-tech industries to be hamstrung by an arbitrary cap on immigration of skilled workers.

The Internet has provided widespread access to enormous quantities of information. This in turn has made it necessary to update our copyright laws to protect the rights of copyright holders in the Information Age.

S. 2037, The Digital Millennium Copyright Act, is aptly named. As digitization of commerce, education, entertainment, and a host of other online applications proceeds, international copyright agreements have to be maintained and updated. In addition, the rights of copyright owners need to be assured as technology progresses. That not only safeguards the copyright holder's rights, but also assures that new material will be freely produced and made available to all Internet users.

Finally, Mr. President, while information technology has opened up whole new avenues for commerce, learning, and education, it has also opened up whole new approaches to shady dealings and unfair business practices, and the public should be protected from these. And while we continue to work to prevent these occurrences, we must also work to ensure that existing consumer protection laws function as they were intended, and do not produce unintended or unfair results against either consumers or companies.

My colleague, Senator GRAMM, has taken a keen interest in these issues as they are embodied in the Private Security Litigation Reform Act signed into law during the 104th Congress. Senator GRAMM has led the Securities Subcommittee in reviewing the effectiveness of this law, and he and his fellow Subcommittee members have found it to be insufficient in some areas dealing with class-action suits, particularly those brought in state rather than federal courts, and those in which a valid cause of action has been fraudulently or inadequately presented.

Although frivolous security class actions are a particular problem for the high-tech industry, to the extent consumers have been harmed the industry must be held accountable. Therefore, the issue of securities reform is deserving of debate in the Senate.

Mr. President, these four bills, although apparently so different, do have a unifying thread just as old and new methods of communicating are united by a common concern. Whether we are talking about telephones or advanced computer technology, analog or digital, data or video, our laws must be sure that all segments of the telecommunications industry respond to the consumers' needs, respect consumers' rights, and provide the services America needs to take us into the unimaginably exciting and challenging future that lies before us.

These bills are the first of a series of legislative initiatives the Senate will consider this session that together are intended to achieve these goals.

Mr. President, with that, I conclude the overview of these four bills.

Mr. President, concerning S. 1618, the Consumer Anti-Slamming Act, consumers across the country are unfortunately all too familiar with a practice known as "slamming." Slamming is the unauthorized changing of a consumer's long-distance telephone company. It is a problem that continues to harm consumers despite efforts at the Federal and State level to fight it. That is why we need to ensure the passage of the slamming legislation that I have introduced. The distinguished Senator from South Carolina, Senator HOLLINGS, who serves as the ranking member of the Senate Commerce Committee, joins me in cosponsoring this bill. I thank him for his invaluable assistance in developing this important piece of legislation to restore and safeguard consumer rights. I also thank the other cosponsors of this bill: Senators LOTT, SNOWE, REED, FRIST, BRYAN, DORGAN, JOHNSON, HARKIN, KERRY, INOUYE, ABRAHAM, BAUCUS, SMITH, and Bob SMITH, for joining me in this effort.

Mr. President, slamming isn't just persisting, it is increasing. Slamming complaints are the fastest growing category of complaints reported to the Federal Communications Commission, having more than tripled in numbers since 1994. Last year, 44,000 consumers filed slamming complaints with the FCC. That is a 175 percent increase from the 16,000 complaints the FCC received in 1996.

The extent of the slamming problem is even worse than indicated by the number of complaints filed at the FCC. According to the National Association of State Utility Consumer Advocates, slamming is now the most common consumer complaint received by many State consumer advocates. It has been estimated that as many as 1 million consumers are switched annually to a different long-distance telephone company without their consent. The severity of the slamming problem was exemplified just days ago by a new report that 4,800 residents of one small town in Washington State, about 70 percent of the town, were slammed at one time.

For several years, the FCC has attempted unsuccessfully to deter slamming, yet aggressive long-distance telemarketers continue to mislead consumers.

On April 21st, the Federal Communications Commission imposed a $5.7 million fine on a small long-distance company that had been slamming consumers for years. While this is by far the largest fine the FCC has ever levied for this offense, the FCC took action

only after receiving over 1,400 complaints about this company over the course of 2 years, and by now the slammer has disappeared. This instance shows yet again that the FCC's current rules are completely ineffective in preventing slamming.

S. 1618 is a bill designed to stop slamming once and for all. This legislation establishes stringent antislamming safeguards as well as stringent civil and criminal penalties that will discourage this practice. It prescribes definitive procedures for carriers to follow when making carrier changes, provides a menu of remedies for consumers that have been slammed and gives Federal and State authorities the power to impose tough sanctions, including high fines and compensatory punitive damages.

Mr. President, these measures, in addition to those that the States may develop, will ensure that consumers are afforded adequate protection against slamming. In light of the seriousness and scope of the slamming problem, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that a letter from the AARP, along with a Monday, May 11 article in USA Today be printed in the RECORD.

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

AARP,
Washington, DC, May 11, 1998.

Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: The American Association of Retired Persons (AARP) commends you for introducing S. 1618, a bill to improve the protection of consumers against the unauthorized switching of long distance telephone service providers. According to the FCC, this practice known as "slamming," is the fastest growing consumer complaint in telecommunications. We believe that the provisions in your bill to amend the Communications Act of 1934 to curtail "slamming" are good for consumers.

S. 1618 includes most of the elements necessary to close off loopholes in the existing law that make telephone subscribers vulnerable to fraudulent or deceptive practices. Key provisions would:

Define switching verification procedures—requiring the telecommunications carrier to receive a series of affirmations from the subscriber prior to verifying the switch;

Preclude the use of negative option marketing—ending this onerous practice of switching subscribers for failure to tell the carrier that they are not interested;

Require a detailed, written notice of change to subscriber—notify the subscriber in writing, within 15 days after the change, of the change, the date on which the change was effected and the name of the individual who authorized the change;

Award treble damages to wronged parties—providing the FCC with authority in resolving a complaint to increase the amount of the original award times three; and

Punish violating carriers with severe first and second offense fines—imposing fines of not less than $40,000 for the first offense and not less than $150,000 for each subsequent offense, a substantial deterrent to violating carriers.

AARP believes that, as competition develops throughout the telecommunications industry, all telephone carriers should be subject to provisions similar to these. We also believe that the issues attendant to the practice of "cramming" need to be addressed in the near future. We look forward to working with you toward that goal. In the meantime, the provisions of this bill move consumer protections in the right direction. The Association stands ready to work with you as you seek final passage of this important piece of legislation.

Sincerely,

HORACE B. DEETS,
Executive Director.

[From USA TODAY, May 11, 1998]

CALLERS FALL VICTIM TO TELCOM WAR

COMPLAINTS OF SLAMMING, PHONY CHARGES SKYROCKET

(By Steve Rosenbush)

NEW YORK.—Jean Franklin, a Salem, Ore., homemaker, was billed last year for several hundred dollars worth of adult-chat phone calls.

American Billing & Collection sent the invoices to her home, but the calls—which eventually totaled $1,100—were billed to a telephone number she and her husband, Kenneth, canceled years earlier when they moved.

She'd been "crammed"—billed for a phone service she never bought.

"I was surprised, but I thought it was a mistake that could be easily corrected," Franklin says. Instead, American Billing, which declined to comment for this story, eventually turned the matter over to a collection agency.

Her credit report marred by reported bad debt, Franklin complained to the California attorney general's office and the Federal Trade Commission. Last month, regulators filed charges in U.S. District Court in Los Angeles accusing American Billing and two other phone companies of using deceptive and unfair practices to bill people for adult-chat services. But the bad debt is still on Franklin's record.

It's a tale from the trenches of the telecom wars, where millions of consumers like Franklin are suffering the collateral damage. Armies of companies have poured into the increasingly deregulated $200 billion U.S. market, overwhelming the limited resources of regulators with aggressive and sometimes illegal practices.

Desperate for a tactical advantage, other companies are rushing to market with innovative products and services that sometimes don't work. Make an evening phone call on a congested network, such as the one in Los Angeles, and seven times out of 100 it won't go through on the first attempt, says Bellcore, a telecommunications research company. AT&T says users of its directory assistance get the number they ask for only nine out of 10 times. Buy a prepaid calling card, and there's a good chance the call won't go through. Many of the basic services and products that people took for granted in the monopoly era simply don't work—or don't work well—today. Annual telephone-related complaints and inquiries have soared more than tenfold since 1990; the Federal Communications Commission logged 44,035 in 1997 alone.

"Here is the dark side of competition and choice," says FCC Chairman William Kennard. "Sure, life was easier when they had no choice," Kennard says. "But that is not what consumers want."

Or is it?

Long-distance rates have fallen 60% since the 1984 dismantling of AT&T, and consumers can choose from hundreds of new carriers. "But it was a lot easier to use the phone before they broke up AT&T. And I don't think you really save that much money now because companies charge you for other things," says Alan Kohn of Woodbridge, N.J., who was dismayed when he couldn't find a pay phone that accepted his calling card.

Statistics from phone companies, consumer advocates and state and federal regulators don't begin to capture the depth of consumer frustration with phone services.

HEADACHES EVERYWHERE

Directory assistance costs more, often requires a wait, and increasingly provides wrong numbers. The toll on callers is more than $50 million a year if just 5% of the 1.5 billion long-distance information calls are inaccurate. Not to mention the frustration of dealing with computer-generated voices instead of operators. Carriers like AT&T blame local phone companies that won't share their databases of names and phone numbers.

Prepaid calling cards, "On the whole, they are worth it," says Dan Singhani, 45, a newsstand owner in Manhattan who uses them several times a week to call relatives in India and Hong Kong. "But some cards don't work. . . . Or you are talking and the line is disconnected."

Pay phone charges. Muriel Flore thought she was using her calling card when she stopped during an interstate trip to call her vet and check on her sick cat. She was stunned several weeks later when Oncor Communications billed her more than $12 for the five-minute call. Oncor agreed to cancel the bill after Flore complained to the FCC. The company did not return phone calls for this story.

Fragile phones. A micro-processor-driven telephone ruined by just a drop of water that seeps through the keypad.

"SLAMMED"

By far, the bulk of consumer complaints to the FCC are about slamming: switching a customer's long-distance service without permission. Last year, the FCC received more than 20,000 complaints. But the actual incidence of slamming is much higher. AT&T alone says 500,000 of its 80 million residential customers were slammed last year.

"I resented the fact that I had been changed without notice," says Jim Pringle of Pittsboro, N.C. "But what I resented almost more was that somebody benefited from the lag between when it occurred and when I realized it."

Ronald J. Carboni thinks a disgruntled neighbor, playing a prank, switched his phone service from Sprint to National Telephone & Communications. Carboni, 52, was charged $8.92, a fee National immediately dropped once notified of the problem. Records show someone had forged Carboni's name as "Batboni." National never confirmed the order.

Lawmakers and regulators are cracking down, though slamming complaints represent only a fraction of the 50 million changes that consumers made in their long-distance service last year. Last month the FCC levied the biggest slamming fine in history, a $5.7 million penalty against the Fletcher Cos., run by a 30-year-old fugitive named Daniel Fletcher. The FCC has vowed

to increase penalties and force companies to return money they collect from slamming victims. In California, a new law requires long-distance carriers to hire a third party to authenticate every request for service changes.

The phone companies are policing themselves, too. AT&T filed lawsuits in March against three independent sales agents it suspected of the problem. AT&T says agents who account for less than 5% of the company's consumer long-distance sales were responsible for about two-thirds of slamming complaints against AT&T.

BILLED AND BILKED

Scams are multiplying as deregulation spreads. Complaints of cramming—cases like that of Jean Franklin—are the newest twists, and they are soaring.

A host of small, independent companies are billing customers—sometimes on their local phone bills—for information services, such as horoscopes and sports scores, that they didn't order. Some people are billed at random; others are the victims of carelessness and error by carriers and billing companies.

The FCC has processed 1,123 complaints of cramming since it began tracking them last December. And last week, Bell Atlantic cracked down on cramming, in effect saying that it would no longer allow 20 smaller companies to place their charges on Bell Atlantic bills.

The company, which serves more than 41 million customers from Virginia to Maine, said it is receiving hundreds of complaints a day and that more than 80% are legitimate.

Floyd Brown's cramming case is typical. Brown, 76, of Carlsbad, Calif., said American billing charged his mother earlier this year for $44.55 worth of information services it said she had purchased over the phone. "She had been dead for a year and a half," Brown says.

And Franklin and her husband are still struggling to resolve their dispute with the company. The bad debt remains on their credit reports, and shame has kept them from applying for loans to buy a new car and a new house. "It's not going to be over until that item is removed from our credit report," Franklin says.

Mr. MCCAIN. The AARP writes:

The American Association of Retired Persons (AARP) commends you for introducing S. 1618, a bill to improve the protection of consumers against the unauthorized switching of long distance telephone service providers. According to the FCC, this practice, known as "slamming" is the fastest growing consumer complaint in telecommunications. We believe that the provisions in your bill to amend the Communications Act of 1934 to curtail "slamming" are good for consumers.

* * * * *

AARP believes that, as competition develops throughout the telecommunications industry, all telephone carriers should be subject to provisions similar to these. We also believe that the issues attendant the practice of "cramming" need to be addressed in the near future. We look forward to working with you toward that goal. In the meantime, the provisions of this bill move consumer protections in the right direction. The Association stands ready to work with you as you seek final passage of this important piece of legislation.

Mr. President, yesterday there was an article in the USA Today which is included in the RECORD, and it says: "Callers fall victim to telecom war, complaints of slamming, phony charges skyrocket."

Jean Franklin, a Salem, Ore., homemaker, was billed last year for several hundred dollars worth of adult-chat phone calls.

American Billing & Collection sent the invoices to her home, but the calls—which eventually totaled $1,100—were billed to a telephone number she and her husband, Kenneth, canceled years earlier when they moved.

She'd been "crammed"—billed for a phone service she never bought.

* * * * *

Long-distance rates have fallen 60% since the 1984 dismantling of AT&T, and consumers can choose from hundreds of new carriers. "But it was a lot easier to use the phone before they broke up AT&T . . .," says Allan Kohn . . . who was dismayed when he couldn't find a pay phone that accepted his calling card.

Mr. President, by far the bulk of consumer complaints at the FCC are about slamming, switching consumers long-distance service without permission. And it goes on to talk about the 20,000 complaints.

AT&T alone says 500,000 of its 80 million residential customers were slammed last year.

"I resented the fact that I had been changed without notice," says Jim Pringle of Pittsboro, N.C. "But what I resented almost more was that somebody benefited from the lag between when it occurred and when I realized it."

Mr. President, I recognize on the floor Senator COLLINS who has been heavily involved in this issue. And after Senator DORGAN speaks, I think she will seek to address her amendment. But I want to thank her for her involvement in this issue, the hearings that she held in her subcommittee and the enormous contributions she has made in causing this bill to progress.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me add my congratulations to Senator COLLINS on the work that she has done, and certainly to the Senator from Arizona, Senator MCCAIN, and Senator HOLLINGS. Senator HOLLINGS has asked me to be present for him. He is tending to other Senate business at the moment.

This is an important piece of legislation. We appreciate very much the bipartisan work that was done to bring it to the floor of the Senate.

I would like to just, for a couple of moments, give an overview of where we are and then bring it to this piece of legislation—and I will be rather brief—after which I will be interested in hearing from the Senator from Maine as well.

The breathtaking changes in telecommunications and in the telecommunications industry in recent years have been quite remarkable. No one could have anticipated what we would see in technology and in opportunities that exist from the changing technology.

I, in a speech some while ago, held up a vacuum tube, a small vacuum tube that we are all familiar with, and then I held up next to it a little computer chip that was about one-half the size of my little fingernail, and I said, "The little computer chip equals 5 million vacuum tubes." Sometimes we forget to equate what is happening in these little chips and in their power and in their capability, but it is really quite remarkable what has happened to speed, storage density, memory and all the other things that relate to these breakthroughs.

The CEO of one of the large companies, IBM as a matter of fact, in a report to the annual meeting that I had read, I guess, about 6 or 8 months ago, talked about the research they are doing in the area of storage density, which kind of relates to all this technology. And I was struck by what he said. He said we were on the verge of a breakthrough with respect to storage density, such that the time was near, he thought, when we would be able to store all of the volumes of work at the Library of Congress, which represents the largest volume of recorded human history anywhere on Earth—we would be able to store all of that, 14 million volumes of work, on a wafer the size of a penny.

Think of that—carrying around in your pocket to slip into a laptop a wafer the size of a penny that contains 14 million volumes of work. Unthinkable? No. It is where technology is heading.

In my little high school, where I graduated in a class of nine, we had a library the size of a coat closet. That high school now has access to the largest libraries in the world through the Internet. All of this is made possible by the breakthroughs in technology and the telecommunications industry and the development of the information superhighway. Many of us are very concerned, as public policy develops in all of these areas, that we make certain that the benefits of all of this are available to all Americans, that the on-ramps and off-ramps for the information superhighway, yes, stop even in my hometown, in my small county.

So as we develop legislation such as the Telecommunications Act, which Congress passed a couple years ago, and try to evaluate what kinds of policy guidance we can give as this industry grows, it is very important that we do this right.

I might say, as I begin, that I am concerned about universal service, about the availability of universal service—especially in telephone service—in the years ahead, in the high-cost areas and rural areas of our country. I hope very much that the Federal Communications Commission will

make a U-turn with respect to some of the policy decisions they have made which I think threaten universal service in the future. There is still time for them to make some recalculations and some different policy judgments. I have met with Chairman Kennard and others, and I hope very much that they will make some different judgments than what we saw from the previous Chairman of the FCC, which I think will implement the Telecommunications Act, which is very detrimental to high-cost areas and rural areas of the country. We are going to debate that more in the months and years ahead.

Let me talk specifically about the telecommunications area that does work and works well. One of the areas that works and provides the fruits and benefits of competition to virtually every American is the competition in long-distance telephone service. This is an area—long-distance telephone service—in which there is robust, aggressive competition. Anywhere you look, you will find a telephone company engaged in selling long-distance service. If you don't think so, just sit down for dinner some night, and somebody will give you a cold call from an office somewhere in a State far away, and they will be trying to sell you their long-distance service. They apparently only dial at mealtime—at least into our home. But I think every American is familiar with these telephone calls—"Won't you take our long-distance service?" As I indicated, up to 500 companies are robustly competing for the consumer dollar. What has happened to the cost of long-distance service? It has gone down, down, down. That represents the fruit and the benefit of good competition.

But one other thing has happened with respect to this competition. As is the case where there is robust competition, there are also some bad actors. In this case, "bad actors" means that people get involved in this business of trying to sell a long-distance service to a customer that already has a long-distance provider but decides they are going to sell it the shortcut way—they are not even going to ask the consumer whether they want to change providers. Through sleight of hand, they are going to engage in a technological stealing of sorts; they are going to switch someone's long-distance service and not tell them about it. That is, in fact, stealing; that is, in fact, a criminal act. One might ask, is that happening a lot? Yes, it is happening a lot.

Here is a story about the king of slammers. I was trying to evaluate where this word "slammer" came from. Frankly, nobody knows where the word "slammer" came from. But the definition of "slammer," as it is used in this context, is someone who goes in and changes someone else's long-distance carrier without telling them and without authorization. It is stealing. It is criminal.

The king of slammers is Daniel Fletcher. Let me cite him as an example. The head of the FCC, William Kennard, said, "This is truly a bad actor. He is a felon who clearly had intent to violate the FCC's rules, and we're hitting him hard." But not too hard, because they haven't found him. He changed a half-million people's long-distance carrier, and he, apparently, made $20 million. Is that stealing? Yes. Is that petty cash? No; that is grand theft. The fact is, that goes on across the country all too often.

Yesterday, Mr. President, on the floor, I held a clipping from the newspaper in North Dakota. It just so happened that, coincidentally, the North Dakota papers had a story that said that the North Dakota Attorney General had been the victim of slamming. Someone had decided to change the attorney general's long-distance carrier without asking her.

Now, am I suggesting that slammers are stupid? Well, not always. They certainly seem to steal a lot of money. But is it a stupid slammer that decides they are going to change the long-distance service of an attorney general of a State without telling them? Yes, that is pretty stupid. But this is not about being stupid or funny, it is about stealing. The hearings that were held by Senator COLLINS, and others, and the work done has been to respond to a very real problem that is significant.

Now, the FCC complaints about this slamming—the unauthorized change of a long-distance service—increased from 2,000 five years ago, to 20,000 last year. The FCC indicates that there is a substantial amount of slamming going on, evidenced by the complaints to the FCC. The GAO did a report that, in fact, was rather critical of the FCC's enforcement on these slamming issues, saying that the antislamming measures "do little to protect the consumers from slamming."

We have a problem; yet, we are not able to solve that problem with the regulatory agency, either because it is not doing what it ought to do, it doesn't exert enough energy, or perhaps it doesn't have enough authority. But whatever the reason—and it might be a combination of all of those reasons—this problem is not going away; it is growing much, much worse.

In 1997, with 20,000 complaints, the FCC obtained only 9 consent decrees from companies nationwide that paid a total of $1.2 million in fines because of slamming. In the same year, California, by comparison, suspended one firm for 3 years because of slamming, and fined it $2 million, and ordered it to repay another $2 million to its customers. One State, the State of California, did far more than the FCC. I hope that this piece of legislation we will pass will give the FCC the authority, energy, and resources to join us and do what we must do to respond to this slamming.

Now, let me read what the legislation does. It strengthens the antislamming laws and requires the FCC to establish the following consumer protections:

One, it prohibits a carrier from changing a local subscriber's long-distance service, unless the carrier follows the minimum verification procedures prescribed by the FCC—sets up specific procedures that must be followed.

Two, it requires carriers to keep an oral, written, or electronic record of a subscriber authorizing a change in their carrier.

Three, it requires a carrier to send a written notification to the consumer informing them of the changed service within 15 days of the change in service.

Four, it requires carriers to provide consumers with the information and procedures necessary to file a complaint at the FCC.

Five, it requires carriers to provide slammed customers with any evidence that authorized that change.

It allows the complaint process to impose stiff penalties, up to $150,000, and a range of other important issues that I think will give us much more enforcement against this slamming process and the slamming practice across the country.

Once again, let me conclude by saying that this is not some minor nuisance issue; this is an issue in which some have taken advantage of consumers who are the victims. It is true that the company that has been changed is also a victim, a company that was serving a customer and is now not serving the customer.

But the ultimate victim here are the consumers who only understand later after they have taken a look at a bill somewhere and discover they are the ones that have been victimized.

This bill also, incidentally, would prohibit some other practices that are deceptive. There are a whole range of practices that have allowed people or persuaded people to sign a coupon in exchange for having an opportunity or a chance to get something, or get a free door prize, or get some sort of free gift. So you sign this little coupon. On the bottom in tiny little script it tells you that despite the fact that you have never read it, you have just signed away and changed your long-distance carrier. That is cheating. Where I come from, and I think where all of us come from, when you cheat and steal, somebody ought to be after you to get you.

That is exactly what we want to have happen with respect to the enforcement against this kind of behavior and practice that is making victims of millions of Americans all across the country.

This one fellow took one-half million households, changed their long-distance carrier, got $20 million into an

income stream into shell corporations that he set up, and now he is gone. What does this mean? It means that one-half million Americans were cheated. This fellow stole from not only the companies but especially the Americans who expected to have a long-distance service they had contracted for and discovered someone else changed it.

Let me again, as I began, say thank you to Senator COLLINS, to Senator MCCAIN, and to Senator HOLLINGS and so many others. I am a cosponsor of this, as are a good number of our colleagues in the Senate, because it is good legislation and will do the right thing for consumers in this country.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I thank Senator DORGAN for his kind remarks but also for his very clear and concise depiction of the issue that we are addressing. I think it is important that the record reflect the entirety of his remarks.

Mr. President, I ask unanimous consent that the pending committee amendments be agreed to and considered as original text for purpose of further amendments.

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

The committee amendments were agreed to.

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

Mr. HOLLINGS. Mr. President, I rise today in support of legislation that is necessary to stem the tide of one of the most annoying anti-consumer practices, known as slamming. Slamming occurs when a preferred telecommunications service provider of the consumer is changed without the consent of the consumer. This legislation enhances the verification and other procedures that carriers must use to ensure that the consumer consents to the change in its service provider. It also enhances the enforcement authority of the FCC, the Department of Justice, and the State attorneys general and imposes greater penalties and fines to address the problem of slamming.

Slamming is not a new problem. Many consumers have been victims of slamming, suddenly discovering that their phone service is no longer being provided by their carrier of choice. Instead, it is being provided by an unauthorized carrier. We've all had the sales calls interrupt us at the dinner table. Regardless of what the FCC does, the problem persists.

In a recent USA Today article, the FCC said it received 12,000 consumer complaints about slamming during the first half of 1997. In 1996, it received more than 16,000 total slamming complaints. In its Fall 1996 Common Carrier Scorecard, the FCC stated that slamming was the top consumer complaint category handled by the Enforcement Division's Consumer Protection Branch. It also stated that slamming complaints were the fastest-growing category of complaints, increasing more than six-fold between 1993 and 1995. In its 1997 Common Carrier Scorecard, the FCC indicated that nine companies accused of slamming have entered into consent decrees and have agreed to make payments to the United States Treasury totaling $1,245,000. The FCC has also issued two Notices of Forfeitures with combined forfeiture penalties of $160,000. Nonetheless, slamming continues to be a significant problem.

The provisions we introduce today will hopefully stop this practice of slamming once and for all. The legislation places new responsibilities on carriers for the benefit of consumers. For example, often times, a consumer is slammed and does not know it until the next telephone bill arrives. Sometimes, unscrupulous carriers provide service to slammed customers for a considerable time before the customer becomes aware of the unauthorized switch. To prevent this, the legislation requires that whenever there is a change in the subscriber's carrier, the carrier must notify the subscriber of the change within 15 days. A carrier has 120 days to resolve a slamming complaint. If the carrier is unable to resolve the complaint within the required timeframe, then the carrier must notify the consumer of his or her right to file a complaint with the FCC. The FCC is required to resolve a slamming complaint it receives within 150 days.

The bill also requires a carrier to retain evidence of the consumer's authorization to switch carriers and to inform the consumer of their rights to pursue a resolution of the matter with the Federal Communications Commission and with State authorities. Requiring carriers to store information will make it easier to resolve slamming disputes that arise between the consumer and the carrier. Armed with information on how to resolve slamming disputes, we hope that consumers will pursue their available recourse and help us hold carriers accountable for their illegal actions.

In addition, the bill creates a variety of causes of actions and imposes stiff penalties on carriers. If a carrier violates FCC rules, the FCC can award the greater of actual damages or $500 and has the discretion to award treble damages. If there are no mitigating circumstances, the FCC is required to impose on the carrier a forfeiture of $40,000 or more for the first offense and not less than $150,000 for each subsequent offense. If a company fails to pay a forfeiture, the FCC can limit, deny, or revoke the company's operating authority. Where the slammer's actions have been willful, the Department of Justice can bring an action to impose fines in accordance with Title 18, United States Code and imprison the person who submits or executes a change in willful violation of Section 258. In addition, State attorneys general can bring actions in federal court to: impose criminal sanctions and penalties under Title 18 U.S. Code; recover actual damages or $500 in damages; and recover fines of $40,000 or more for first offenses and not less than $150,000 for subsequent offenses unless there are mitigating circumstances. Finally, this bill gives the FCC authority to pursue billing agents when they place charges on a consumers bill that they know the consumer has not authorized.

Slamming is a troublesome problem. Slamming eliminates a consumer's ability to choose his or her service provider. It distorts telecommunications markets by enabling companies engaged in misleading practices to increase their customer base, revenues, and profitability through illegal means. Today hundreds of long distance carriers compete for a consumer's business. If slamming is not addressed effectively today, it could become much more worrisome. The changes in the telecommunications industry will probably result in a future in which local and long distance phone services are provided by an even greater number of carriers.

It is therefore important that we eliminate the practice of slamming. Consumers have the right to choose their own phone companies when they choose. A consumer's choice should not be curtailed by the illegal actions of bad industry actors and a consumer should not have to spend a significant amount of time addressing issues of slamming. I expect that requirements placed by this bill will help to eliminate slamming. My actions with respect to slamming reflect my continued efforts to protect consumers as I have in the past supported legislation which successfully addressed the problem of junk fax and ensure that companies engage in proper telemarketing practices.

I welcome my colleagues in joining Senator MCCAIN and I as we address the problem of slamming and ensure that no one is allowed to curtail a consumer's choice of phone service provider.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. I yield such time to the Senator from Maine as she may consume.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I want to start by complimenting the chairman of the Commerce Committee for his outstanding leadership in dealing with a very important consumer issue, and that is telephone slamming.

I also want to commend the Senator from North Dakota for his very eloquent explanation of the problem and the solutions.

Mr. President, I rise to express my strong support for S. 1618, legislation that will provide America's consumers with much needed protection against a fraudulent practice known as slamming—the unauthorized switching of a customer's telephone service provider. I want to commend Senators MCCAIN and HOLLINGS for taking steps to attack this rapidly growing problem.

Telephone slamming is spreading like wildfire. In Maine, complaints increased by 100 percent from 1996 to 1997. Nationwide, slamming is the number one telephone-related complaint. While the FCC received more than 20,000 slamming complaints in 1997, a significant increase over the previous year, estimates from phone companies indicate that as many as one million people were slammed during that 12-month period.

Last fall, the Permanent Subcommittee on Investigations, which I chair, undertook an extensive investigation of this problem. At a field hearing this past February in Portland, Maine, at which I was joined by Senator DURBIN, one of the leaders in the fight against slamming, we heard from several consumers who were victimized by this practice. Their words reflect the public attitude toward the intentional slammer, as they described what happened to them as "stealing," "criminal," and "break-in."

My Subcommittee recently held a second hearing, which revealed that a number of what are known as switchless resellers were responsible for a large percentage of the intentional slamming incidents. These operations use deceptive marketing practices and outright fraud to switch consumers' long distance service without their consent.

One recent victim was a hospital in western Maine. This demonstrates that no one is immune from this despicable practice.

Mr. President, our hearings presented a case that dramatically shows the need for tougher sanctions to deal with this problem. I refer to an individual by the name of Daniel Fletcher, who fraudulently operated as a long distance reseller under at least eight different company names, slamming thousands of consumers, and billing them for at least $20 million in long distance charges. While we were struck by the ease with which Mr. Fletcher carried out his activities and evaded detection, we were shocked to learn about the absence of adequate criminal sanctions to deal with his activities.

Mr. Fletcher bilked America's telephone customers out of millions of dollars by charging them for services they did not authorize and obtaining from them money to which he was not entitled. Yet, we lack a statute that expressly makes intentional slamming a crime, and unless that is corrected, we can expect many more Fletchers. Mr. President, the time has come for the United States Congress to disconnect the telephone slammers.

Given our concern about this problem, Senator DURBIN and I introduced slamming legislation, and I want to thank Senators MCCAIN and HOLLINGS for agreeing to incorporate its three main provisions into a Manager's Amendment to their bill. These additions will help make a good bill even better.

The first of these provisions will get tough with the outright scam artists by establishing new criminal penalties for intentional slamming. I should emphasize that these penalties will apply only to those who know that they are acting without the customer's authorization and not to those who make an honest mistake or even act carelessly. It's time we sent the deliberate slammer to the slammer. In addition, anyone convicted of intentional slamming will be disqualified from being a telecommunications service provider, thereby enabling us not only to punish past conduct but also to prevent future violations.

The second provision is designed to remove the financial incentive for companies to engage in slamming by giving slammed customers the option to pay their original carrier at their previous rate. Under current law, it appears that customers are obligated to pay the slammer even after they discover they have been switched without their consent. That hardly acts as a deterrent, something that must be changed.

The third provision will improve enforcement by requiring all telecommunications carriers to report slamming violations on a quarterly basis to the FCC. To avoid putting a burden on the carriers, the report need only be summary in nature, but it will enable the FCC to identify and move against the frequent slammer.

Deregulation of the telephone industry may produce many benefits for consumers but it also has given rise to fraud where it did not previously exist. It was Congress who decided to deregulate the industry, and it is Congress that must act to stop this fraud. Senate bill 1618 will move us in that direction by putting a big dent in telephone slamming and by protecting the right of the American people to choose with whom they wish to do business.

Again, I very much appreciate the cooperation of the distinguished chairman of the Commerce Committee and his willingness to accept the Collins-Durbin amendments.

I thank the Senator, and I yield the floor.

Mr. MCCAIN. Mr. President, I thank Senator COLLINS again. We look forward to working with her on other issues that are as noncontroversial as these, as opposed to campaign finance reform which generated much more concern. But I seriously want to note the hard work that Senator COLLINS devoted in her subcommittee to this issue. It was very important. I thank the Senator.

AMENDMENT NO. 2389

(Purpose: To provide a substitute that incorporates the Committee amendments and additional changes in the bill as reported by the committee)

Mr. MCCAIN. Mr. President, I ask for the incorporation at this time of the managers' amendment to S. 1618. I ask unanimous consent that it be adopted.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. HOLLINGS, proposes an amendment numbered 2389.

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

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

(The amendment (No. 2389) is printed in today's RECORD under "Amendments Submitted.")

Mr. MCCAIN. Mr President, this amendment defines "subscriber" in a way that allows the person named on the billing statement or account, or those authorized by such a person, to consent to carrier changes.

It clarifies that the time period the FCC prescribes for a carrier to resolve a slamming complaint, which is not to exceed 120 days, applies when a carrier receives notice directly from the subscriber of the complaint.

It makes clear that if a carrier does not resolve a complaint within the period prescribed by the Commission, it must notify the subscriber in writing of the subscriber's rights and remedies only under Section 258 of the Communications Act, not under any other law.

It clarifies that the FCC may dispose of a slamming complaint within the 150-day period established in the bill by issuing a "decision or ruling." The FCC will not be required to issue a formal "order" each time it resolves a complaint. It also clarifies that the 150-day period in the bill is intended to be used by the FCC to determine if slamming has occurred, and if slamming has occurred, the FCC has another 90 days, if such additional time is necessary, to determine what damages and penalties should be assessed.

In discussing the amount of damages that may be awarded by the FCC, the original bill referred to the FCC as "resolving a complaint." This change removes that language and the implication that "resolving a complaint" requires a finding of a violation of the slamming rules. It states that the FCC may award damages only if slamming has occurred.

It allows state Attorneys General to bring an action for each alleged slamming violation to enjoin unauthorized changes and to recover damages, to bring an action to seek criminal sanctions for willful violations, and to bring an action to seek a penalty of not less than $40,000 for the first slamming offense and not less than $150,000 for each subsequent offense. A court may reduce the amount of these penalties if it determines that there are mitigating circumstances involved. The district courts shall have exclusive jurisdiction over all of these actions.

It clarifies that states are not preempted from imposing more restrictive requirements, regulations, damages, and penalties on unauthorized changes in a subscriber's telephone exchange service or telephone toll service provider than are imposed under Section 258 of the Communication Act, as amended by this bill.

It clarifies that when the FCC is resolving slamming complaints, it is not instituting a "civil action." In addition, while a particular slamming compliant involving a particular carrier is pending before the FCC, no state may institute a civil action against the same carrier for the same alleged violation.

It allows the FCC to use the fact of a carrier's nonpayment of a forfeiture for a slamming or billing violation as a basis for revoking, denying or limiting that carrier's operating authority.

It imposes duties on all billing agents, both those that are telecommunications carriers that render bills to consumers and those that operate as billing clearinghouses for carriers. It requires any billing agent that issues telephone bills to follow a certain format for the bill. The bill must list telecommunications services separately from other services and must identify the names of each provider and the services they have provided. Billing agents also must provide information to enable a consumer to contact a service provider about a billing dispute. This provision also prohibits billing agents from submitting charges for a consumer's bill if they know or should know that the consumer did not authorize such charges or if the charges are otherwise improper.

It gives the Commission jurisdiction over billing agents that are not telecommunications carriers but provide billing services for such carriers or for other companies whose charges appear on telephone bills.

It instructs the FCC to include in the report required by Section 6 of the bill an examination of telemarketing and other solicitation practices, such as contests and sweepstakes, used by carriers to obtain carrier changes. The FCC also is required to study whether a third party should verify carrier changes and whether an independent third party should administer carrier changes. This provision will address concerns about the possibility of anticompetitive behavior by the local phone companies once they start to provide long-distance service. Enforcement of slamming rules will remain the responsibility of the FCC.

Mr. McCAIN. Mr. President, I send, on behalf of Senator FEINGOLD, an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is the amendment to the substitute amendment?

Mr. McCAIN. Mr. President, before asking for the reading of the amendment, I ask unanimous consent that the managers' amendment be considered as original text.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 2389) was agreed to.

AMENDMENT NO. 2390

(Purpose: To authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment)

Mr. McCAIN. I ask now for consideration of the amendment by Senator FEINGOLD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. FEINGOLD, proposes an amendment numbered 2390.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. ENFORCEMENT OF REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), a State or local government may enforce the following regulations of the Commission under this section:

"(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

"(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

"(2) Possession of a station license issued by the Commission pursuant to section 301 in any radio service for the operation at issue shall preclude action by a State or local government under this subsection.

"(3) The Commission shall provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

"(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government enforcing a regulation under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, acted outside the authority provided in this subsection.

"(B) A person shall submit an appeal on a decision of a State or local government to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government becomes final.

"(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

"(D) If the Commission determines under subparagraph (C) that a State or local government has acted outside its authority in enforcing a regulation, the Commission shall reverse the decision enforcing the regulation.

"(5) The enforcement of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

"(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.".

Mr. McCAIN. Mr. President, I have reviewed the amendment with Senator DORGAN, and it is acceptable on both sides. I encourage its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2390) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Mr. President, as we take up this important anti-slamming bill, which of course deals with consumer problems with telephone service, I am pleased that the Senate has agreed to this amendment to provide a practical solution to the all too common problem of interference with residential home electronic equipment caused by unlawful use of citizens band [CB] radios. I want to thank the Chairman of the Committee, Senator McCAIN, and the ranking member, Senator HOLLINGS, for agreeing to include this amendment in the slamming bill.

The problem of CB radio interference can be extremely distressing for residents who cannot have a telephone conversation, watch television, or listen to the radio without being interrupted by a neighbor's illegal use of a CB radio. Unfortunately, under the current law, those residents have little recourse. The amendment I offered today will provide those residents with a practical solution to this problem.

Up until recently, the FCC has enforced its rules outlining what equipment may or may not be used for CB radio transmissions, how long transmissions may be broadcast, what channels may be used, as well as many

other technical requirements. FCC also investigated complaints that a CB radio enthusiast's transmissions interfered with a neighbor's use of home electronic and telephone equipment. FCC receives thousands of such complaints annually.

For the past 3 years, I have worked with constituents who have been bothered by persistent interference of nearby CB radio transmissions in some cases caused by unlawful use of radio equipment. In each case, the constituents have sought my help in securing an FCC investigation of the complaint. And in each case, the FCC indicated that due to a lack of resources, the Commission no longer investigates radio frequency interference complaints. Instead of investigation and enforcement, the FCC is able to provide only self-help information which the consumer may use to limit the interference on their own.

I suppose this situation is understandable given the rising number of complaints for things like slamming. The resources of the FCC are limited, and there is only so much they can do to address complaints of radio interference.

Nonetheless, this problem is extremely annoying and frustrating to those who experience it. In many cases, residents implement the self-help measures recommended by FCC such as installing filtering devices to prevent the unwanted interference, working with their telephone company, or attempting to work with the neighbor they believe is causing the interference. In many cases these self-help measures are effective.

However, in some cases filters and other technical solutions fail to solve the problem because the interference is caused by unlawful use of CB radio equipment such as unauthorized linear amplifiers.

Municipal residents, after being denied investigative or enforcement assistance from the FCC, frequently contact their city or town government and ask them to police the interference. However, the Communications Act of 1934 provides exclusive authority to the Federal Government for the regulation of radio, preempting municipal ordinances or State laws to regulate radio frequency interference caused by unlawful use of CB radio equipment. This has created an interesting dilemma for municipal governments. They can neither pass their own ordinances to control CB radio interference, nor can they rely on the agency with exclusive jurisdiction over interference to enforce the very Federal law which preempts them.

Let me give an example of the kind of frustrations people have experienced in attempting to deal with these problems. Shannon Ladwig, a resident of Beloit, WI has been fighting to end CB interference with her home electronic equipment that has been plaguing her family for over a year. Shannon worked within the existing system, asking for an FCC investigation, installing filtering equipment on her telephone, attempting to work with the neighbor causing the interference, and so on. Nothing has been effective.

Here are some of the annoyances Shannon has experienced. Her answering machine picks up calls for which there is no audible ring, and at times records ghost messages. Often, she cannot get a dial tone when she or her family members wish to place an outgoing call. During telephone conversations, the content of the nearby CB transmission can frequently be heard and on occasion, her phone conversations are inexplicably cut off. Ms. Ladwig's TV transmits audio from the CB transmission rather than the television program her family is watching. Shannon never knows if the TV program she taped with her VCR will actually record the intended program or whether it will contain profanity from a nearby CB radio conversation.

Shannon did everything she could to solve the problem and a year later she still feels like a prisoner in her home, unable to escape the broadcasting whims of a CB operator using illegal equipment with impunity. Shannon even went to her city council to demand action. The Beloit City Council responded by passing an ordinance allowing local law enforcement to enforce FCC regulations—an ordinance the council knows is preempted by Federal law. Last year, the Beloit City Council passed a resolution supporting legislation I introduced, S. 608, on which my amendment is modeled, which will allow at least part of that ordinance to stand.

The problems experienced by Beloit residents are by no means isolated incidents. I have received very similar complaints from at least 10 other Wisconsin communities in the last several years in which whole neighborhoods are experiencing persistent radio frequency interference. Since I have begun working on this issue, my staff has also been contacted by a number of other congressional offices who are also looking for a solution to the problem of radio frequency interference in their States or districts caused by unlawful CB use. The city of Grand Rapids, MI, in particular, has contacted me about this legislation because they face a persistent interference problem very similar to that in Beloit. In all, FCC receives more than 30,000 radio frequency interference complaints annually—most of which are caused by CB radios. Unfortunately, FCC no longer has the staff, resources, or the field capability to investigate these complaints and localities are blocked from exercising any jurisdiction to provide relief to their residents.

My amendment attempts to resolve this Catch-22, by allowing States and localities to enforce existing FCC regulations regarding authorized CB equipment and frequencies while maintaining exclusive Federal jurisdiction over the regulation of radio services. It is a commonsense solution to a very frustrating and real problem which cannot be addressed under existing law. Residents should not be held hostage to a Federal law which purports to protect them but which cannot be enforced.

Now this amendment is by no means a panacea for the problem of radio frequency interference. It is intended only to help localities solve the most egregious and persistent problems of interference—those caused by unauthorized use of CB radio equipment and frequencies. In cases where interference is caused by the legal and licensed operation of any radio service, residents will need to resolve the interference using FCC self-help measures that I mentioned earlier.

In many cases, interference can result from inadequate home electronic equipment immunity from radio frequency interference. Those problems can only be resolved by installing filtering equipment and by improving the manufacturing standards of home telecommunications equipment.

The electronic equipment manufacturing industry, represented by the Telecommunications Industry Association and the Electronics Industry Association, working with the Federal Communications Commission, has adopted voluntary standards to improve the immunity of telephones from interference. Those standards were adopted by the American National Standards Institute last year. Manufacturers of electronic equipment should be encouraged to adopt these new ANSI standards. Consumers have a right to expect that the telephones they purchase will operate as expected without excessive levels of interference from legal radio transmissions. Of course, Mr. President, these standards assume legal operation of radio equipment and cannot protect residents from interference from illegal operation of CB equipment.

This amendment also does not address interference caused by other radio services, such as commercial stations or amateur stations. Mr. President, last year, I introduced S. 2025, a bill with intent similar to that of the amendment I am offering today. The American Radio Relay League [ARRL], an organization representing amateur radio operators, frequently referred to as "ham" operators, raised a number of concerns about that legislation. ARRL was concerned that while the bill was intended to cover only illegal use of CB equipment, FCC-licensed amateur radio operators might inadvertently be targeted and prosecuted by local law enforcement. ARRL also expressed concern that local law enforcement might not have the technical abilities to distinguish between ham stations and CB

stations and might not be able to determine what CB equipment was FCC-authorized and what equipment is illegal.

I have worked with the ARRL and amateur operators from Wisconsin to address these concerns. As a result of those discussions, this amendment incorporates a number of provisions suggested by the league. First, the amendment makes clear that the limited enforcement authority provided to localities in no way diminishes or affects FCC's exclusive jurisdiction over the regulation of radio. Second, the amendment clarifies that possession of an FCC license to operate a radio service for the operation at issue, such as an amateur station, is a complete protection against any local law enforcement action authorized by this amendment. Amateur radio enthusiasts are not only individually licensed by FCC, unlike CB operators, but they also self-regulate. The ARRL is very involved in resolving interference concerns both among their own members and between ham operators and residents experiencing problems.

Third, the amendment also provides for an FCC appeal process by any radio operator who is adversely affected by a local law enforcement action under this amendment. FCC will make determinations as to whether the locality acted properly within the limited jurisdiction this legislation provides. The FCC will have the power to reverse the action of the locality if local law enforcement acted improperly. And fourth, my legislation requires FCC to provide States and localities with technical guidance on how to determine whether a CB operator is acting within the law.

Again, Mr. President, my amendment is narrowly targeted to resolve persistent interference with home electronic equipment caused by illegal CB operation. Under my amendment, localities cannot establish their own regulations on CB use. They may only enforce existing FCC regulations on authorized CB equipment and frequencies. This amendment will not resolve all interference problems and it is not intended to do so. Some interference problems need to continue to be addressed by the FCC, the telecommunications manufacturing industry, and radio service operators. This amendment merely provides localities with the tools they need to protect their residents while preserving FCC's exclusive regulatory jurisdiction over the regulation of radio services.

I am very pleased that this amendment has been accepted, and I hope it will become law along with the anti-slamming bill.

Mr. MCCAIN. Mr. President, we have, according to my understanding, an amendment by Senator FEINSTEIN, that Senator DORGAN has not had a chance to look at but I will ask that he review, which is acceptable. And I understand we have an amendment by Senator ROCKEFELLER. I do not believe that there are any other amendments that we need to consider because we have dispensed with, according to the unanimous consent agreement, the Collins-Durbin amendment. We have dispensed with the Reed amendment, the Levin amendments, Feingold amendment, and McCain amendment, a Hollings amendment, a Harkin amendment, which leaves us with the Rockefeller amendment after we dispense with the Feinstein amendment.

So I yield the floor.

Mr. DORGAN. Mr. President, I yield 10 minutes to the Senator from Rhode Island, Mr. REED.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. I thank the Chair.

I rise in strong support of S. 1618, the Consumer Anti-Slamming Act of 1998, and I particularly commend Chairman MCCAIN and ranking member HOLLINGS for the bipartisan and professional manner in which they have considered this legislation. I am pleased to have been part of this process, and I thank them very much for considering my suggestions to improve this legislation.

Last July 24, again with the assistance of Senators MCCAIN and HOLLINGS, I offered a sense-of-the-Senate resolution which outlined the issue involving slamming and proposed several suggested solutions. That resolution passed unanimously. Today, I support S. 1681 because it goes forward from that resolution to incorporate very pragmatic resolutions to the problem of slamming that is confronting so many consumers across this country.

I would also like to thank the National Association of Attorneys General as well as the National Association of Regulatory Utilities Commissioners for their assistance. These organizations and their members are fighting this epidemic of slamming at the State level. They are doing a remarkable job, and they were very helpful to me in preparing my legislation and helping me understand the scope of this problem.

We have taken great strides in our economy by deregulating many of our formerly regulated utilities, particularly the telephone companies, but all of that deregulation is for naught if we cannot give consumers real valid choice. And the problem with slamming is it denies consumers real choice. In effect, it tricks them into making choices that are not beneficial to them or collectively to our society and our economy. We have to do something about it.

I am very pleased that this legislation takes very pragmatic and effective steps to stop this curse of slamming, the illegal switching of telephone services. And this is an enormous problem throughout our economy. It threatens to rob many, many consumers of the benefits of deregulation and of a free market for services like telephone service. The Federal Communications Commission indicates that slamming is their No. 1 reported fraud. In my home State of Rhode Island, it is the top consumer issue in terms of telephone service and other consumer issues.

Yet all of these very impressive statistics may be just the tip of the iceberg, because press reports indicate that many, many more people are victims of slamming, but they do not have either the knowledge or the inclination under present rules and regulations to report these cases of slamming. Indeed, one regional telephone carrier estimated that 1 in 20 changes of telephone service is a result of fraud. Slamming is a multimillion-dollar fraud problem, and today, under the leadership of Senator MCCAIN and Senator HOLLINGS, we are addressing this problem head on.

One of the aspects of the issue is that there are numerous consumers who are unaware of the fact that they are victims. Forty-one percent of these individuals, of those who have been affected by slamming, do not report the incidents to regulatory authorities or anyone. When a complaint is logged, it is usually logged with a local telephone carrier; in my case, in upper Rhode Island, it is Bell Atlantic. Now, these local carriers do try to resolve the problem, but often they do not have the tools or the ability to do so, and as a result, the consumer is left a victim of the slammer.

When consumers do report these problems and try to take action, under the present regime it is usually a long and frustrating process to get any relief, if you get any relief at all.

Now, State attorneys general and public utility commissions throughout this country are annually receiving hundreds of thousands of complaints. More than half the State attorneys general have tried to take steps to go to court to bring to justice these slammers using the fraud laws of their State. Unfortunately, these legal actions are cumbersome, lengthy, and often do not really reach the heart of the matter and bring the culprits to justice.

A smaller percentage of victims of slamming will seek relief not at the State level but they will go to the Federal Communications Commission. Last year, 44,000 individuals brought slamming complaints to the FCC. That is a 175 percent increase over complaints in 1996. You can see this is an epidemic that needs to be dealt with decisively, and I am pleased that we are doing that.

Now, the FCC does investigate these complaints, but they are hampered by a lack of proof concerning slamming. They are hampered by not having the kind of record that is necessary to prove definitively that an individual

has been a victim of slamming. This legislation goes a long way to ensure that all of our regulatory authorities at every level of Government have the tools to ensure that they can root out slamming in our economy.

First, this legislation places a more stringent requirement on phone companies before they can switch a consumer's service. The bill requires verification that the consumer, first, understands service will be changed; second, the consumer affirms his or her intent to change service and also indicates that he or she is authorized to switch service.

We have heard lots of evidence of phone companies—slammers, really—calling up, finding a 12- or 13-year-old child in the house, and talking to that child and using that as what they claim is appropriate authorization to switch service. Under this legislation, those types of practices will not be allowed. Also, the legislation requires that the entire verification process must be recorded and also provided to the consumer upon request, so that if it is a 12-year-old in the house that is giving the OK to switch, the parent can quickly determine that from the recorded record and make a correction.

Now, the other protection that is provided here is that the bill requires that carriers inform a consumer in clear and unambiguous language within 15 days that a switch has been authorized. Many times, consumers do not realize their phone service has been switched until they get, 30 days later, a bill from a company that they have never heard of claiming that they are now their primary telephone carrier.

Now, this whole verification process will go a very long way in preventing the abuses that we have seen. No longer can slammers use ambiguous or fraudulent verification scripts, essentially tricking consumers into agreeing. Additionally, slammers can't go ahead and conjure up and splice together different bits of pieces of an authorization or conversation to say, "That is the proof you agreed to switch your service." Because of the requirement for a recorded record, that will not be possible.

This bill clearly says and makes as a clear standard that without proper verification, without a record, the carrier is in violation of law if they switch services and there cannot be any more assertions by these carriers that, "Well, someone told us it was OK in the house, but we don't have the record. Someone authorized it, but we don't know who it was." They are now in a position where they have to show clearly that they have the verification.

Also, this legislation provides for avenues of redress for consumers. First, the consumer can take the issue up with the unauthorized carrier, and they are required to respond appropriately, within at least 4 months, in terms of justifying the switch or making some type of amends to the consumer. Second, a slamming victim can take their case to the Federal Communications Commission. Now, the FCC has additional authority to fine and to penalize slamming. Finally, a consumer who is frustrated can, once again, take his petition under State law to State commissions. Indeed, one aspect of the legislation that is very positive is, there is no preemption of State laws. We recognize that attorneys general and utility commissioners can and must have the ability to work hand and hand with the Federal Government to root out this problem of slamming.

Altogether, this is very important legislation that provides the necessary consumer protections, that makes the goal and objective of deregulation in a market where consumers choose a reality, and puts up strong barriers against those who would trick consumers and rob them of the choice that deregulation offers, the choice of the best service for them, their free choice.

Once again, let me commend Chairman MCCAIN and ranking member HOLLINGS for their work on this. I am hopeful that we can move expeditiously to passage and that this bill will shortly be law and we can protect the American consumer against slamming.

I yield my time.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I yield myself 1 minute.

Senator HOLLINGS and I incorporated an amendment in the managers' amendment on behalf of Senator SNOWE.

This amendment prevents the FCC from taking any actions that would jeopardize the current ability of consumers to "freeze" their long-distance carrier in place. Once the consumer elects to use a freeze, the long-distance carrier of choice can only be changed by the express authorization of the consumer to the local phone company.

Long-distance carriers are concerned about how this amendment might affect their marketing efforts. But reports now show that two consumers are slammed every minute. Given the severity of the slamming problem, the interest we have in preserving safeguards that will project consumers against any unauthorized carrier changes certainly overrides any concerns the industry may have about their marketing efforts.

I thank Senator SNOWE for her amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2391

(Purpose: To modify the exception to the prohibition on the interception of wire, oral or electronic communications to require that all parties to communications with health insurance providers consent to their interception)

Mr. DORGAN. Mr. President, on behalf of Senator FEINSTEIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for Mrs. FEINSTEIN proposes an amendment numbered 2391.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATION OF EXCEPTION TO PROHIBITION ON INTERCEPTION OF COMMUNICATIONS.

(a) MODIFICATION.—Section 2511(2)(d) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, it shall not be unlawful under this chapter for a person not acting under the color of law to intercept a wire, oral, or electronic communication between a health insurance issuer or health plan and a subscriber of such issuer or plan, or between a health care provider and a patient, only if all of the parties to the communication have given prior express consent to such interception. For purposes of the preceding sentence, the term 'health insurance issuer' has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), the term 'health plan' means a group health plan, as defined in such section of such Act, an individual or self-insured health plan, the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.), the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.), and the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, and the term 'health care provider' means a physician or other health care professional.".

(b) RECORDING AND MONITORING OF COMMUNICATIONS WITH HEALTH INSURERS.—

(1) COMMUNICATION WITHOUT RECORDING OR MONITORING.—Notwithstanding any other provision of law, a health insurance issuer, health plan, or health care provider that notifies any customer of its intent to record or monitor any communication with such customer shall provide the customer the option to conduct the communication without being recorded or monitored by the health insurance issuer, health plan, or health care provider.

(2) DEFINITIONS.—In this subsection:

(A) HEALTH CARE PROVIDER.—The term "health care provider" means a physician or other health care professional.

(B) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b).

(C) HEALTH PLAN.—The term "health plan" means—

(i) a group health plan, as defined in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b);

(ii) an individual or self-insured health plan;

(iii) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(iv) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(v) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.); and

(vi) the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, United States Code.

Mrs. FEINSTEIN. Mr. President, I offer a very simple amendment to S. 1618 that will protect the critical area of consumer health care privacy. This amendment provides that in communications with health care insurers or providers, patients have the right not to have their confidential conversations recorded or monitored.

This amendment fills a loophole in existing law. Federal law currently provides that at least one party must consent to the taping or monitoring of a private conversation. The federal law allows states to provide even more stringent restrictions, and require that all parties to a conversation must consent to their taping or monitoring.

However, this law provides no protection to patients against unauthorized taping or monitoring. Even when, as in my State of California, the state law requires all parties to consent for taping or monitoring, the law fails to protect them. Patients are construed to consent to taping or monitoring, whether they expressly consent or not, if they are informed of the taping or monitoring. This is most often accomplished by a recording at the beginning of the telephone call. If patients refuse to have their calls monitored, they are told to simply take their business elsewhere. But there is nowhere else to go.

The confidentiality of details about our health is one of the most sensitive topics imaginable. Physician-patient confidentiality is a bedrock principle that goes back literally thousands of years.

Not only is this an ethical issue, it is a health imperative. In fact, it can be a matter of life and death. Anything less than full confidentiality compromises the willingness of patients to provide the full information that treating physicians need to treat them properly. It can literally jeopardize their health and their life.

We naturally assume that intimate details that we share with our doctor and health care professionals are strictly confidential. But they are not. Today, any communication we have with a health care professional may be taped and monitored.

This problem is exacerbated by the rising role of health insurance companies in treatment. Oftentimes, it is a health insurance company, rather than a trusted doctor, with whom the patient must share intimate personal health details. That health insurance company may not have the same ethical and legal confidentiality obligations as the patient's treating physician.

When my office contacted the top 100 health insurance providers in this country, we learned that most health insurance companies who responded tape or monitor calls from patients.

I want to share briefly some of the responses we received. Kaiser Permanente is a health insurance provider that operates in 19 states and the District of Columbia, and provides care to more than 9 million members. Its practices vary from state to state, depending on applicable state laws.

Among other things, Kaiser Permanente may: Monitor randomly selected calls, in which case it may or may not notify patients in advance; or tape record all or randomly selected calls, in which case it may or may not notify patients in advance.

United HealthCare wrote that they did not believe that recording or monitoring calls presented a privacy issue. Their rationale was that they only randomly record calls and only after advising the caller that the call may be recorded.

Great-West responded that a patient has the option of communicating in writing if the patient does not want to be recorded. Well, let me say simply—that's not good enough for me.

Despite the two-party consent rule in my own State of California, NYL Care Health Plans, Inc., responded that no violation of California law occurs in the absence of a "confidential communication." Under California law, the definition of a "confidential communication" does not include communications where the parties may reasonably expect that the call may be recorded. NYL Care asserted that, since patients were told that their call could be monitored, their calls were not confidential calls.

In my view, NYL Care's interpretation of "confidentiality" turns its commonly understood meaning on its head. In fact, I doubt whether any of my colleagues would agree that communications about one's own health problems are not confidential.

Finger Lakes Blue Cross-Blue Shield of Upstate New York randomly tapes records calls from patients and is in the process of implementing a front-end message to patients.

In the case of Blue Cross Blue Shield of the National Capital Area, a patient receives no notice that the call may be monitored. Their Associate General Counsel stated that in both Maryland and the District of Columbia, no consent was required.

Not only is unauthorized taping or monitoring of telephone calls just plain wrong, it is simply unnecessary. None of the health insurers who responded to my office could provide a valid reason for monitoring or taping incoming calls from patients.

The standard response I received from health insurers was that they monitored or tape recorded calls for "quality control." Yet no one could explain how the health insurer's record of the information discussed protects the patient. It's easy to see, I think, how the industry's practice leaves the patient disadvantaged.

My amendment is simple. First, it requires express consent from patients in order to be taped or monitored by health insurance companies or health care providers.

Second, it requires health insurance companies or health care providers to give patients the option not to be taped or monitored.

Third, it applies only to health insurance companies or health care providers. It does not affect the remaining companies that tape or monitor customer communications.

Mr. President, this amendment simply ensures a basic right that most patients believe they already enjoy. I urge its adoption.

Mr. DORGAN. Mr. President, my understanding is the amendment has been cleared on both sides. I urge the amendment be agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2391) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DORGAN. I yield 5 minutes to the Senator from Illinois, Senator DURBIN.

Mr. DURBIN. I thank the Senator from North Dakota. I thank my colleague, the Senator from Arizona, for cosponsoring this bill with Senator HOLLINGS.

A little over a year ago, I received a letter in my Senatorial office in Illinois from a young woman who owned a business right outside the City of Chicago. She told a story of having her long-distance carrier changed without her permission, how it ended up costing her over $1,000, and she came to learn there was virtually nothing she could do about it. The recourse under the law currently available was not practical—that she would somehow hire an attorney and go to Federal court over $1,000. That wasn't going to happen. She asked me what could we do about it, so I prepared a piece of legislation, and a large part of it has been incorporated in this good bill, and I am happy to support this bill.

Since then, I have come to learn that hers was not an isolated example. Any

group of people you talk to, regardless of their walk of life, who have a telephone at home, will generally tell you that they know somebody or they personally have been victims of slamming. How do they end up having their long-distance carrier changed? Some of them might have been unsuspecting. They went to a carnival or county fair or neighborhood picnic, and they had a little thing handed to them. It said, "Win a free trip to Hawaii. Fill in your name and address and check the box in the bottom." They didn't flip it over to see the other side that said, "You just changed your long-distance carrier."

It would happen time and time again. Folks would get these interminable telephone calls at night saying, "Would you consider moving to this new service?" They say, "No, no, there is no way." It turns out they were being taped. People were splicing together the tapes. When it was all said and done, they took the spliced tapes, and said the person said "yes" when they asked about the long-distance service, but the person said "yes" when they asked about the name.

It turns out a lot of people were being defrauded, and it cost a lot of money, not just for the lady who came to see me and her business, but many others. This is theft. This is stealing. This is not gaming we are dealing with here; it is a situation where a lot of people are making money without the permission of those whose long-distance service is being changed.

I went up to the State of Maine with my colleague, Senator COLLINS, who spoke earlier on the floor, for a hearing on the subject and found it was literally a national problem. From the coast of Maine to California and everything in between, people were going through this and we didn't have the laws in place to protect the consumers. That is why this bill is so important—because this bill finally gives to the consumer an opportunity to say to the person who is slamming them, "You are not going to get away with it."

One of the amendments which Senator MCCAIN was nice enough to adopt and make part of the bill was offered by Senator COLLINS and myself. It said you will never be charged more than what your original long distance carrier would have charged you. So if somebody comes along and doubles your rate without your permission, you still don't have to pay anything more than what was in the original rate structure with your original long-distance carrier. I think that makes sense. I think it is only fair.

The other amendment which we pushed for, the second amendment, creates criminal penalties which are necessary for the most egregious slammers. These are not little companies with little ideas; these are devious groups with a network of information which are trying to set up a network of people across the United States who will be changed to their long-distance service just long enough for them to make some money.

You should have seen the hearing that Senator COLLINS had before the Government Affairs Committee, where she presented a bill from one of these companies to the Chairman of the Federal Communications Commission. She posted it up on the board, and she said to the Chairman: "Take a look at this long-distance bill from a slamming company and tell me one thing. What is the name of the company?"

The Chairman took a look at it, and he said, "I don't see any name of the company up there." You know what? The name of the company was Long Distance Charges. So, when you are going through your telephone bill and you are looking at your local carrier who sent it to you, and you get to a page which reads "Long Distance Charges," it never dawns on you that you are no longer receiving long-distance service from your old carrier. You have a new carrier called Long Distance Charges, and you didn't notice that your long-distance bill just went up. That is the kind of chicanery and trickery these people are guilty of. They make millions of dollars at it. As a consequence, we have to treat them with the criminal penalty which is included in this bill.

I want to make an additional point about the criminal penalties amendment. Creating a criminal statute for slamming in no way lessens the applicability of existing laws such as wire fraud or mail fraud that can help combat slamming, too. Rather, this criminal statute for slamming will make it easier for prosecutors, because it applies specifically to this crime.

Finally, a third amendment agreed to by Senator MCCAIN will require telecommunications carriers to report the number of slamming complaints they receive about each company to the FCC. We know the incidence of slamming is on the rise. We have no way of tracking them. This will establish it. Slamming has already caused telephone customers to become angry and disillusioned with the entire telecommunications industry. These consumers have voiced their concerns to their local phone companies, to their State regulatory bodies, to the FCC. But they feel their complaints have not been heard.

With this legislation, we can begin to restore confidence in the industry and assure consumers that the deceptive practice of slamming will be stopped. Long-distance telephone consumers should be able to stand up for themselves and fight back against slammers, to let them know their actions will not pay.

You have heard, during the course of this debate, lengthy statistics about the nature of the problem. I will not repeat them, only to tell you that it is a serious problem addressed in a serious way by this legislation.

In closing, one small footnote: The outrage of slamming has now been replaced in complaints to my office by the outrage of cramming. It turns out in the lengthy telephone bill you received there may be an item which looks innocent enough for two or three dollars for something you never ordered. Who is going to go through the telephone bill and analyze every line? But unless you do, you may find yourself in a predicament where they are cramming in charges you never asked for.

You are paying three bucks a month every month of the year for something you didn't ask for. How are you going to find it? You have to take the time to read through it. We want to make sure we address that abuse as well.

Today, though, we are addressing in a responsible way a very serious problem that affects consumers across America. I salute Senator MCCAIN, as well as Senator HOLLINGS, who have joined me in this effort through investigations, as well as in preparation of amendments to this very good bill. I am happy to support it. I yield back the remainder of my time.

Mr. CAMPBELL. Mr. President, today I want to express my support for the Consumer Anti-Slamming Act, S. 1618, which addresses the unauthorized switching of telephone service carriers by competing service providers. This abusive practice has become an increasing problem in my home state of Colorado where slamming has grown at an alarming rate. Last October, Chairman BURNS of the Communications Subcommittee of the Commerce, Science, and Transportation Committee held a field hearing in Denver on this issue. In addition to this hearing, anti-slamming legislation has recently passed the Colorado State Legislature. With Colorado as one of the nation's top five states in complaints-per-million customers, I intend to vote for this anti-slamming legislation.

I also am pleased that S. 1618 incorporates provisions from my Anti-Slamming Bill, S. 1051 which I introduced on July 22, 1997. This language requires that the FCC annually report to Congress the "Top Ten" slammers for each year, as well as carriers assessed fines or penalties during the same period. The "Top Ten" list identifies those carriers subject to the highest number of subscriber slamming complaints compared to the total number of subscribers they serve. This ratio approach ensures that large companies are not automatically singled out by virtue of having a large customer base. The focus of my "Top Ten" amendment is on those companies with the highest percentage of slamming complaints relative to their total customer base.

This "Top Ten" list will give Congress an annual opportunity to review

and publicly comment on this serious problem known as "slamming". I am convinced that this approach coupled with the language in S. 1618, will prove valuable in deterring carriers from engaging in illegal tactics.

Ms. SNOWE. Mr. President, I rise today to speak in favor of the legislation now before the Senate—S. 1618, the Consumer Anti-Slamming Act—and to urge for its adoption and enactment.

This legislation—which was crafted by the distinguished Chairman of the Commerce Committee, JOHN MCCAIN, and the Ranking Member of the Committee, ERNEST HOLLINGS—will help eliminate a reprehensible practice of unscrupulous telephone companies, and I congratulate them for their leadership on this issue. As a member of the Senate Commerce Committee, I am pleased that my friend and colleague, Chairman MCCAIN, has moved rapidly to address the slamming epidemic that is occurring in Maine by bringing this legislation to the floor of the Senate.

In addition, I would also like to thank my colleague from Maine, Senator COLLINS, for highlighting this issue by holding oversight hearings in her capacity as Chair of the Governmental Affairs Subcommittee on Permanent Investigations, including a recent hearing in the State of Maine—and she has also offered legislation that is designed to combat slamming. In case there is any doubt about the importance of this issue in Maine, the involvement of both Senators should put that to rest!

Mr. President, as many of my colleagues are aware, "slamming" is a term that has been used to describe any practice that changes a consumer's long-distance carrier without the consumer's knowledge or consent. A variety of tactics and techniques can be used to accomplish this goal, including vague or inaccurate phone solicitations; unsolicited "welcome packages" that look like an advertisement but automatically lead to a consumer changing phone companies unless the individual returns a rejection card; and "drawings" for giveaways that also serve as a means of unwittingly changing services.

Regardless of the tactic used to slam a customer, the bottom line is that it's an unfair and illegal practice—and it's one that must be brought to a halt.

Mr. President, phone customers expect high-quality phone service for a fair price. If a phone company is going to "reach out and touch someone," it must be done legally and with fairness to the customer. Consumers who are slammed often receive lower-quality service or higher rates, and sometimes they are not even aware that they have been slammed until they get their bills. This is an outrageous practice and I think we can all agree that its demise is long overdue.

Last year, in my home state of Maine, the number of slamming complaints doubled to a total of 1,000 between 1996 and 1997. Nationwide, more than 20,000 consumers filed slamming complaints with the FCC, the largest category of complaints the agency received. In 1996, it received more than 16,000 total slamming complaints. As a result of these complaints, the FCC has taken enforcement action against 15 companies for slamming violations over the past two years, while assessing more than $1 million in forfeitures and consent decrees with another $500,000 in additional penalties pending.

Mr. President, as these numbers clearly indicate, this is a serious problem that is only going to get worse. In particular, the threat exists that—as competition develops in other communications markets—slamming could extend into new services and become an even more onerous consumer problem if it is left unchecked.

As has been indicated, the Federal Communications Commission (FCC) already has the authority to combat this practice by assessing fines against telephone carriers that slam. But with a 25 percent increase in the number of slamming complaints that were filed in just the past year—and even with the level of fines and penalties that have already been imposed on companies—it is obvious that the FCC's current approach is not working. And it is for this reason that the legislation before this body is so critical.

Mr. President, S. 1618 will put this reprehensible practice to an end by providing definitive procedures for telephone companies to follow in changing a customer's telephone service; giving federal and non-federal authorities the power to impose tough sanctions on companies that are guilty of slamming; and providing measures to ensure that slamming victims are fully compensated.

Specifically, to ensure that changes in phone service are made in a verifiable manner, the bill requires phone companies to obtain written, verbal, or electronic verification from a consumer who is changing providers.

To ensure that customer complaints are dealt with in a timely manner, carriers accused of slamming will be required to defend their actions in no more than 120 days, and the FCC will have no more than 150 days to resolve any outstanding disputes.

If slamming has occurred, the bill gives the FCC the authority to provide compensatory or punitive damages to consumers that companies would be required to pay within 90 days. In addition, provide a strong disincentive to potential slammers, the FCC would be required to impose fines on phone companies that are guilty of slamming of at least $40,000 for a first-time offense and $150,000 for repeat offenses. And If a company refuses to pay these fines, the bill provides that the FCC will also have the authority to prosecute slammers.

Finally, if a consumer wishes to pursue redress through means other than the FCC, this bill allows consumers to pursue their grievances in court through state class-action lawsuits instead of through the FCC. And in the event a specific state does not believe these penalties are strong enough, the bill specifically retains the rights of each state to impose stiffer sanctions.

This bill and the provisions it contains are based on common sense and good policy, and I urge my colleagues to join me in supporting it.

Mr. President, while this bill is a very sound approach to addressing the slamming epidemic, there is one additional technique that consumers already have at their disposal to prevent slamming from occurring, and I believe we should seek to fully protect this consumer option in this bill.

Specifically, if customers are concerned that they will be unwittingly tricked—or unknowingly forced—into changing their phone company, they can now "freeze" into place the long distance carrier of their choice at the local phone company. As a result, no order to change phone companies can be completed without the express, direct authorization of the customer to the local phone company.

To ensure that this option is in no way impeded in the future, I have prepared an amendment that would ensure that no subsequent action by the FCC can be undertaken to restrict or impede the customer's ability to "freeze" in place the carrier of their choice. I understand that this amendment is acceptable to the manager's of the bill, and has now been included in the manager's amendment. Therefore, I would like to thank the chairman and ranking member for addressing this issue and accepting my provision.

Mr. President, the bottom line is, slamming is a serious crime, and this is a serious solution. Companies engaged in slamming will no longer be able to hide behind the anonymity of the phone lines. Phone companies and their customers should reach agreements on phone services, but slamming destroys that relationship. Therefore, this bill will restore an element of trust that has been lost through this abhorrent practice.

Mr. President, slamming is nothing less than high-tech extortion, and the law must be changed to deal with this new criminal threat, and I hope my colleagues will join me in supporting this important legislation.

Mr. HARKIN. Mr. President, every year thousands of Americans are victimized by fraudulent telemarketing promotions. And, unfortunately, these scam artists prey most often on our senior citizens. The losses every year are estimated to be in the billions of dollars. My amendment will help law enforcement to more effectively combat these abuses.

Today, it's all too easy for telemarketing rip-off artists to profit from the current system. How do these rip-offs occur? Advertisements regarding sweepstakes, contests, loans, credit reports and other promotions appear in newspapers, magazines, and other direct mail and telephone solicitations. The operators of many of these phoney promotions set up a telephone boiler room for a few months in which a number of phones are operated to receive calls responding to their ads. They steal thousands—even millions—of dollars from innocent victims and then they simply disappear. They take the money and run—moving on to another location to start all over again.

Here's just one example. Not too long ago, 30,000 Iowans received postcards from an organization calling itself Sweepstakes International, Inc. The postcard enticed recipients to call a 900-number and they were charged $9.95 on their phone bill.

Based on a Postal Service investigation, civil action was initiated in U.S. District Court in Iowa. As a result, the promotion was halted and $1.7 million was frozen. This represented just one and a half month's revenue from the scam!

My amendment will protect telemarketing victims by providing law enforcement the authority to more quickly obtain the name, address, and physical location of businesses suspected of telemarketing fraud. Phone companies would have to provide law enforcement officials only the name, address and physical location of a telemarketing business holding a phone number if the officials submitted a formal written request for this information relevant to a legitimate law enforcement investigation. It will make it easier for officers to identify and locate these operations. This is similar to the procedure that is already in place for post office box investigations.

Mr. President, it is necessary to crack down on serious consumer fraud. With this change, we will have many more successful efforts to shut down these rip-offs artists like several recent cases in my home state of Iowa.

Mr. FEINGOLD. Mr. President, today I rise to speak in support of the anti-slamming bill, S. 1618. I want to commend Senator MCCAIN, Senator HOLLINGS, and the rest of the Commerce Committee for bringing this bill to the floor, and I am proud to be a cosponsor of the bill.

Slamming is an important and widespread consumer problem, and it is high time that the Congress takes action to stop it. Slamming, as most people now know, is a practice carried out by some telecommunications companies to switch a consumer's long distance or local exchange carrier without the consumer's knowledge or consent. Only a few years ago this practice, while persistent and frustrating for some consumers, appeared limited in scope. However, in more recent years this type of consumer fraud appears to have grown into a common profit-making scheme of some telecommunications companies carried out at the consumer's expense.

The rise in slamming complaints has been absolutely astonishing. The Federal Communications Commission reports that the 11,000 slamming complaints they received in 1995 represented a sixfold increase in the number of complaints received in 1993. By 1996, slamming complaints rose by an additional 42 percent over 1995, with the FCC receiving more than 16,000 complaints. And in 1997, the FCC received 44,000 complaints from consumers, nearly triple the 1996 total.

But these numbers only begin to tell the story. In Wisconsin, slamming is the number one telecommunications complaint, and telecommunications is the single largest category of consumer complaints that the Wisconsin Department of Agriculture, Trade and Consumer Protection received last year. That agency reports that slamming complaints were up 400 percent in 1997. The National Association of State Utility Consumer Advocates estimates that as many as one million consumers each year have their long distance carrier or local provider switched without consent.

In September of 1997, the National Consumers League polled telecommunications consumers in Milwaukee, Wisconsin, Chicago, Illinois, and Detroit/Grand Rapids, Michigan. The poll showed that of the 1500 individuals surveyed, three out of 10 reported that they, or someone they know, had been slammed. In Milwaukee, of those who said they had experience with slamming, 41% said their own telephone carrier had been changed without their consent. Even more disturbing, the survey provided evidence that slammers appear to be targeting consumers who have high long distance bills, raising privacy concerns regarding billing information.

Mr. President, this is consumer fraud of monstrous proportions. It causes extra cost and inconvenience to consumers, and it also distorts telecommunications markets and discourages legitimate competitive practices. The prevalence of slamming and the lack of any strong disincentives against it rewards companies that use this fraudulent practice and penalizes those that seek new customers through legitimate and honest means.

The 1996 Telecommunications Act recognized the slamming problem and broadened the scope of FCC's regulatory authority over slamming to cover all telecommunications carriers rather than just long distance service providers. The Act also provided that a carrier that violates the FCC's verification requirements is liable to the customer's original carrier for all charges paid by the customer after he or she had been slammed.

The FCC now has rules prohibiting slamming and requires companies to verify the customer's authorization of any switch in carriers, but these rules obviously haven't done the trick. For one thing, the penalties for slamming just aren't tough enough. While the FCC has taken enforcement action against a number of telecommunications companies, the tremendous profit opportunities from slamming overwhelm the threat of FCC enforcement.

The Consumer Anti-Slamming Act should be an effective antidote to this problem. It establishes minimum verification requirements for submitting changes in local or long distance telephone service. The requirements apply when service is first requested as well. The bill also bans so-called "negative option" marketing—this is where a company sends you a letter that says your service will be switched unless you send back a reply card to say no. With all the junk mail that people now receive, this is a particularly reprehensible business practice, and I am pleased that this bill outlaws it.

The bill also addresses the problem that many people do not even know that when they have been slammed by requiring the new telecommunications company to notify a consumer within 15 days of a change in service. The notification must indicate the name of the person who requested the change and inform the consumer that he or she may request further information about when and how the change was authorized. It must also contain information about how to pursue a complaint if the customer believes he or she has been slammed.

Penalties are also significantly increased in this bill. The FCC may award damages of $500 or the actual damages incurred, whichever is greater, directly to the consumer. And the FCC can fine carriers who violate the anti-slamming regulations $40,000 for a first offence and $150,000 for additional offences. These significant penalties should eliminate the economic incentives to engage in these illegal practices.

Mr. President, the information age has now arrived. Technological advances hold out great promise for making our daily lives easier and more enjoyable. Competition is the driving force in bringing those advances to the consumer at ever more affordable prices. Allowing consumers to choose between competing long distance and local service providers should improve service and lower prices. But when irresponsible or even criminal elements seek to take advantage of unsuspecting consumers through activities like slamming, forceful regulation is necessary.

The unethical and illegal practices of companies who seek to victimize consumers to enhance their own profits must not be tolerated. Protecting consumers from those who engage in these practices is one of my most important responsibilities as a United States Senator. I believe that this bill gives the FCC the tools it needs to crack down on the slamming problem once and for all. I am proud to vote for it.

Ms. SNOWE. Mr. President, S. 1618 is a well-crafted bill that is designed to prevent the unauthorized transferring of a customer's phone carrier. This is accomplished through a variety of provisions, including the threat of strong penalties on telephone companies that engage in slamming.

While I strongly believe that the penalties established in this legislation should be fully-enforced, I would like to clarify the type of conduct that these penalties are being targeted to address. Specifically, is it the Chairman's intent that the significant financial penalties contained in Section 1(f) be imposed for all cases of unauthorized carrier changes, including changes that are accidental or innocent mistakes, such as when an order to change service providers in improperly keyed-in by a customer service agent? Or are these penalties designed to address cases of slamming that involve willful or intentional misconduct on the part of companies?

Mr. MCCAIN. I appreciate the questions of the Senator from Maine, and believe it is important that the intent of this legislation be fully understood. This bill is designed to ensure that companies are deterred from the reprehensible practice of slamming, and that harsh penalties are imposed as a form of punishment if the practice is undertaken by an unscrupulous company. However, the penalties in this bill are not intended to be used for cases of innocent or accidental changes of carriers, such as the situation described by my colleague, Senator SNOWE—and the language of this bill has been crafted accordingly. Specifically, the bill provides that the Commission can waive the minimum penalties if they determine that there are mitigating circumstances, which would include cases of innocent or accidental changes of carriers.

Ms. SNOWE. I thank the Chairman for clarifying this important issue and for crafting language that reflects this intent. I am very appreciative for your leadership and efforts to curb the practice of slamming, and commend the Senator for crafting legislation that will forcefully attack this growing problem.

Mr. BURNS. Mr. President, I rise to support the Consumer Anti-Slamming Act, as it addresses a severe problem that has arisen as an unintended consequence of additional competition in the telecommunications marketplace: the unauthorized switching of customers' telephone service providers. I also understand that the managers' amendment of the bill includes language that addresses another serious, unintended problem posed by the growth of information technology: the explosion of junk e-mail, or "spamming."

I congratulate Senators MURKOWSKI and TORRICELLI for their hard work on dealing with the issue of spamming. S. 1618 as amended includes language that would require commercial e-mailers to identify themselves. This language is simply a "Truth in Advertising Amendment." As any of us who use e-mail are finding out, millions of junk e-mails are sent out with fake e-mail addresses which prevent citizens from requesting that they not be sent any further clutter from the same sources. The amendment also requires that a junk e-mailer must honor requests from individuals to be deleted from mailing lists.

I should add that the problem of junk e-mail is particularly important to customers in rural areas such as Montana. Often, rural residents must pay long distance charges to receive these unwanted solicitations, many of which contain fraudulent messages. "Spamming" is truly the bane of the information age. This problem has become so pervasive that entire new networks have had to be constructed to deal with it, when resources would be far better spent on educational or commercial needs. I welcome the inclusion of this language as a much-needed step forward in dealing with this increasingly serious problem.

I would now like to speak on an issue involving more traditional communications, that of slamming. I have held two field hearings in the Communications Subcommittee on this important topic, one in Billings last August and one in Denver last October.

During the field hearing in Billings, I heard from consumers, industry representatives and regulators on a variety of slamming issues. I learned in Billings that slamming is not confined to big cities. It is reaching every part of our country. Consumers are falling prey every day to companies that intentionally mislead and deceive. Today, I look forward to building on the record we started in Montana.

I should also recognize that Senator BEN NIGHTHORSE CAMPBELL has shown real leadership on this issue through his introduction of an anti-slamming bill, particularly at the field hearing in Denver, which he attended. The bill before the Chamber today, S. 1618, incorporates language from S. 1051, Senator CAMPBELL's slamming bill. The amendment including Senator CAMPBELL's language was passed unanimously out of the Commerce Committee on March 12 of this year.

This language requires that the FCC will annually report to Congress the "Top Ten" slammers for that year, as well as carriers assessed fines or penalties during the same period. The "Top Ten" list would identify those carriers subject to the highest number of subscriber slamming complaints compared to the total number of subscribers they serve. This ratio approach ensures that large companies are not automatically singled out by virtue of having a large customer base. The focus is on those companies with the highest percentage of slamming complaints relative to their total customer base.

This "Top Ten" list represents the core of Senator CAMPBELL's anti-slamming bill. Having held two field hearings in the Communications Subcommittee on this important topic, I am convinced that Senator CAMPBELL's approach will prove very valuable in deterring carriers from engaging in illegal tactics.

As competition develops in new communications markets, we could see slamming migrate to new areas and become an even bigger problem. Clearly, something must be done soon to protect consumers and to protect good, clean competition.

I am confident that the Consumer Anti-Slamming Act as amended will accomplish this goal and I urge my colleagues to support it.

Mr. LEVIN. Mr. President, the mangers' amendment included two amendments to S. 1618 which I authored and which I appreciate the managers of the bill accepting. I am joined in offering these amendments by cosponsors Senator GLENN and Senator DURBIN.

These amendments are the product of hearings held on slamming in the Permanent Subcommittee on Investigations (PSI), chaired by Senator COLLINS. Slamming, the practice of changing a consumer's long distance carrier without the consumer's knowledge and express consent, is the number one complaint received by the Federal Communications Commission (FCC). And those FCC slamming complaints are on the rise—increasing almost 50% from 1995 through 1997. Slamming is also the number one complaint received by the Michigan Public Service Commission. And, Michigan has the unfortunate distinction of being in the top ten states, nationwide, for the number of consumers who have been slammed. A Louis Harris survey taken in September 1997 ranked Detroit and Grand Rapids among the hardest hit cities in the country. About 25% of telephone customers in Detroit and Grand Rapids have either had their telephone carrier switched without their permission or know someone who was illegally switched.

Slamming leaves consumers feeling vulnerable and angry. Consumers have the right to use any long distance carrier they choose and to change carriers whenever they wish. But they want to

be in control. Slamming takes choices away from consumers without their knowledge, and rewards companies that engage in deceptive and misleading marketing practices.

Slammers use deceptive marketing practices such as getting subscribers to sign a misleading authorization form, falsifying tape recordings to make it appear that the consumer has verbally agreed to the change, or posing as the subscriber's currently authorized carrier. Unscrupulous carriers have been known to forge letters of authorization or even pull subscribers' numbers from a telephone book and submit them to the local exchange carrier for a long distance carrier change. Unscrupulous resellers generally bill higher rates once the subscriber is switched.

In one case in Michigan, the slammer used the device of a contest—the opportunity to win a trip or a car—to get consumers to sign a card that would then be used to change the long distance service. The Michigan consumer who filed a complaint with the Michigan Attorney General reported that her 14 year old daughter was approached several times in a shopping mall to sign the card under the auspices of participating in the contest. The daughter kept trying to resist—telling the slammer that she was underage for the contest. The slammer finally prevailed, and the 14 year old daughter entered what she thought to be a contest or drawing. However, a week or so later, this constituent was notified that her long distance carrier had been changed—unbeknownst to her. She wrote in her letter to the Attorney General: "I am very upset that this is happening not only to me but to others as well. It's a scam and it needs to stop now!"

Although the large telecommunications companies, called facilities based carriers because they own extensive telephone lines and equipment, have engaged in slamming, according to a recent GAO report, most intentional slamming is perpetrated by switchless resellers. Switchless resellers have no equipment; they purchase network facilities from large long distance companies at a bulk rate and resell the service either to consumers or to other resellers. Currently a switchless reseller can enter into the telecommunications business without any proof of financial capability. All a person has to do is strike a deal with a long distance carrier to use that carrier's lines and facilities, get a billing company to provide billing services and develop a customer base. The switchless reseller is then in business and can use unscrupulous practices to switch the long distance providers of innocent consumers from the carrier the consumer has been using to the switchless reseller. The reseller then charges higher long distance rates.

Many switchless resellers operate legitimately; but there are a surprising number who don't. Currently there is nothing in the law that screens out the scam artists from the legitimate resellers. S. 1618 increases civil penalties, creates new criminal penalties and includes disincentives to eliminate the profit for slammers. I am supportive of those provisions and ask unanimous consent that I be added as a cosponsor.

But, Mr. President, we also need to try to keep the scam artists out of the system—to keep consumers from being slammed in the first place. My amendment would require switchless resellers—those resellers who have no switching facilities under their ownership or control—to post a bond with the FCC before they can engage in the business of selling long distance service. The bond would be in an amount set by the FCC, and the amendment would prohibit a billing agent of a switchless reseller from billing subscribers of long distance services on behalf of the switchless reseller unless the billing agent has confirmed that the reseller has furnished the bond. In this way, a switchless reseller cannot get someone to bill on its behalf unless it has posted a bond with the FCC. The proceeds of that bond can be used to pay for any damages to a consumer awarded by the Commission to reimburse the consumer for excess charges incurred as a result of slamming. The requirement for a bond should keep the unscrupulous resellers out of the business. Take for example, David Fletcher, possibly the most notorious slammer. He started his slamming business, apparently, with no resources and managed to bill up to $20 million in long distance services. He couldn't start his business and no billing agent or phone company could have contracted with him to do his billing unless he had posted a bond with the FCC, under my amendment.

The other amendment which the Managers have incorporated in their substitute requires full disclosure of the long distance services and providers on the local phone bill. We learned, Mr. President, in the hearing on slamming that some switchless resellers go to great lengths to disguise the fact that they have taken over a consumer's long distance service. One reseller, for example, incorporated under the name "Phone Calls." Another used the name, "Long Distance Services." Those names, then, appeared on the consumers' phone bills, and no one would have paid attention to those names. Anyone looking at such a phone bill would have assumed those were not the names of the unexpectedly new long distance carriers, but the identification of the item being listed below—the phone calls. The consumer would continue to assume that his or her long distance carrier had not been switched.

To make it perfectly clear to consumers who their long distance provider is, the provision requires that the local telephone bill explicitly state the name, address and toll-free number of the long distance telephone provider and the specific services provided. This hopefully will address the problem of hidden or disguised switching—where a consumer gets a bill and can't tell that his or her long distance carrier has been switched. This provision gives the FCC the authority to make telephone bills absolutely clear so slammers can't hide behind vague or confusing phone bills.

Mr. President, I want to commend Senator MCCAIN and Senator HOLLINGS for their good work in getting this important piece of consumer legislation to the floor so quickly. I also want to commend Senator COLLINS and Senator DURBIN from the PSI Subcommittee for their energy and commitment to publicizing and helping to solve this problem.

S. 1618, with my amendments, will provide important consumer safeguards, Mr. President, to help keep slammers out of the system. Legitimate resellers will be able to conduct their businesses without ruthless slammers tarnishing the reseller business.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield myself such time as I may consume.

We have one amendment remaining of Senator ROCKEFELLER. We are awaiting his arrival on the floor. I hope that Senator ROCKEFELLER will arrive pretty quickly, because we have another bill to do tonight. In the meantime, 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. ABRAHAM. 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. ABRAHAM. Thank you, Mr. President. I rise today to address the antislamming legislation before us. I believe that this bill, S. 1618, is a bill that we must act on quickly and decisively. I am happy that when the Senate concludes its business today, we will have passed the legislation and for good reason. The problem which this legislation seeks to address described, I guess, by the euphemism "slamming," is one that is a growing concern to people in my State and, I suspect, to almost all the other States represented in this body.

In Michigan, during the last year, complaints about this practice, which is the changing of an individual's or customer's long-distance service without their knowledge and approval, has risen from relative obscurity to becoming, next to billing problems, the second largest source of complaints received by Michigan's Public Service Commission.

The nature of the complaints are, of course, pretty obvious and have been depicted very well by Chairman MCCAIN and others in the discussion so far today. People find that through no act of their own, or certainly no intentional act of their own, they have had their long-distance service changed usually with negative consequences. In our State, the negative consequences usually fall into two categories, often both happen simultaneously: On the one hand, people find that their service level and quality is diminished; on the other hand, they find that their bills are getting higher.

The latter happens for a variety of reasons. First, because frequently the new company, in fact, just simply has higher bills and charges higher rates. In addition, they find it happens because they have found themselves the victim of slamming on several separate occasions during a billing period. They have moved from one company to a second and sometimes to even a third and fourth. Many of the current rate practices engaged in with respect to long-distance rates give people a reduced rate if they stay with a service a certain period of time.

However, as a result of slamming, people change from one to a second to a third to even a fourth company during a billing period or a period during which a rate is being determined based on continuity of service. Individuals discover that their long-distance calls that they expect to have been charged at a very low rate are, in fact, being billed at very high rates.

For all of these reasons, we need to take action now. I mentioned that in our State, the slamming practice has become the second most widely voiced complaint heard by our Public Service Commission. Our local telephone service carrier, Ameritech, the principal carrier in Michigan, reports that they are receiving complaints. People think somehow they are responsible. Last year alone they received 37,000 such complaints of slamming practices occurring.

In order to find out more about this, I went back to Michigan during a recent recess and began meeting with individuals who were themselves the victims of slamming. What I discovered was that, in fact, the practices used by these long-distance companies border on outright fraud, and in some cases, go over the line to actual fraud.

People have been called up and asked if they want "direct billing" for their long-distance service. They answer yes and find the "Direct Billing" is, in fact, the name of a new long-distance service company and that their answer is being used as a basis for the changing of their service.

In other cases, people engage in a conversation of someone calling over the telephone, an innocuous conversation, but find the information has been rescripted in such a fashion as to give a basis for changing the long-distance service.

The bottom line, Mr. President, is that this practice is wrong. It is hurting consumers across America, and we have an obligation to stop it. I believe the legislation before us now does so.

I am glad we were able to pass it so quickly and so overwhelmingly through the Commerce Committee, and I look forward to the vote today where I am confident we will, once again, send a signal that we are not going to tolerate these practices any longer. The additional penalties that are part of this legislation, in my judgment, set us in the right direction. Not only will they send a strong message, but I believe they dramatically deter anyone from engaging in these practices. The procedures in this legislation should hopefully provide those who are victims with a relatively quick resolution of their problems.

For these reasons, I rise in support of the legislation. I am a cosponsor and am pleased to be part of it. I thank Senator MCCAIN and his staff for working not only on this legislation but other technology bills that we will be addressing over the next day or so. I close by expressing my support, once again, for S. 1618. I look forward to its passage today and ultimately for its passage through the Congress in general and it being signed into law by the President.

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

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

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, as I mentioned earlier, we are still waiting for the final amendment. I hope we can get it done very quickly. We have another bill to address tonight, and we are still working on that.

So I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. I ask unanimous consent that I may be allowed to speak for about 2½ minutes.

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

Mr. MURKOWSKI. I thank the chair.

JUNK E-MAIL

Mr. MURKOWSKI. Mr. President, I am pleased that the chairman is including in the manager's amendment language that I offered along with my colleague, Senator TORRICELLI.

Mr. President, one of the downsides of the technological revolution that is symbolized by communications today on the Internet is the growing multitude of junk e-mail. Junk e-mail has quickly become the scourge of the Internet. It clogs America's inboxes and raises costs to all Internet users. Among those who are regular e-mail users, junk e-mail is known as "spam," which many suggest is an insult to the Hormel Corporation. I originally recognized spam as a spinoff of the Second World War where food was given to soldiers, commonly referred to as C rations, that implied a mixture of food products. In any event, it is the name that has been adopted for junk e-mail.

Rural residents of our Nation and my State of Alaska are forced to pay long-distance charges to receive these unwanted solicitations, the majority of which contain fraudulent or pornographic messages. Not only are these junk e-mails objectionable, but they so clog the transmission network that Internet service providers are forced to spend tens of millions of dollars to expand their networks to handle all of these messages.

America Online reports that up to 30 percent of daily incoming e-mail is junk e-mail. This volume has forced it and other Internet service providers, the ISPs, to buy more equipment and divert staff to handle users' complaints. These resources could be better spent by ISPs on improving service or even reducing monthly fees.

My provision, Mr. President, is a modified version of legislation that I introduced last year—S. 771. When I introduced the bill, I put it up on the Web and asked for e-mail comments on the bill. So far, I have received over 1,500—the vast majority of which have been supportive of my efforts.

So this provision is really a Truth in Advertising provision. It will simply require commercial e-mailers to identify who they are, their addresses, and their telephone numbers. The reason we have included this provision is that millions of junk e-mails are sent out with phony e-mail addresses which make it impossible for citizens to request that the sender stop cluttering their e-mail boxes. Under this provision, citizens will know exactly who the sender is and have the option of turning that sender away from their inbox.

The provision further requires that a junk e-mailer must honor the request of an individual who asks that his or her name be deleted from the mailing list permanently. It's as simple as that. I doubt if there is anyone among us here today who would argue against someone's wish to simply be left alone by junk e-mailers.

The amendment permits the Federal Trade Commission, the State Attorneys General, and Internet service providers to protect consumers from Internet junk e-mail by allowing them to sue those junk e-mailers who fail to identify themselves properly or refuse to remove a person's name from a mailing list.

Mr. President, junk e-mail has become so pervasive that some have suggested a complete ban on such unsolicited advertisements. I believe that Internet users should control what comes into their electronic mailboxes, not the government. And I wish to emphasize that. This debate should not be about the government controlling the content of individual electronic mailboxes, but about individual users taking control of their own mailboxes. I think my provision will sufficiently reduce the problems of junk e-mail, and thus show that banning is unnecessary.

Finally, I thank the floor managers for their attention to this issue, as well as the efforts of America Online and the Center for Democracy and Technology.

Mr. TORRICELLI. Mr. President, I want to thank Senator MCCAIN and Senator HOLLINGS for agreeing to include the Murkowski-Torricelli junk E-mail amendment to this bill. And I want to thank my distinguished colleague from Alaska for join with me in this effort.

Last year, Senator MURKOWSKI and I each recognized the growing threat to Internet commerce posed by the proliferation of unsolicited commercial e-mail, known by its Internet slang as "Spam." Although we initially had somewhat different approaches to this problem, we recognized that something had to be done.

The amendment we have today is the product of a good faith effort involving privacy groups, marketers, online service providers, and others to achieve a result that will rein in these destructive e-mail practices, while protecting the first amendment rights of all who wish to send and receive legitimate e-mail. Before I address what our amendments does, I want to briefly discuss the problem of unsolicited commercial junk e-mail.

Junk E-mail, or so called spamming, is an unfortunate side effect of the burgeoning world of Internet communication and commerce. Like many other Americans, I have an account on America Online and am inundated with unsolicited messages, peddling every item under the sun. Similarly, I receive junk e-mail daily at my official Senate e-mail address, as well as the complaints of dozens of constituents who forward me the Spam that they are sent.

The incentive to abuse the Internet is obvious, E-mailing ten million people can cost as little as a couple of hundred dollars. And because the senders of these e-mails are generally unknown, they avoid any possible retribution for consumers.

Today, unsolicited commerical e-mailers are hiding their identities, falsifying their return addresses and refusing to accept complaints or removal requests. Their actions approach fraud, but our current law doesn't seem strong enough to stop them.

I have long been concerned about excessive—indeed any—government regulation of the Internet. Many of the best qualities of American life are represented and enhanced by the Internet, and I fear government regulation has the possibility to stifle the creativity and development of cyberspace.

However, a failure to address this problem now poses a greater threat to the Internet than do these minimal requirements. Junk e-mail is estimated to take up 30 percent of all Internet traffic and is increasingly responsible for slowdowns, and even breakdowns, of Internet services. Let me be clear, this legislation is not a de facto regulation of the Internet. In fact, it does not go as far as some have suggested. It does not ban all unsolicited e-mail because we wanted to avoid any inference of government interference. However, it is a first and needed step in making cyberspace saner.

The Murkowski-Torricelli amendment takes some important and necessary steps. First, it requires senders of unsolicited commercial e-mail to identify themselves and provide a valid return e-mail address. Second, it requires senders to inform recipients that they have the right to reply and stop any future messages by typing "remove" on the subject line. Third, it requires junk e-mail to honor any request to remove someone from their mailing list. Fourth, it authorizes the FTC to enforce these requirements with civil fines and injunctive relief. And finally, it requires the FTC to establish a web site to accept consumer complaints and list its enforcement actions.

Put simply, our amendment strikes a balance that will help consumers prevent unwanted and unsolicited electronic mail, without creating a burdensome regulatory system or unnecessarily restricting free speech. It recognizes that the government should not hastily and haphazardly regulate pass legislation to regulate the Internet. However, it also recognizes that some practices are simply too destructive to ignore.

Mr. President, I urge my colleagues to support this amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2392

(Purpose: Require truth in billing procedures for telecommunications carriers)

Mr. DORGAN. Mr. President, on behalf of Senator ROCKEFELLER, Senator SNOWE, Senator KERREY, and myself, Senator DORGAN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for Mr. ROCKEFELLER, for himself, Ms. SNOWE, Mr. KERREY and himself, proposes an amendment numbered 2392.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . CONSUMER TRUTH IN BILLING DISCLOSURE ACT.

(a) FINDINGS.—Congress makes the following findings—

(1) Billing practices by telecommunications carriers may not reflect accurately the cost or basis of the additional telecommunications services and benefits that consumers receive as a result of the enactment the Telecommunications Act of 1996 (Public Law 104–104) and other Federal regulatory actions taken since the enactment of that Act.

(2) The Telecommunications Act of 1996 was not intended to allow providers of telecommunications services to misrepresent to customers the costs of providing services or the services provided.

(3) Certain providers of telecommunications services have established new, specific charges on customer bills commonly known as "line-item charges".

(4) Certain providers of telecommunications services have described such charges as "Federal Universal Service Fees" or similar fees.

(5) Such charges have generated significant confusion among customers regarding the nature of and scope of universal service and of the fees associated with universal service.

(6) The State of New York is considering action to protect consumers by requiring telecommunications carriers to disclose fully in the bills of all classes of customers the fee increases and fee reductions resulting from the enactment of the Telecommunications Act of 1996 and other regulatory actions taken since the enactment of that Act.

(7) The National Association of Regulatory Utility Commissioners adopted a resolution in February 1998 supporting action by the Federal Communications Commission and the Federal Trade Commission to protect consumers of telecommunications services by assuring accurate cost reporting and billing practices by telecommunications carriers nationwide.

(b) REQUIREMENTS.—Any telecommunications carrier that includes any change resulting from Federal regulatory action shall specify in such bill—

(1) the reduction in charges or fees for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers) resulting from any regulatory action of the Federal Communications Commission;

(2) total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers);

(3) notify consumers one billing cycle in advance of any charges in existing charges or imposition of new charges; and

(4) disclose, upon subscription, total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including residential basic service, customers of other residential service, small business customers, and other business customers).

Ms. SNOWE. Mr. President, I rise today to join my good friend and colleague from West Virginia JAY ROCKEFELLER, in offering the Consumer Protection Act as an amendment to the Consumer Anti-Slamming bill.

Just as the slamming bill is designed to protect consumers from unscrupulous phone companies that change a customer's phone service without consent, this amendment will protect consumers from misleading or inaccurate billing practices by phone companies. Therefore, I urge that my colleges support this pro-consumer amendment that complements the underlying pro-consumer Anti-Slamming Act.

Mr. President, our nation's $260 billion telecommunications industry is undergoing a period of rapid growth and change. This change is being driven by the enactment and progressive implementation of the Telecommunications Act of 1996—a law that is gradually shifting the industry from being one that is heavily-regulated to one that is open and competitive.

As would be expected for an industry of this size, the transition from a regulated environment to a competitive environment has not been entirely smooth, nor has it been as rapid as many of us would prefer.

To date, there have been countless proceeding at the FCC to restructure the way that services are delivered to consumers and the way that telecommunications companies pay each other for these services. In response to these restructuring efforts, there have been a variety lawsuits filed in court by telecommunications companies, and members of Congress have weighed-in when they believe the new rules do not accurately reflect the intent of the law.

And—as would be expected in an emerging competitive market—there is non-stop haggling between the telecommunications companies that are now able to tread on each other's turf after years of being statutorily limited to their own market niche. But don't get me wrong . . . that's not a bad thing—that's what competition is all about.

Mr. President, during this time of rapid transition and daunting change, it is critical that we not forget the individuals for whom the Telecommunications Act of 1996 was crafted in the first place: the American consumers. Afterall, this landmark law was not passed because Congress simply wanted to deregulate an industry—rather, it was passed because competition will bring consumers a wide array of new and advanced telecommunications services at lower prices.

The amendment we are offering today is specifically designed to protect consumers during this time of transition in the telecommunications industry. Specifically, the Consumer Protection Act will require "truth-in-billing"—a guarantee to consumers that what they see on their phone bills is thorough and accurate.

Mr. President, as my colleagues have undoubtedly heard from their constituents—and may be experiencing themselves—there is a great deal of confusion being generated by new line-item charges that have been added to phone bills in recent months. Since January, many telephone companies have started to place new line-item charges on customer phone bills for a variety of purposes and under a variety of names, including "national access charges," "universal service charges," or both. While the descriptions for these charges vary, the central theme is that these new fees are being imposed because of recent federal actions stemming from the Telecommunications Act of 1996.

In response to these new charges, telephone customers are understandably confused and angry, and want to know why Congress would pass a law—and the President would sign a law—that imposed a host of new costs on them with no apparent benefits. They were told that this legislation would bring competition and lower prices, but all they see is new charges on their phone bills. They want to know what happened to the benefits of deregulation!

Mr. President, customers deserve an answer to these questions and they deserve to know that what they see on their phone bills is accurate. And the simple fact is that the implementation of the Telecommunications Act has brought—and will continue to bring—countless benefits to consumers, and they deserve to know about them.

For instance, in July 1997, access charges—which are the fees paid by long distance companies to local phone companies for use of their networks—were reduced by $1.7 billion. The long distance companies state that these reductions have been passed on to consumers in the form of reduced rates, and I won't dispute their contention. The problem is that their customers don't know the first thing about this federal action to benefit customers—all they know is that new line-items for various charges prescribed to the federal government have been added to their bills!

By the same token, consumers have no idea that the phone companies stand to reap substantial benefits as new markets are opened for competition. As companies are allowed to enter the markets that were previously closed to them, those that are competitive will reap substantial profits that can greatly benefit their customers—but you'd never know this from reading a company's bill.

To remove the confusion that these line-items have generated—and to ensure that companies exercise full disclosure on the impact of deregulation—the amendment we are offering does three things.

First, it directs the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC) to investigate the billing practices of the telecommunications industry to ensure that all fees are being fairly described on bills. If any company is found to be using misleading billing practices, these agencies would be directed to consider disciplinary actions against that company.

Second, the bill ensures that if a company puts a new line-item charge on a phone bill that are attributed to federal actions, it must also include line-items that delineate the benefits of federal actions as well. Customers deserve to know the whole story when it comes to federal regulatory actions—not just the side of the story that is in the company's best interests.

Third, to ensure that the federal regulator of telephone service has all relevant documents available for review, the bill requires that companies submit the same financial disclosure forms to the FCC that they now submit to the Securities and Exchange Commission (SEC). This requirement won't impose a new, excessive burden on phone companies—rather, it simply requires that they make a photocopy of the forms that are already being sent to the SEC and mail them to the FCC.

Overall, this bill ensures that accurate information is being depicted on phone bills—and that customers are told the whole story about federal actions, not just the side that companies would like to tell.

The bottom line is that changes are occurring as part of the transition to a more competitive telecommunications market that will bring substantial benefits to consumers and phone companies alike—but some companies would only like to tell their customers half of the story. That's simply not fair.

The amendment that we are offering is fair. It is a fair for companies, and fair for consumers.

Of critical importance, our amendment does not re-regulate the telecommunications industry—the companies will still decide for themselves if they want to use line items. Our amendment simply ensures that if a company does want to use a line-item for costs, it also will include line-items for benefits. In addition, it ensures

that the billing practices of companies are properly examined and improper practices are eliminated.

I would like to thank my friend from West Virginia for offering this amendment today, and urge that my colleagues support this bipartisan, pro-consumer amendment.

Mr. KERREY. Mr. President, the Telecommunications Act of 1996 was clear; competition and consumer choice are to be the hallmarks of the new telecommunication's market. However, the transition to competition has been anything but clear to consumers. The growing pains of the telecommunications industry have proved to be very confusing to customers who lack full information about the various costs associated with telecommunications services.

This lack of information is very troublesome for customers who are trying to make sense of the telecommunications market. In order to help consumers through this confusing morass of information, I recently joined Senators ROCKEFELLER and SNOWE to introduce S. 1897 the Consumer Protection Act. Today, Senator DORGAN joins us as cosponsor of this legislation in the form of an amendment to S. 1618 the Consumer Anti-Slamming Protection Act.

Under the provisions of this amendment, if a company chooses to depict charges that are linked to federal policy on their bills, then the company will be required to depict the benefits of that action on the same bill. This requirement allows customers to see what they are paying for so that they can gain a better understanding of the costs associated with a national telecommunications network.

As we transition from the rigid world of monopoly to a competitive market where consumers have choice, we must make sure that customers have all of the facts. Competition depends upon free flowing information and the Consumer Protection Act gives consumers the facts they need to make good choices in a competitive market.

I strongly urge my colleagues to support this amendment.

Mr. MCCAIN. Mr. President, I must respectfully oppose the amendment offered by my good friend and colleague, Senator ROCKEFELLER.

Let me explain why I am opposed. I take no issue with the Senator's commitment to the principles of universal telephone service. And I most certainly take no issue with the principle that consumers have a right to clear and correct information about material adjustments to their bills. I also believe that companies have an absolute right to inform consumers about increases to their bills that companies have made in response to federal and nonfederal requirements.

But, with all due respect, that's not what's really at issue here.

Mr. President, what's really at issue here is an attempt to rationalize the rate adjustments imposed by the Telecommunications Act of 1996. Unlike Senator ROCKEFELLER, I didn't vote for that act, in part because I thought it would produce precisely the result it is producing—little competition, lots of consolidation, and lots of bill adjustments—mostly increases.

If my colleague's amendment wants to give consumers facts, let's talk about those facts. The telephone industry is built on a very complex system of implicit internal subsidies. Making them explicit, while at the same time adjusting them for the advent of competition, makes adjustments in consumer bills inevitable. Now add these further facts: the Telecom Act creates a whole new multibillion-dollar subsidy, and it requires local telephone companies and interexchange companies to expend billions of dollars to implement the Act's supposedly pro-competitive provisions.

So here are the bottom-line facts. First of all, given this hideously convoluted situation, complete "truthful" disclosure of all the adjustments inherent in a consumer's monthly phone bill would add pages and pages to a bill without necessarily doing much to enlighten the consumer. For example, if a requirement like this were currently in effect, a consumer might today be reading something like this:

> Your long-distance bill might have been lower if your long-distance carrier's reduction in access charge payments to your local carrier had been reflected in your long-distance bill instead of being used to help pay for the schools' and libraries' wiring subsidy. Then again, of course, the FCC, your long-distance carrier, and your local carrier disagree on whether your long-distance carrier is really lowering your bills as much as it might, and maybe someday we'll know the answer—or maybe not. In the meantime, you're being assessed a per-subscriber line charge which may or may not reflect the real cost of your service, but the FCC's working on it. Of course, if you live in the suburbs you should also know that a portion of your bill goes to subsidize rural areas and another portion subsidizes low-income subscribers. And be aware that starting next year there's going to be another substantial increase in some local phone bills as local phone companies start passing along the costs of implementing local number portability, which may or may not accurately reflect all their true costs, which will otherwise be recovered by * * *.

And on and on and on.

I would also note that the Senator's bill would require the FCC to examine the bills of all telecommunications carriers. This would not only require the FCC to investigate the bills of the over 500 long-distance telephone companies that currently exist; it would also require them to investigate the bills rendered by the thousands upon thousands of wireless paging, cellular telephone, and PCS companies too. This would require an enormous expansion of the current FCC bureaucracy.

Mr. President, you get the picture: given the complexities of pricing offsets in changing telephone industry economics, this attempt at so-called truthful disclosure won't work. It will only confuse the consumer to no useful purpose and wind up involving the FCC and the FTC in neverending regulatory micromanagement in an effort to ascertain the unascertainable.

If those who voted for the 1996 Telecom Act are now concerned that the act is unexpectedly driving prices upward, the way to solve the problem is to change the Act—not to present attempted excuses in the form of confusing additions to consumers' bills.

Having said why it's unrealistic to try and explain every single thing that has an impact on every single consumer telecom bill, I emphatically endorse the proposition that consumers have a right to be told why their bills have gone up—especially when an increase is results from a federal or State levy. I would like to offer my own amendment to assure consumers have access to that information.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2392) was agreed to.

Mr. ROCKEFELLER. Mr. President, first of all, I want to thank the chairman of the Commerce Committee for accepting this amendment which I was rushing to the floor to eloquently and brilliantly explain, and it has been accepted. That is really what one prays for in this institution. I hope it survives the conference. I am sure that it will.

Basically, the theory of it was—and I think that the chairman understood it as well as the Senator from North Dakota—that we should be honest with consumers. A lot of people don't know what a lot of the prices are on the telephone long-distance bill. Charges have gone down from an average of 34 cents per minute since deregulation of AT&T to about 16 cents per minute now. We should tell them when we bill them, if the prices go up on certain items, they also go down on others.

As an example, recently there was a $1.5 billion access charge reduction, so actually the cost to the consumer on their residential rate bill was going to go down, but the companies only wanted to show the part that had a $675 million increase—$675 million increase, $1.5 billion decrease; obviously, the net of the decrease wins big time, but they are not going to be told that.

I think this is a very useful amendment that the chairman of the Commerce Committee has accepted. It isn't about reregulation, it is about treating consumers fairly. It is also, frankly, about something which is very complicated that consumers don't understand, nor should they be expected to

understand, nor do many of us understand as we should—things like prescribed interchange carrier charge, called PICC. That is a very big thing in all of this.

Even where universal service protects high-cost areas, the whole concept of universal service is not understood by most voters or many in the Congress itself.

We have to be fair. We have to level with them. We have to be straight and honest. That is what this amendment attempts to do. That is one of the reasons I am so glad this amendment has been accepted.

I thank, once again, the chairman of the Commerce Committee, the Senator from Arizona, and also my friend from North Dakota, Senator DORGAN.

I yield the floor.

Mr. MCCAIN. That completes our amendments. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? On this question, the yeas and nays have been ordered.

The clerk will call the roll.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—99

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

NOT VOTING—1

Biden

The bill (S. 1618), as amended, was passed, as follows:

S. 1618

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 "Anti-slamming Amendments Act".

TITLE I—SLAMMING

SEC. 101. IMPROVED PROTECTION FOR CONSUMERS.

(a) VERIFICATION OF AUTHORIZATION.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—No telecommunications carrier or reseller of telecommunications services shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

"(2) VERIFICATION.—

"(A) IN GENERAL.—In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this section, the telecommunications carrier or reseller shall, at a minimum, require the subscriber—

"(i) to affirm that the subscriber is authorized to select the provider of that service for the telephone number in question;

"(ii) to acknowledge the type of service to be changed as a result of the selection;

"(iii) to affirm the subscriber's intent to select the provider as the provider of that service;

"(iv) to acknowledge that the selection of the provider will result in a change in providers of that service; and

"(v) to provide such other information as the Commission considers appropriate for the protection of the subscriber.

"(B) ADDITIONAL REQUIREMENTS.—The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall—

"(i) preclude the use of negative option marketing;

"(ii) provide for a complete copy of verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form;

"(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate;

"(iv) mandate that verification occur in the same language as that in which the change was solicited; and

"(v) provide for verification to be made available to a subscriber on request.

"(3) ACTION BY UNAFFILIATED RESELLER NOT IMPUTED TO CARRIER.—No telecommunications carrier may be found to be in violation of this section solely on the basis of a violation of this section by an unaffiliated reseller of that carrier's services or facilities.

"(4) FREEZE OPTION PROTECTED.—The Commission may not take action under this section to limit or inhibit a subscriber's ability to require that any change in the subscriber's choice of a provider of interexchange service not be effected unless the change is expressly and directly communicated by the subscriber to the subscriber's existing telephone exchange service provider.

"(5) APPLICATION TO WIRELESS.—This section does not apply to a provider of commercial mobile service.".

(b) LIABILITY FOR CHARGES.—Subsection (b) of such section is amended—

(1) by striking "(b) LIABILITY FOR CHARGES.—Any telecommunications carrier" and inserting the following:

"(b) LIABILITY FOR CHARGES.—

"(1) IN GENERAL.—Any telecommunications carrier or reseller of telecommunications services";

(2) by designating the second sentence as paragraph (3) and inserting at the beginning of such paragraph, as so designated, the following:

"(3) CONSTRUCTION OF REMEDIES.—"; and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following:

"(2) SUBSCRIBER PAYMENT OPTION.—

"(A) IN GENERAL.—A subscriber whose telephone exchange service or telephone toll service is changed in violation of the provisions of this section, or the procedures prescribed under subsection (a), may elect to pay the carrier or reseller previously selected by the subscriber for any such service received after the change in full satisfaction of amounts due from the subscriber to the carrier or reseller providing such service after the change.

"(B) PAYMENT RATE.—Payment for service under subparagraph (A) shall be at the rate for such service charged by the carrier or reseller previously selected by the subscriber concerned.".

(c) RESOLUTION OF COMPLAINTS.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end thereof the following:

"(c) NOTICE TO SUBSCRIBER.—Whenever there is a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, the telecommunications carrier or reseller selected shall notify the subscriber in a specific and unambiguous writing, not more than 15 days after the change is processed by the telecommunications carrier or the reseller—

"(1) of the subscriber's new carrier or reseller; and

"(2) that the subscriber may request information regarding the date on which the change was agreed to and the name of the individual who authorized the change.

"(d) RESOLUTION OF COMPLAINTS.—

"(1) PROMPT RESOLUTION.—

"(A) IN GENERAL.—The Commission shall prescribe a period of time for a telecommunications carrier or reseller to resolve a complaint by a subscriber concerning an unauthorized change in the subscriber's selection of a provider of telephone exchange service or telephone toll service not in excess of 120 days after the telecommunications carrier or reseller receives notice from the subscriber of the complaint. A subscriber may at any time pursue such a complaint with the Commission, in a State or local administrative or judicial body, or elsewhere.

"(B) UNRESOLVED COMPLAINTS.—If a telecommunications carrier or reseller fails to resolve a complaint within the time period prescribed by the Commission, then, within 10 days after the end of that period, the telecommunications carrier or reseller shall—

"(i) notify the subscriber in writing of the subscriber's right to file a complaint with the Commission and of the subscriber's rights and remedies under this section;

"(ii) inform the subscriber in writing of the procedures prescribed by the Commission for filing such a complaint; and

"(iii) provide the subscriber a copy of any evidence in the carrier's or reseller's possession showing that the change in the subscriber's provider of telephone exchange service or telephone toll service was submitted or executed in accordance with the verification procedures prescribed under subsection (a).

"(2) RESOLUTION BY COMMISSION.—

"(A) DETERMINATION OF VIOLATION.—The Commission shall provide a simplified process for resolving complaints under paragraph (1)(B). The simplified procedure shall preclude the use of interrogatories, depositions, discovery, or other procedural techniques that might unduly increase the expense, formality, and time involved in the process. The Commission shall determine whether there has been a violation of subsection (a) and shall issue a decision or ruling at the earliest date practicable, but in no event later than 150 days after the date on which it received the complaint.

"(B) DETERMINATION OF DAMAGES AND PENALTIES.—If the Commission determines that there has been a violation of subsection (a), it shall issue a decision or ruling determining the amount of the damages and penalties at the earliest practicable date, but in no event later than 90 days after the date on which it issued its decision or ruling under subparagraph (A).

"(3) DAMAGES AWARDED BY COMMISSION.—If a violation of subsection (a) is found by the Commission, the Commission may award damages equal to the greater of $500 or the amount of actual damages for each violation. The Commission may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(e) DISQUALIFICATION AND REINSTATEMENT.—

"(1) DISQUALIFICATION FROM CERTAIN ACTIVITIES BASED ON CONVICTION.—

"(A) DISQUALIFICATION OF PERSONS.—Subject to subparagraph (C), any person convicted under section 2328 of title 18, United States Code, in addition to any fines or imprisonment under that section, may not carry out any activities covered by section 214.

"(B) DISQUALIFICATION OF COMPANIES.—Subject to subparagraph (C), any company substantially controlled by a person convicted under section 2328 of title 18, United States Code, in addition to any fines or imprisonment under that section, may not carry out any activities covered by section 214.

"(C) REINSTATEMENT.—

"(i) IN GENERAL.—The Commission may terminate the application of subparagraph (A) to a person, or subparagraph (B) to a company, if the Commission determines that the termination would be in the public interest.

"(ii) EFFECTIVE DATE.—The termination of the applicability of subparagraph (A) to a person, or subparagraph (B) to a company, under clause (i) may not take effect earlier than 5 years after the date on which the applicable subparagraph applied to the person or company concerned.

"(2) CERTIFICATION REQUIREMENT.—Any person described in subparagraph (A) of paragraph (1), or company described in subparagraph (B) of that paragraph, not reinstated under subparagraph (C) of that paragraph shall include with any application to the Commission under section 214 a certification that the person or company, as the case may be, is described in paragraph (1)(A) or (B), as the case may be.

"(f) CIVIL PENALTIES.—

"(1) IN GENERAL.—Unless the Commission determines that there are mitigating circumstances, violation of subsection (a) is punishable by a forfeiture of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

"(2) FAILURE TO NOTIFY TREATED AS VIOLATION OF SUBSECTION (a).—If a telecommunications carrier or reseller fails to comply with the requirements of subsection (d)(1)(B), then that failure shall be treated as a violation of subsection (a).

"(g) RECOVERY OF FORFEITURES.—The Commission may take such action as may be necessary—

"(1) to collect any forfeitures it imposes under this section; and

"(2) on behalf of any subscriber, to collect any damages awarded the subscriber under this section.

"(h) CHANGE INCLUDES INITIAL SELECTION.—For purposes of this section, the initiation of service to a subscriber by a telecommunications carrier or a reseller shall be treated as a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.".

(d) CRIMINAL PENALTY.—

(1) IN GENERAL.—Chapter 113A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2328. Slamming

"Any person who submits or executes a change in a provider of telephone exchange service or telephone toll service not authorized by the subscriber in willful violation of the provisions of section 258 of the Communications Act of 1934 (47 U.S.C. 258), or the procedures prescribed under section 258(a) of that Act—

"(A) shall be fined in accordance with this title, imprisoned not more than 1 year, or both; but

"(B) if previously convicted under this paragraph at the time of a subsequent offense, shall be fined in accordance with this title, imprisoned not more than 5 years, or both, for such subsequent offense.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding at the end thereof the following:

"2328. Slamming".

(e) STATE RIGHT-OF-ACTION.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258), as amended by subsection (c), is amended by adding at the end thereof the following:

"(i) ACTIONS BY STATES.—

"(1) IN GENERAL.—The attorney general of a State, or an official or agency designated by a State—

"(A) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d)(3);

"(B) may bring a criminal action to enforce this section under section 2328 of title 18, United States Code; and

"(C) may bring an action for the assessment of civil penalties under subsection (f), and for purposes of such an action, subsections (d)(3) and (f)(1) shall be applied by substituting 'the court' for 'the Commission'.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all actions brought under this section. When a State brings an action under this section, the court in which the action is brought has pendant jurisdiction of any claim brought under the law of that State. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the subscriber or defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(j) STATE LAW NOT PREEMPTED.—

"(1) IN GENERAL.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive requirements, regulations, damages, costs, or penalties on changes in a subscriber's service or selection of a provider of telephone exchange service or telephone toll services than are imposed under this section.

"(2) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State not preempted by this section.

"(3) LIMITATIONS.—Whenever a complaint is pending before the Commission involving a violation of regulations prescribed under this section, no State may, during the pendency of such complaint, institute a civil action against any defendant party to the complaint for any violation affecting the same subscriber alleged in the complaint.

"(k) REPORTS ON COMPLAINTS.—

"(1) REPORTS REQUIRED.—Each telecommunications carrier or reseller shall submit to the Commission, quarterly, a report on the number of complaints of unauthorized changes in providers of telephone exchange

service or telephone toll service that are submitted to the carrier or reseller by its subscribers. Each report shall specify each provider of service complained of and the number of complaints relating to such provider.

"(2) LIMITATION ON SCOPE.—The Commission may not require any information in a report under paragraph (1) other than the information specified in the second sentence of that paragraph.

"(3) UTILIZATION.—The Commission shall use the information submitted in reports under paragraph (1) to identify telecommunications carriers or resellers that engage in patterns and practices of unauthorized changes in providers of telephone exchange service or telephone toll service.

"(l) DEFINITIONS.—For purposes of this section:

"(1) ATTORNEY GENERAL.—The term 'attorney general' means the chief legal officer of a State.

"(2) SUBSCRIBER.—The term 'subscriber' means the person named on the billing statement or account, or any other person authorized to make changes in the providers of telephone exchange service or telephone toll service.".

(f) REPORT ON CARRIERS EXECUTING UNAUTHORIZED CHANGES OF TELEPHONE SERVICE.—

(1) REPORT.—Not later than October 31, 1998, the Federal Communications Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service.

(2) ELEMENTS.—The report shall include the following:

(A) A list of the 10 telecommunications carriers or resellers that, during the 1-year period ending on the date of the report, were subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers or resellers.

(B) The telecommunications carriers or resellers, if any, assessed forfeitures under section 258(f) of the Communications Act of 1934 (as added by subsection (d)), during that period, including the amount of each such forfeiture and whether the forfeiture was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

SEC. 102. ADDITIONAL ENFORCEMENT AUTHORITY.

Section 504 of the Communications Act of 1934 (47 U.S.C. 504) is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, the failure of a person to pay a forfeiture imposed for violation of section 258(a) may be used as a basis for revoking, denying, or limiting that person's operating authority under section 214 or 312.".

SEC. 103. OBLIGATIONS OF BILLING AGENTS.

(a) IN GENERAL.—Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

"SEC. 231. OBLIGATIONS OF TELEPHONE BILLING AGENTS.

"(a) IN GENERAL.—A billing agent, including a telecommunications carrier or reseller, who issues a bill for telephone exchange service or telephone toll service to a subscriber shall—

"(1) state on the bill—

"(A) the name and toll-free telephone number of any telecommunications carrier or reseller for the subscriber's telephone exchange service and telephone toll service;

"(B) the identity of the presubscribed carrier or reseller; and

"(C) the charges associated with each carrier's or reseller's provision of telecommunications service during the billing period;

"(2) for services other than those described in paragraph (1), state on a separate page—

"(A) the name of any company whose charges are reflected on the subscriber's bill;

"(B) the services for which the subscriber is being charged by that company;

"(C) the charges associated with that company's provision of service during the billing period;

"(D) the toll-free telephone number that the subscriber may call to dispute that company's charges; and

"(E) that disputes about that company's charges will not result in disruption of telephone exchange service or telephone toll service; and

"(3) show the mailing address of any telecommunications carrier or reseller or other company whose charges are reflected on the bill.

"(b) KNOWING INCLUSION OF UNAUTHORIZED OR IMPROPER CHARGES PROHIBITED.—A billing agent may not submit charges for telecommunications services or other services to a subscriber if the billing agent knows, or should know, that the subscriber did not authorize the charges or that the charges are otherwise improper.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to bills to subscribers for telecommunications services sent to subscribers more than 60 days after the date of enactment of this Act.

SEC. 104. FCC JURISDICTION OVER BILLING SERVICE PROVIDERS.

Part III of title II of the Communications Act of 1934 (47 U.S.C. 271 et seq.) is amended by adding at the end thereof the following:

"SEC. 277. JURISDICTION OVER BILLING SERVICE PROVIDERS.

"The Commission has jurisdiction to assess and recover any penalty imposed under title V of this Act against an entity not a telecommunications carrier or reseller to the extent that entity provides billing services for the provision of telecommunications services, or for services other than telecommunications services that appear on a subscriber's telephone bill for telecommunications services, but the Commission may assess and recover such penalties only if that entity knowingly or willfully violates the provisions of this Act or any rule or order of the Commission.".

SEC. 105. REPORT; STUDY.

(a) IN GENERAL.—The Federal Communications Commission shall issue a report within 180 days after the date of enactment of this Act on the telemarketing and other solicitation practices used by telecommunications carriers or resellers or their agents or employees for the purpose of changing the telephone exchange service or telephone toll service provider of a subscriber.

(b) SPECIFIC ISSUES.—As part of the report required under subsection (a), the Commission shall include findings on—

(1) the extent to which imposing penalties on telemarketers would deter unauthorized changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service;

(2) the need for rules requiring third-party verification of changes in a subscriber's selection of such a provider and independent third party administration of presubscribed interexchange carrier changes; and

(3) whether wireless carriers should continue to be exempt from the requirements imposed by section 258 of the Communications Act of 1934 (47 U.S.C. 258).

(c) RULEMAKING.—If the Commission determines that particular telemarketing or other solicitation practices are being used with the intention to mislead, deceive, or confuse subscribers and that they are likely to mislead, deceive, or confuse subscribers, then the Commission shall initiate a rulemaking to prohibit the use of such practices within 120 days after the completion of its report.

SEC. 106. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended by—

(1) striking "or" at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting "; or"; and

(3) adding at the end the following:

"(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

TITLE II—SWITCHLESS RESELLERS

SEC. 201. REQUIREMENT FOR SURETY BONDS FROM TELECOMMUNICATIONS CARRIERS OPERATING AS SWITCHLESS RESELLERS.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.), as amended by section 103 of this Act, is amended by adding at the end the following:

"SEC. 232. SURETY BONDS FROM TELECOMMUNICATIONS CARRIERS OPERATING AS SWITCHLESS RESELLERS.

"(a) REQUIREMENT.—Under such regulations as the Commission shall prescribe, any telecommunications carrier operating or seeking to operate as a switchless reseller shall furnish to the Commission a surety bond in a form and an amount determined by the Commission to be satisfactory for purposes of this section.

"(b) SURETY.—A surety bond furnished pursuant to this section shall be issued by a surety corporation that meets the requirements of section 9304 of title 31, United States Code.

"(c) CLAIMS AGAINST BOND.—A surety bond furnished under this section shall be available to pay the following:

"(1) Any fine or penalty imposed against the carrier concerned while operating as a switchless reseller as a result of a violation of the provisions of section 258 (relating to unauthorized changes in subscriber selections to telecommunications carriers).

"(2) Any penalty imposed against the carrier under this section.

"(3) Any other fine or penalty, including a forfeiture penalty, imposed against the carrier under this Act.

"(d) RESIDENT AGENT.—A telecommunications carrier operating as a switchless reseller that is not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"(e) PENALTIES.—

"(1) SUSPENSION.—The Commission may suspend the right of any telecommunications carrier to operate as a switchless reseller—

"(A) for failure to furnish or maintain the surety bond required by subsection (a);

"(B) for failure to designate an agent as required by subsection (d); or

"(C) for a violation of section 258 while operating as a switchless reseller.

"(2) ADDITIONAL PENALTIES.—In addition to suspension under paragraph (1), any telecommunications carrier operating as a switchless reseller that fails to furnish or maintain a surety bond under this section shall be subject to any forfeiture provided for under sections 503 and 504.

"(f) BILLING SERVICES FOR UNBONDED SWITCHLESS RESELLERS.—

"(1) PROHIBITION.—No common carrier or billing agent may provide billing services for any services provided by a switchless reseller unless the switchless reseller—

"(A) has furnished the bond required by subsection (a); and

"(B) in the case of a switchless reseller not domiciled in the United States, has designated an agent under subsection (d).

"(2) PENALTY.—

"(A) PENALTY.—Any common carrier or billing agent that knowingly and willfully provides billing services to a switchless reseller in violation of paragraph (1) shall be liable to the United States for a civil penalty not to exceed $50,000.

"(B) APPLICABILITY.—For purposes of subparagraph (A), the provision of services to any particular reseller in violation of paragraph (1) shall constitute a separate violation of that paragraph.

"(3) COMMISSION AUTHORITY TO ASSESS AND COLLECT PENALTIES.—The Commission shall have the authority to assess and collect any penalty provided for under this subsection upon a finding by the Commission of a violation of paragraph (1).

"(g) RETURN OF BONDS.—

"(1) REVIEW.—

"(A) IN GENERAL.—The Commission may from time to time review the activities of a telecommunications carrier that has furnished a surety bond under this section for purposes of determining whether or not to retain the bond under this section.

"(B) STANDARDS OF REVIEW.—The Commission shall prescribe any standards applicable to its review of activities under this paragraph.

"(C) FIRST REVIEW.—The Commission may not first review the activities of a carrier under subparagraph (A) before the date that is 3 years after the date on which the carrier furnishes the bond concerned under this section.

"(2) RETURN.—The Commission may return a surety bond as a result of a review under this subsection.

"(h) DEFINITIONS.—In this section:

"(1) BILLING AGENT.—The term 'billing agent' means any entity (other than a telecommunications carrier) that provides billing services for services provided by a telecommunications carrier, or other services, if charges for such services appear on the bill of a subscriber for telecommunications services.

"(2) SWITCHLESS RESELLER.—The term 'switchless reseller' means a telecommunications carrier that resells the switched telecommunications service of another telecommunications carrier without the use of any switching facilities under its own ownership or control.

"(i) DETARIFFING AUTHORITY NOT IMPAIRED.—Nothing in this section is intended to prohibit the Commission from adopting rules providing for the permissive detariffing of long-distance telephone companies, if the Commission determines that such permissive detariffing would otherwise serve the public interest, convenience, and necessity.".

TITLE III—SPAMMING

SEC. 301. REQUIREMENTS RELATING TO TRANSMISSIONS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) INFORMATION TO BE INCLUDED IN TRANSMISSIONS.—

(1) IN GENERAL.—A person who transmits an unsolicited commercial electronic mail message shall cause to appear in each such electronic mail message the information specified in paragraph (2).

(2) COVERED INFORMATION.—The following information shall appear at the beginning of the body of an unsolicited commercial electronic mail message under paragraph (1):

(A) The name, physical address, electronic mail address, and telephone number of the person who initiates transmission of the message.

(B) The name, physical address, electronic mail address, and telephone number of the person who created the content of the message, if different from the information under subparagraph (A).

(C) A statement that further transmissions of unsolicited commercial electronic mail to the recipient by the person who initiates transmission of the message may be stopped at no cost to the recipient by sending a reply to the originating electronic mail address with the word "remove" in the subject line.

(b) ROUTING INFORMATION.—All Internet routing information contained within or accompanying an electronic mail message described in subsection (a) must be accurate, valid according to the prevailing standards for Internet protocols, and accurately reflect message routing.

(c) EFFECTIVE DATE.—The requirements in this section shall take effect 30 days after the date of enactment of this Act.

SEC. 302. FEDERAL OVERSIGHT OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) TRANSMISSIONS.—

(1) IN GENERAL.—Upon notice from a person of the person's receipt of electronic mail in violation of a provision of section 301 or 305, the Commission—

(A) may conduct an investigation to determine whether or not the electronic mail was transmitted in violation of such provision; and

(B) if the Commission determines that the electronic mail was transmitted in violation of such provision, may—

(i) impose upon the person initiating the transmission a civil fine in an amount not to exceed $15,000;

(ii) commence in a district court of the United States a civil action to recover a civil penalty in an amount not to exceed $15,000 against the person initiating the transmission;

(iii) commence an action in a district court of the United States a civil action to seek injunctive relief; or

(iv) proceed under any combination of the authorities set forth in clauses (i), (ii), and (iii).

(2) DEADLINE.—The Commission may not take action under paragraph (1)(B) with respect to a transmission of electronic mail more than 2 years after the date of the transmission.

(b) ADMINISTRATION.—

(1) NOTICE BY ELECTRONIC MEANS.—The Commission shall establish an Internet web site with an electronic mail address for the receipt of notices under subsection (a).

(2) INFORMATION ON ENFORCEMENT.—The Commission shall make available through the Internet web site established under paragraph (1) information on the actions taken by the Commission under subsection (a)(1)(B).

(3) ASSISTANCE OF OTHER FEDERAL AGENCIES.—Other Federal agencies may assist the Commission in carrying out its duties under this section.

SEC. 303. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever the attorney general of a State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected because any person is engaging in a pattern or practice of the transmission of electronic mail in violation of a provision of section 301 or 305, the State, as parens patriae, may bring a civil action on behalf of its residents to enjoin such transmission, to enforce compliance with such provision, to obtain damages or other compensation on behalf of its residents, or to obtain such further and other relief as the court considers appropriate.

(b) NOTICE TO COMMISSION.—

(1) NOTICE.—The State shall serve prior written notice of any civil action under this section on the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve written notice immediately on instituting such action.

(2) RIGHTS OF COMMISSION.—On receiving a notice with respect to a civil action under paragraph (1), the Commission shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard in all matters arising therein; and

(C) to file petitions for appeal.

(c) ACTIONS BY COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of a provision of section 301 or 305, no State may, during the pendency of such action, institute a civil action under this section against any defendant named in the complaint in such action for violation of any provision as alleged in the complaint.

(d) CONSTRUCTION.—For purposes of bringing a civil action under subsection (a), nothing in this section shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of the State concerned to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary or other evidence.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) ACTIONS BY OTHER STATE OFFICIALS.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of the State concerned.

(g) DEFINITIONS.—In this section:

(1) ATTORNEY GENERAL.—The term "attorney general" means the chief legal officer of a State.

(2) STATE.—The term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and any possession of the United States.

SEC. 304. INTERACTIVE COMPUTER SERVICE PROVIDERS.

(a) EXEMPTION FOR CERTAIN TRANSMISSIONS.—

(1) EXEMPTION.—Section 301 or 305 shall not apply to a transmission of electronic mail by an interactive computer service provider unless—

(A) the provider initiates the transmission; or

(B) the transmission is not made to its own customers.

(2) CONSTRUCTION.—Nothing in this subsection may be construed to require an interactive computer service provider to transmit or otherwise deliver any electronic mail message.

(b) ACTIONS BY INTERACTIVE COMPUTER SERVICE PROVIDERS.—

(1) IN GENERAL.—In addition to any other remedies available under any other provision of law, any interactive computer service provider adversely affected by a violation of a provision of section 301 or 305 may, within 1 year after discovery of the violation, bring a civil action in a district court of the United States against a person who violates such provision. Such an action may be brought to enjoin the violation, to enforce compliance with such provision, to obtain damages, or to obtain such further and other relief as the court considers appropriate.

(2) DAMAGES.—

(A) IN GENERAL.—The amount of damages in an action under this subsection for a violation specified in paragraph (1) may not exceed $15,000 per violation.

(B) RELATIONSHIP TO OTHER DAMAGES.—Damages awarded for a violation under this subsection are in addition to any other damages awardable for the violation under any other provision of law.

(C) COST AND FEES.—The court may, in issuing any final order in any action brought under paragraph (1), award costs of suit, reasonable costs of obtaining service of process, reasonable attorney fees, and expert witness fees for the prevailing party.

(3) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant or in which the interactive computer service provider is located, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(c) INTERACTIVE COMPUTER SERVICE PROVIDER DEFINED.—In this section, the term "interactive computer service provider" has the meaning given the term "interactive computer service" in section 230(e)(2) of the Communications Act of 1934 (47 U.S.C. 230(e)(2)).

SEC. 305. RECEIPT OF TRANSMISSIONS BY PRIVATE PERSONS.

(a) TERMINATION OF TRANSMISSIONS.—A person who receives from any other person an electronic mail message requesting the termination of further transmission of commercial electronic mail shall cease the initiation of further transmissions of such mail to the person making the request.

(b) AFFIRMATIVE AUTHORIZATION OF TRANSMISSIONS.—

(1) IN GENERAL.—Subject to paragraph (2), a person may authorize another person to initiate transmissions of unsolicited commercial electronic mail to the person.

(2) AVAILABILITY OF TERMINATION.—A person initiating transmissions of electronic mail under paragraph (1) shall include, with each transmission of such mail to a person authorizing the transmission under that paragraph, the information specified in section 301(a)(2)(C).

(c) CONSTRUCTIVE AUTHORIZATION OF TRANSMISSIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a person who secures a good or service from, or otherwise responds electronically to, an offer in a transmission of unsolicited commercial electronic mail shall be deemed to have authorized the initiation of transmissions of unsolicited commercial electronic mail from the person who initiated the transmission.

(2) NO AUTHORIZATION FOR REQUESTS FOR TERMINATION.—An electronic mail request to cease the initiation of further transmissions of electronic mail under subsection (a) shall not constitute authorization for the initiation of further electronic mail under this subsection.

(3) AVAILABILITY OF TERMINATION.—A person initiating transmissions of electronic mail under paragraph (1) shall include, with each transmission of such mail to a person deemed to have authorized the transmission under that paragraph, the information specified in section 301(a)(2)(C).

(d) EFFECTIVE DATE OF TERMINATION REQUIREMENTS.—Subsections (a), (b)(2), and (c)(3) shall take effect 30 days after the date of enactment of this Act.

SEC. 306. DEFINITIONS.

In this title:

(1) COMMERCIAL ELECTRONIC MAIL.—The term "commercial electronic mail" means any electronic mail that—

(A) contains an advertisement for the sale of a product or service;

(B) contains a solicitation for the use of a telephone number, the use of which connects the user to a person or service that advertises the sale of or sells a product or service; or

(C) promotes the use of or contains a list of one or more Internet sites that contain an advertisement referred to in subparagraph (A) or a solicitation referred to in subparagraph (B).

(2) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(3) the term "initiate the transmission" in the case of an electronic mail message means to originate the electronic mail message, and does not encompass any intervening interactive computer service whose facilities may have been used to relay, handle, or otherwise retransmit the electronic mail message, unless the intervening interactive computer service provider knowingly and intentionally retransmits any electronic mail in violation of section 301 or 305.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. ENFORCEMENT OF REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), a State or local government may enforce the following regulations of the Commission under this section:

"(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

"(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

"(2) Possession of a station license issued by the Commission pursuant to section 301 in any radio service for the operation at issue shall preclude action by a State or local government under this subsection.

"(3) The Commission shall provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

"(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government enforcing a regulation under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, acted outside the authority provided in this subsection.

"(B) A person shall submit an appeal on a decision of a State or local government to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government becomes final.

"(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

"(D) If the Commission determines under subparagraph (C) that a State or local government has acted outside its authority in enforcing a regulation, the Commission shall reverse the decision enforcing the regulation.

"(5) The enforcement of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

"(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.".

SEC. 402. MODIFICATION OF EXCEPTION TO PROHIBITION ON INTERCEPTION OF COMMUNICATIONS.

(a) MODIFICATION.—Section 2511(2)(d) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, it shall not be unlawful under this chapter for a person not acting under the color of law to intercept a wire, oral, or electronic communication between a health insurance issuer or health plan and a subscriber of such issuer or plan, or between a health care provider and a patient, only if all of the parties to the communication have given prior express consent to such interception. For purposes of the preceding sentence, the term 'health insurance issuer' has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), the term 'health plan' means a group health plan, as defined in such section of such Act, an individual or self-insured health plan, the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.), the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.), and the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, and the term 'health care provider' means a physician or other health care professional.".

(b) RECORDING AND MONITORING OF COMMUNICATIONS WITH HEALTH INSURERS.—

(1) COMMUNICATION WITHOUT RECORDING OR MONITORING.—Notwithstanding any other provision of law, a health insurance issuer, health plan, or health care provider that notifies any customer of its intent to record or

monitor any communication with such customer shall provide the customer the option to conduct the communication without being recorded or monitored by the health insurance issuer, health plan, or health care provider.

(2) DEFINITIONS.—In this subsection:

(A) HEALTH CARE PROVIDER.—The term "health care provider" means a physician or other health care professional.

(B) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b).

(C) HEALTH PLAN.—The term "health plan" means—

(i) a group health plan, as defined in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b);

(ii) an individual or self-insured health plan;

(iii) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(iv) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(v) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.); and

(vi) the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, United States Code.

SEC. 403. CONSUMER TRUTH IN BILLING DISCLOSURE ACT.

(a) FINDINGS.—Congress makes the following findings:

(1) Billing practices by telecommunications carriers may not reflect accurately the cost or basis of the additional telecommunications services and benefits that consumers receive as a result of the enactment of the Telecommunications Act of 1996 (Public Law 104–104) and other Federal regulatory actions taken since the enactment of that Act.

(2) The Telecommunications Act of 1996 was not intended to allow providers of telecommunications services to misrepresent to customers the costs of providing services or the services provided.

(3) Certain providers of telecommunications services have established new, specific charges on customer bills commonly known as "line-item charges".

(4) Certain providers of telecommunications services have described such charges as "Federal Universal Service Fees" or similar fees.

(5) Such charges have generated significant confusion among customers regarding the nature of and scope of universal service and of the fees associated with universal service.

(6) The State of New York is considering action to protect consumers by requiring telecommunications carriers to disclose fully in the bills of all classes of customers the fee increases and fee reductions resulting from the enactment of the Telecommunications Act of 1996 and other regulatory actions taken since the enactment of that Act.

(7) The National Association of Regulatory Utility Commissioners adopted a resolution in February 1998 supporting action by the Federal Communications Commission and the Federal Trade Commission to protect consumers of telecommunications services by assuring accurate cost reporting and billing practices by telecommunications carriers nationwide.

(b) REQUIREMENTS.—Any telecommunications carrier that includes any change resulting from Federal regulatory action shall specify in such bill—

(1) the reduction in charges or fees for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers) resulting from any regulatory action of the Federal Communications Commission;

(2) total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers);

(3) notify consumers one billing cycle in advance of any changes in existing charges or imposition of new charges; and

(4) disclose, upon subscription, total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including residential basic service, customers of other residential service, small business customers, and other business customers).

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

THE EXECUTIVE CALENDAR

Mr. LEAHY. Mr. President, I was just thinking, while we are all here, I know we continue to have a number of names on the Executive Calendar on nominations, and we have, let's see, nine judges, all of whom have been voted out of the Judiciary Committee, I think in most cases unanimously. We have close to 100 vacancies in the Federal judiciary. Among those who are on here is Sonia Sotomayor of the second circuit. This has been out for some time now. She has been before the Senate for a couple of years now, I believe. This is a circuit where the Chief Judge has declared a judicial emergency. I believe it is the first time a circuit court has declared a judicial emergency, I think maybe the first time in history that they have done that.

But what that means is that if you go before the second circuit, you don't even have a panel made up of second circuit judges. You have one second circuit court of appeals judge and two visiting judges. And yet we have two nominees for the second circuit on the Executive Calendar, both of whom could be voted on in the next 5 minutes—they went out of the Judiciary Committee very easily—and it would stop this judicial emergency.

The reason I mention this, Mr. President, is that with 100 vacancies in the Federal judiciary, nearly 100 vacancies, we are finding around the country that prosecutors have to lower charges; they have to nol-pros cases; they have to plea bargain because they cannot give a speedy trial. So the police go through all the work, the Federal agencies and everybody, to apprehend somebody, and then because we can't guarantee a speedy trial because there are so many vacancies in the Federal court, somebody who has been charged with a crime suddenly sees their charge lowered. If you are a taxpayer and you pay the bill, as we all are for these courts, and you have a case, a civil case, you cannot get it heard for sometimes 2, 3, 4, 5 years. Justice delayed is justice denied. I mention this, Mr. President; I certainly, and I understand everybody on this side of the aisle, would be ready to go ahead and vote up or down every one of these nine judges right now and clear this up.

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

Mr. LEAHY. I yield without losing my right to the floor. Of course, I yield to the distinguished Senator from Kentucky.

Mr. FORD. When the Senator said we had other nominees, and he only listed the judicial, there are other nominees on the Executive Calendar who have no reason to be held. For instance, we have a woman who has been serving for 4 years on the Uranium Enrichment Corporation. She came before the Energy Committee on February 11. She was given the greatest of accolades for the tremendous job she had done, and she is caught up in the holds on everything else. And now 90 days have passed since she was unanimously reported out of the Energy Committee.

The Uranium Enrichment Corporation is about to privatize. There is $2 billion, approximately, in this budget that will have to be voted on by that particular individual. They said—the "they" being the majority—let her have a contract, just a consultant's contract. And that means she can sit there and listen but cannot say a word or cast a vote. We are about ready to close the deal.

So not only do we have the judicial problem, we have other nominations that are vitally important to my State and the State of Ohio of which we have a vital interest. I want to encourage the Senator. I am about to make a unanimous consent request that we bring Margaret Greene up so we might try to do something here to get her moving and on the board so she can continue to make decisions and do the good work she has been complimented for by the Energy Committee. So I thank the Senator.

Mr. LEAHY. If I might say to my friend from Kentucky, the irony is that Margaret Hornbeck Greene, if there was to be a vote on her, would get every vote in this place. So instead, what you have is somebody in the back recesses of a cloakroom somewhere holding this woman up, as are a whole lot of other women on this list being held up by people who say, "We won't vote on these women. We just won't let them come to a vote."

Nobody is going to vote them down. They are all going to be confirmed, if we have a vote. But these women are all being held up by somebody who will not come in the Chamber and say who

it is holding them up. But just do it. Frankly, I would like to see all of these people—the committees have passed on them. The committees have given them, in most cases, unanimous recommendations and some overwhelming recommendations.

Let the Senate work its will. I think it is wrong to hold them up but especially in the courts. The courts now face an enormous problem. People are declining appointments to the Federal judiciary because they say they are not going to sit around for 2 or 3 years while their law practices fall apart waiting for the Senate to do what we are paid to do.

We have, as I said earlier, in the second circuit, my own circuit, a judicial emergency, the first time ever, and yet we have two second circuit court of appeals judges voted out of the committee sitting on the calendar and cannot be voted upon. It is wrong, Mr. President, for the Senate to try to diminish the Federal bench.

One of the most important parts of our democracy is the fact that we have an independent judiciary. No other nation on Earth has the ability to appoint to a judiciary, handling as complex and varied items as ours does, and still retain its independence. Some, I am afraid to say, on the other side of the aisle and in the other body feel that we must start intimidating these judges—their words, that we must start holding up these judges—their words.

That is wrong. This democracy is maintained and is able to remain a democracy, even though it is the most powerful nation on Earth, because of an independent judiciary. We hurt all Americans. We hurt the criminal justice system; we allow people to escape for their misdeeds if we do not have the judges there to try the cases. And if you are a private litigant, you cannot be heard. Even though you pay the taxes, you pay the bills, you cannot be heard because the judges are not there.

I see the distinguished senior Senator from Arizona in the Chamber. I know he is seeking recognition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I would like to thank the Senator from Vermont for his courtesy. I know he is addressing a very important issue and I appreciate his forbearance while I propound a unanimous consent request.

UNANIMOUS-CONSENT AGREEMENT—S. 1260

Mr. McCAIN. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 1260. I further ask consent there be 2 hours of general debate on the bill equally divided in the usual form. I further ask that the only first-degree amendments, other than the committee-reported substitute, be the following: That first-degree amendments be subject to relevant second-degree amendments—Sarbanes-Bryan, securities market; Sarbanes-Bryan, securities market—three Sarbanes-Bryan, securities market; two Bryan-Sarbanes, securities market; Cleland, class-action lawsuits; Biden, relevant amendment; Wellstone, State laws; Feingold, dispute resolution; D'Amato, relevant; and Dodd, relevant; that upon the disposition of the listed amendments, the committee substitute be agreed to, the bill be read a third time, and the Senate then vote on passage of S. 1260, with no intervening action or debate, provided that Senator REID of Nevada be recognized to speak for up to 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2037

Mr. McCAIN. Mr. President, I ask unanimous consent the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 2037. I further ask that there be 60 minutes for debate equally divided between Senator HATCH and Senator LEAHY, with 15 minutes of Senator HATCH's time controlled by Senator ASHCROFT. I further ask that the only amendment in order be the managers' technical amendment. I finally ask consent that following the expiration or yielding back of time, the bill be read a third time and the Senate then proceed to a vote on passage of S. 2037, with no intervening action or debate.

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

Mr. McCAIN. Mr. President, I would like to say now we have also only one remaining concern about the H-1 B bill of Senator ABRAHAM. We would like to move to it tonight. I understand that on the Democratic side of the aisle there is no objection. We are working on it now.

So I would like to inform my colleagues that we may move to the Abraham bill, which has been cleared on the Democratic side, if we can clear it on the Republican side, and, if so, then there will be amendments considered tonight.

MORNING BUSINESS

Mr. McCAIN. While that is being worked out, I now ask unanimous consent that there be a period for the transaction of routine morning business until 7:15 p.m., with Senators permitted to speak for up to 10 minutes.

Mr. LEAHY. Reserving the right to object, and I shall not object, does that statement by the distinguished acting leader mean there will be no more rollcall votes tonight?

Mr. McCAIN. In light of these agreements, I now announce there will be no further rollcall votes this evening.

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

MONTANA POLE VAULTERS

Mr. BAUCUS. Mr. President, I rise to take a moment to share with the Senate the remarkable accomplishments of some truly "high fliers."

All of us in this body travel to schools and encourage tomorrow's leaders to "aim high." Last week, three Montana pole vaulters did just that and the result was that collegiate and high school records fell.

Three extraordinary women, all from my hometown of Helena, made a bit of history.

On the collegiate level, Helena High Graduate and University of Montana freshman Nicole Zeller twice set new Big Sky Conference records in the pole vault, first by clearing 11 feet 10 inches, and then, improving her own record with a vault of 12 feet, ½ inch.

Meanwhile, two Helena high school students—one from my and Senator ROTH's alma mater, Helena High, the other from Capital High—were registering the two best vaults in the nation this year. One of them set a new national record for high school pole vaulters.

Not only did Shannon Agee of Helena High set a new national record. She beat the old one by a mile. She vaulted 13 feet and eclipsed the old record by a full incredible five inches.

On the same day, Capital High senior Suzanne Krings cleared 12 feet 6 inches, giving her the second-best vault in the nation this year.

So today, Mr. President, I extend my congratulations to Shannon, Suzanne and Nicole for showing all of us how to soar.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business yesterday, Monday, May 11, 1998, the federal debt stood at $5,487,765,423,650.36 (Five trillion, four hundred eighty-seven billion, seven hundred sixty-five million, four hundred twenty-three thousand, six hundred fifty dollars and thirty-six cents).

Five years ago, May 11, 1993, the federal debt stood at $4,241,563,000,000 (Four trillion, two hundred forty-one billion, five hundred sixty-three million).

Ten years ago, May 11, 1988, the federal debt stood at $2,511,066,000,000 (Two trillion, five hundred eleven billion, sixty-six million).

Fifteen years ago, May 11, 1983, the federal debt stood at $1,257,970,000,000 (One trillion, two hundred fifty-seven billion, nine hundred seventy million).

Twenty-five years ago, May 11, 1973, the federal debt stood at $453,530,000,000 (Four hundred fifty-three billion, five hundred thirty million) which reflects a debt increase of more than $5 trillion—$5,034,235,423,650.36 (Five trillion, thirty-four billion, two hundred thirty-five million, four hundred twenty-three thousand, six hundred fifty dollars and thirty-six cents) during the past 25 years.

THE AGRICULTURAL RESEARCH, EXTENSION AND EDUCATION REFORM ACT OF 1998

Mr. FEINGOLD. Mr. President, today, the Senate passed the conference agreement on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998. I am pleased that this important legislation, containing several amendments I authored, has seen its way to the Senate floor for proper and overdue consideration and passage.

Mr. President, the agricultural provisions of this bill are important for all farmers but I am especially proud of the provisions targeted to support our endangered small farmers.

Mr. President, this country is facing a national farming crisis. Day after day, season after season, we are losing small farms at an alarming rate. In 1980, there were 45,000 dairy farms in Wisconsin. In 1997, there are only 24,000 dairy farms. That is a loss of more than 3 dairy farms a day-everyday for 17 years. And it does not begin to measure the human cost to families driven from the land. As small farms disappear, we are witnessing the emergence of larger agricultural operations. This trend toward fewer but larger dairy operations is mirrored in most States throughout the Nation.

Mr. President, the economic losses associated with the reduction in the number of small farms go well beyond the impact on the individual farm families who must wrench themselves from the land. The reduction in farm numbers has hurt their neighbors as well and deprived the merchants on the main streets of their towns of many lifelong customers. For many of the rural communities of Wisconsin, small family-owned farms are the key component of the community. They provide economic and sound stability. They are good people and we need a system in which their farms are viable and their work can be fairly rewarded.

Many feel that basic research is a necessary and underutilized tool that can help to save this dying breed of farmers. There have been plenty of Federal investments in agricultural research, past and present, focusing almost solely on the needs of larger scale agricultural producers-neglecting the specific research needs of small producers. This research bias has hamstrung small farmers, depriving them of the tools they need to adapt to changes in farming and the marketplace and accelerating the trend toward increased concentration.

To address this concern, I worked with the conference committee to include a provision which authorizes a coordinated program of research, extension, and education to improve the viability of small- and medium-size dairy and livestock operations. Among the research projects the Secretary is authorized to conduct are: Research, development, and on-farm education, low-cost production facilities, management systems and genetics appropriate for these small and medium operations, research and extension on management intensive grazing systems which reduce feed costs and improve farm profitability, research and extension on integrated crop and livestock systems that strengthen the competitive position of small- and medium-size operations, economic analyses and feasibility studies to identify new marketing opportunities for small- and medium-size producers, technology assessment that compares the technological resources of large specialized producers with the technological needs of small- and medium-size dairy and livestock operations, and research to identify the specific research and education needs of these small operations.

The provision allows the Secretary to carry out this new program using existing USDA funds, facilities and technical expertise. Dairy and livestock producers should not be forced to become larger in order to remain competitive. Bigger is not necessarily better. And in fact, Mr. President, expansion is often counterproductive for small operations, requiring them to take on even greater debt. Farmers need more help in determining other methods of maintaining long-term profitability. For example, small dairy farmers may find adoption of management-intensive grazing systems, combined with a diversified cropping operation a profitable alternative to expansion. But there has been far too little federally funded research devoted to alternative livestock production systems. Small producers need more Federal research and extension activity devoted to the development of these alternatives. This amendment is a good first step in establishing the Federal research commitment to help develop and promote production and marketing systems that specifically address the needs of small producers.

Using research dollars to help maintain the economic viability of small- and medium-size dairy and livestock operations has benefits beyond those gained by farmers and the communities in which they reside. Keeping a large number of small operations in production can provide environmental benefits as well. As livestock operations expand their herd size without a corresponding increase in cropping acreage, manure storage and management practices become more costly and more burdensome for the operator and raise additional regulatory concerns associated with runoff and water quality among State and Federal regulators. Research that helps dairy and livestock operators remain competitive and profitable without dramatic expansion will help minimize these concerns.

Mr. President, also incorporated into the bill is language requiring the Secretary to fund research on the competitiveness and viability of small- and medium-size farms under the Initiative for Future Agriculture and Food Systems—a new research program authorized by S. 1150 and funded at a total of $600 million for fiscal years 1999 through 2002. With the inclusion of my amendment, the Secretary is directed to make grants for research projects addressing the viability of small- and medium-size farming operations with funding made available under the Initiative in fiscal years 1999–2002. This amendment ensures that the research needs of small dairy, livestock, and cropping operations will be addressed under the substantial new funding provided for agricultural research in this bill.

Finally, Mr. President, the conference committee also accepted important language regarding precision agriculture. Precision agriculture is a system of farming that uses very site-specific information on soil nutrient needs and presence of plant pests, often gathered using advanced technologies such as global positioning systems, high performance image processing, and software systems to determine the specific fertilizer, pesticide and other input needs of a farmer's cropland. This technology may have the benefit of lowering farm production costs and increase profitability by helping the producer reduce agricultural inputs by applying them only where needed. In addition, reducing agricultural inputs may minimize the impact of crop production on wildlife and the environment. While precision agriculture, generally defined, encompasses a broad range of techniques from high-technology satellite imaging systems to manual soil sampling, it is most frequently discussed in terms of the use of capital intensive advanced technologies.

Precision agriculture may result in production efficiencies and improved profitability for some farms, yet many in agriculture are concerned that, because of the capital intensive nature of precision agriculture systems, this new technology will not be applicable or accessible to small or highly diversified farms. It is unclear whether precision agriculture services, even if provided by input suppliers, will be available at affordable rates to small farms. Furthermore, some observers are concerned that private firms may find that

marketing efforts directed at small farms are not lucrative enough and thus may avoid efforts to apply the technology to small operations.

In addition to concerns about the applicability and accessibility of precision agriculture to small farms, many are concerned that precision agriculture may not be the most appropriate production system for small farms given the costs of acquiring new technology or contracting for additional services. There may be other production systems, such as integrated whole farm crop, livestock, and resource management systems, that allow small farmers to reduce input costs, improve profitability, and minimize environmental impacts of agricultural production that are more appropriate for smaller operations.

To address this concern, accepted language allows USDA to fund studies evaluating whether precision agriculture technologies are applicable or accessible to small- and medium-sized farms. The amendment also allows USDA to conduct research on methods to improve the applicability of precision agriculture to these operations. It is critical that USDA's research investment in this new technology not exclude the needs of small farmers. If it does, this new research program could ultimately affect the structure of agriculture, potentially providing disproportionate advantages to large scale farming operations, accelerating the trend to fewer and larger farms. My amendment will allow USDA to conduct research on low cost precision agriculture systems that do not require significant financial investments by farmers and that may be more appropriate to small or highly diversified farming operations.

Mr. President, I appreciate the cooperation of the chairman, Mr. LUGAR, and the ranking member, Mr. HARKIN, of the Agriculture Committee and their staff in addressing the important research needs of small- and medium-size farms by maintaining these amendments during conference committee consideration of this bill.

These amendments will ensure that research money is directed at the interests of the small farmer providing the tools to make these operations viable to survive the riggers of farming in the next century.

SHANNEL QUARLES—KANSAS YOUTH OF THE YEAR

Mr. BROWNBACK. Mr. President, today, I rise to recognize an outstanding high school student from Wichita, KS. Shannel Quarles won the Kansas Youth of the Year award for 1998–1999. Along with this award, Shannel will receive a four-year scholarship to the college of her choice, sponsored by Oprah Winfrey's Angel Network.

Mr. President, I am proud to recognize the outstanding accomplishment of this high school sophomore. She is an exemplary role model for young people in our nation. I congratulate Shannel and her family and wish her continued success.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

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. WARNER:

S. 2062. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions; to the Committee on Environment and Public Works.

By Mr. HOLLINGS (by request):

S. 2063. A bill to authorize activities under the Federal railroad safety laws for fiscal years 1999 through 2002, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. MIKULSKI (for herself, Mr. GLENN, and Mr. SARBANES):

S. 2064. A bill to prohibit the sale of naval vessels and Maritime Administration vessels for purposes of scrapping abroad, to establish a demonstration program relating to the breaking up of such vessels in United States shipyards, and for other purposes; to the Committee on Armed Services.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2065. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of Settlement Trusts established pursuant to the Alaska Native Claims Settlement Act; to the Committee on Finance.

By Mr. CHAFEE:

S. 2066. A bill to reduce exposure to environmental tobacco smoke; to the Committee on Environment and Public Works.

By Mr. ASHCROFT (for himself, Mr. LEAHY, Mr. BURNS, Mr. CRAIG, Mrs. BOXER, Mr. FAIRCLOTH, Mr. WYDEN, Mr. KEMPTHORNE, Mrs. MURRAY, and Mrs. HUTCHISON):

S. 2067. A bill to protect the privacy and constitutional rights of Americans, to establish standards and procedures regarding law enforcement access to decryption assistance for encrypted communications and stored electronic information, to affirm the rights of Americans to use and sell encryption products, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMPSON (for himself and Mr. GLENN):

S. 2068. A bill to clarify the application of the Unfunded Mandates Reform Act of 1995, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 2069. A bill to permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment; to the Committee on Indian Affairs.

By Mr. DEWINE:

S. 2070. A bill to provide for an Underground Railroad Educational and Cultural Program; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, and Mr. GLENN):

S. Res. 227. A resolution to express the sense of the Senate regarding the May 11, 1998 Indian nuclear tests; to the Committee on Foreign Relations.

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 228. A resolution to authorize the printing of a document entitled "Washington's Farewell Address"; considered and agreed to.

By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):

S. Res. 229. A resolution commemorating the 150th anniversary of the establishment of the Chicago Board of Trade; considered and agreed to.

By Mr. DODD (for himself and Mr. GRASSLEY):

S. Con. Res. 95. A concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself, Mr. GLENN, and Mr. SARBANES):

S. 2064. A bill to prohibit the sale of naval vessels and Maritime Administration vessels for purposes of scrapping abroad, to establish a demonstration program relating to the breaking up of such vessels in United States shipyards, and for other purposes; to the Committee on Armed Services.

NAVAL VESSELS LEGISLATION

Ms. MIKULSKI. Mr. President, I wish to bring to the attention of the Senate that today I am introducing legislation to change the way we dispose of Navy ships that are no longer needed. I am proud to say that this bill is being cosponsored by my senior Senator, PAUL

SARBANES, as well as the distinguished Senator from Ohio, Senator JOHN GLENN.

With the end of the cold war, the number of ships to be disposed of in the military arsenal is growing. There are 180 Navy and Maritime Administration ships waiting to be scrapped. These ships are difficult and dangerous to dismantle. They usually contain asbestos, PCBs, and lead paint. They were built long before we understood all of the environmental hazards associated with these materials.

I am prompted to offer this legislation because an issue was brought to my attention by a Pulitzer Prize-winning series of articles that appeared in the Baltimore Sun written by reporters Gary Cohn and Will Englund. They conducted a very thorough and rigorous investigation into the way we dispose of our Navy and maritime ships. They traveled around the country and around the world to see firsthand how our ships are dismantled.

I must advise the Senate that the way we do this is not being done in an honorable, environmentally sensitive, efficient way. I believe that when we have ships that have defended the United States of America, that were floating military bases, they should be retired with honor. When I unfold to you the horror stories that the Sun paper found, you will be shocked, and I hope you will join in the cosponsorship of my bill.

Let me recite from the Sun paper:

As the Navy sells off obsolete warships at the end of the cold war, a little known industry has grown up in America's depressed ports, and where the shipbreaking industry goes, pollution and injured workers are left in its wake.

Headline No. 1. No. 2:

The Pentagon repeatedly deals with shipbreakers with dismal records, then fails to keep watch as they leave health, environmental and legal problems in America's ports.

In terms of our own communities on the border in Brownsville, TX:

In this U.S. shipbreaking capital on the Mexican border, where labor and life are cheap, scrapping thrives amid official indifference.

And, I might say, danger.

Also, even more horrendous is the way we use the Third World to dump American ships: In India, the Sun paper found:

On a fetid beach, 35,000 men scrap the world's ships with little more than their bare hands. Despite wretched conditions—

And dangerous environmental situations.

I point out what this means close to home. Let me tell you some stories. In Baltimore:

Workers have been toiling in air thick with asbestos dust. In Baltimore, laborers scrapping the USS Coral Sea ripped asbestos insulation from the aircraft carrier with their bare hands. At times they had no respirators, standard equipment for asbestos work. [As we all know,] inhaling asbestos fibers can have . . . lethal consequences.

It was not limited to Baltimore. At Terminal Island, CA, 20 laborers were fired when they told Federal investigators how asbestos was being improperly stripped from Navy ships. In Baltimore, workers were ordered to stuff asbestos into a leaky barge to hide it from inspectors.

Dangerous substances from scrapped ships have polluted harbors, rivers and shorelines.

The Sun paper goes on to say:

A scrapyard along the Northeast Cape Fear River in Wilmington, NC, was contaminated by asbestos, oil and lead. "That site looked like one of Dante's levels of hell," said David Heeter, a North Carolina assistant attorney general.

Ship scrappers frustrate regulators by constructing a maze of corporate names and moving frequently. The Defense Department has repeatedly sent ships to scrappers who have records of bankruptcies, fraud [and] payoffs. . . .

Because of downsizing, the Navy promised that this would be a bonanza, for amounts ranging from $15,000 to dismantle a destroyer—15 grand to dismantle a destroyer—to $1 million for an aircraft carrier.

They buy the rights to Navy ships, then sell the salvaged metal. . . .

Because of environmental violations and other issues, the Navy has had to take back 20 ships in yards in North Carolina, Rhode Island and California. . . . Of the 58 ships sold for scrapping since 1991, only 28 have been finished.

And, oh, my God, how they have been finished.

I would like to turn to my hometown of Baltimore. Mr. President, this is what the *Coral Sea* looked like while it was being dismantled in the Baltimore harbor. It looks like it was ravaged, like it was cannibalized. It looks like a tenement in a Third World area.

The Sun paper continues:

In Baltimore, torch handlers worked without other men on fire watch and without fire hoses. . . .

Picture yourself going out there trying to do that in the early morning.

The *Coral Sea*'s dismal end has been marked by stubborn fires and dumping of oil in the harbor, by lawsuits and repeated delays—but most of all, by the mishandling of asbestos.

Let me tell you that it was so bad that even a Navy inspector who came to look at what they were doing was scared to death to go on that ship because he was afraid it was too dangerous.

I am quoting the Sun paper.

On September 16, 1993, [the military] sent its lone inspector——

One inspector for the United States——

On his first visit to the Seawitch Salvage yard in Baltimore. . . . But Evans didn't inspect [it because]. . . . He thought it was too dangerous.

The next day, a 23-year-old worker named Alfio Leonardi Jr. found out how unsafe it would be.

He walked on a flight deck up in that situation and dropped 30 feet from the hangar.

I felt a burning feeling inside. . . . There was blood coming out of my mouth. I didn't think I was going to live.

He suffered a ruptured spleen, fractured pelvis, fractured vertebrae, and he broke his arms in several places.

The inspector was new to the job when the accident occurred. He had only 20 hours of training on environmental issues. He was not appropriately trained, and he didn't even know what shipbreaking was. At the same time, we had repeated fires breaking out.

In November of 1996, a fire broke out in the *Coral Sea* engine room. There was no one standing fire watch, no hose nearby. The blaze burned quickly out of control, and for the sixth time, Baltimore City's fire department had to come in and rescue the shipyard. At the same time, the owner of this shipyard had a record of environmental violations for which he ultimately went to jail.

We cannot tolerate this in the Baltimore harbor. If you look there, that is where it is, right across from Ft. McHenry that defended the United States of America and won the second battle in the war of 1812. And look at it. That is what it looks like. It is a national disgrace that that was in the harbor as well as a national environment danger.

Right down the road was the Baltimore City Shipyard, the Bethlehem Steel Shipyard that was foraging for work. Another fighting lady from Maryland, Helen Bentley, our former Congresswoman—she and I and Senator PAUL SARBANES worked for Baltimore to be a home port. We were desperate for work in our shipyard—desperate. But no; do you think the Navy turned to shipyards like Bethlehem Steel? They turned to the rogues, the crooks, the scum, the scams, to dismantle our Navy ships.

I think the ships deserve more. I think the Baltimore harbor deserves more. And I think the United States of America deserves more. That is why I am introducing legislation to create a pilot project on how we can dispose of these ships, and in a way that is efficient, is orderly, and environmentally safe, and keeps the work in American shipyards, because while this was so terrible in my own home of Baltimore, MD, let me show you what was going on in the Third World.

This is the U.S. Navy ships being dismantled in India. Thirty-five thousand people work on a beach, often with no shoes, dismantling ships with their bare hands. This is so dangerous, in terms of what they are doing, that I believe it is an international disgrace. I was appalled we were also exporting our environmental problems overseas.

Mr. President, I called upon Secretary Cohen, when I read this series,

to immediately stop what we were doing and to take a look. He did it. I want to thank him for his prompt response. He analyzed what they should do, and they made recommendations. But the recommendation was more enforcement of the same old way of doing business. Well, more enforcement of the same old way of doing business will still end up with the same old way of doing business—occupational safety dangers, environmental catastrophes, and a national disgrace.

So that is why I am introducing my own legislation. The first section of the legislation will absolutely ban the shipping, the sending of our 180 Navy ships overseas to be dismantled in such despicable situations. The other part establishes a pilot project for the U.S. Navy to look at how it could put our ships out for dismantling bids in American shipyards that meet environmental and occupational standards. Those shipyards, like the ones in my own hometown of Baltimore, that are fit for duty. They know how to build a ship. They know how to convert a ship. They know how to dismantle a ship.

I think the Navy can do better. The Navy has an outstanding record of dismantling nuclear submarines. They do it in a particular and unique way. They have the ingenuity and the technical competence, but they lack the will and the resources. What I hope my legislation will do is give them both the will and the resources to dismantle this in a way that retires our ships with honor. I knew that when the Senate saw those pictures they would be as taken aback as I have been.

I thank the Sun paper for their outstanding series in bringing this to not only my attention but to America's attention. They won the Pulitzer Prize. But I want the United States of America to be sure that we win an environmental victory here.

So, Mr. President, I am going to be introducing my legislation today as we speak. In fact, I send my legislation to the desk and ask that it be referred to the appropriate committees. I just want to close by saying that when we close military bases, we do it the right way, we pay to clean them up, we close them down and find other basic ways of recycling their use.

Every weekend I am around veterans who wear the ships on which they sailed. They have the U.S.S. Coral Sea; they have a variety of the ships that they sailed on. They are proud of those ships, and I am proud of those ships. And I am proud of the military. I conclude by saying, I thank Secretary Cohen for his leadership as well as Secretary Perry. They have done more environmentally positive things for the military than we have ever had done. But this is the next step.

I yield the floor, and I thank the Senate for its kind attention.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The Democratic leader.

Mr. DASCHLE. Mr. President, let me thank the distinguished Senator from Maryland for her eloquent statement. I appreciate her leadership. Her statement this morning is one that I wish the whole country could hear. Her leadership and her willingness to be involved in this issue is critical to all of us. And I appreciate so much her eloquence and the studious way in which she has pursued this matter.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2065. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of Settlement Trusts established pursuant to the Alaska Native Claims Settlement Act; to the Committee on Finance.

ALASKA NATIVE SETTLEMENT TRUST TAX LEGISLATION

Mr. MURKOWSKI. Mr. President, I am pleased to be joined by Senator STEVENS in introducing legislation that will allow Alaska Native Corporations to establish settlement trusts designed to promote the health, education, welfare and cultural heritage of Alaska Natives.

Mr. President, in 1987, the Alaska Native Claims Settlement Act was amended to permit Native Corporations to establish settlement trusts to hold lands and investments for the benefit of current and future generations of Alaska Natives. Assets in these trusts are insulated from business exposure and risks and can be invested to provide distributions of income to Native shareholders and their future generations.

Although the 1987 amendments were designed to facilitate the development of settlement trusts, many Native Corporations have been stymied in their efforts because the tax law, in many cases, imposes onerous penalties on the Native shareholders when the trusts are created. For example, when assets are transferred to the trust, they are treated as a *de facto* distribution of assets directly to the shareholders themselves to the extent of the corporation's earnings and profits.

Even though the current shareholders receive no actual income at the time of the transfer into the trust, they are liable for income taxes as if they received an actual distribution. This not only requires the shareholder to come up with money to pay taxes on a distribution he or she never received, but also can result in a situation where a trust fund beneficiary is required to prepay taxes on his share of the entire trust corpus, which may be substantially more in taxes than the amount of cash benefits he or she will actually receive in the future.

Our legislation remedies this inequity by requiring that a beneficiary of a settlement trust will be subject to taxation with respect to assets conveyed to the trust only when the actual distribution is received by the beneficiary. Moreover, the legislation provides that distributions from the trust will be taxable as ordinary income even if the distribution represents a return of capital. In addition, to ensure that these trusts do not accumulate excessive levels of the corporation's earnings, the legislation requires that the trust must annually distribute at least 55 percent of their taxable income.

Mr. President, Alaska Native Corporations are unique entities. Unlike Native American tribes in the lower 48, Alaska Native corporations are subject to income tax. But unlike ordinary C corporations, Alaska Native corporations have diverse purposes, one of which is to preserve and protect the heritage of the Native shareholders. The settlement trust concept is well suited to the special needs of Alaska's Natives. As the Conference Committee Report to ANSCA amendments of 1987 stated:

> Trust distributions may be used to fight poverty, provide food, shelter and clothing and served comparable economic welfare purposes. Additionally, cash distributions of trust income may be made on an across-the-board basis to the beneficiary population as part of the economic welfare function.

Settlement trusts will ensure that for generations to come, Native Alaskans will have a steady stream of income on which to continue building an economic base. The current tax rules discourage the creation of such trusts with the result that Native corporations are under extreme pressure to distribute all current earnings rather than prudently reinvesting for the future.

Mr. President, it is my hope that we will be able to see this legislation adopted into law this year. For the long-term benefit of Alaska Natives, this tax law change is fundamentally necessary.

By Mr. CHAFEE:

S. 2066. A bill to reduce exposure to environmental tobacco smoke; to the Committee on Environment and Public Works.

ENVIRONMENTAL TOBACCO SMOKE LEGISLATION

Mr. CHAFEE. Mr. President, today I am introducing legislation regarding one small aspect of the national tobacco debate. This bill addresses the problem of second-hand smoke, also known as Environmental Tobacco Smoke, or ETS for short. It is my hope that the ideas contained in this bill can be incorporated into any tobacco legislation acted on by the Senate.

The Committee on Environment and Public Works recently held a hearing on ETS at which we learned that the principal victims of second-hand smoke are children who live with smokers.

Tobacco smoke has devastating consequences for children under 18 months of age. Annually, up to 15,000 infants are hospitalized for lung infections caused by ETS such as bronchitis and pneumonia. These severe lung infections claim the lives of hundreds of children each year.

Second-hand smoke is also responsible for less severe lung infections in 300,000 infants, 26,000 new cases of asthma among children, millions of middle ear infections, and roughly half the cases of Sudden Infant Death Syndrome (SIDS). These preventable illnesses, but 40 percent of children in one multi-State study were found to be routinely exposed to tobacco smoke.

The bill I am introducing today would assign some of the funds collected under any national tobacco settlement approved by Congress to a state grant program to educate parents about the dangers of smoking in the home. The statistics I just recited are not widely known by parents. Once aware of the profound risk ETS poses for their child, most parents will go to great lengths to protect their child, and I believe that even includes parents who smoke.

With the grant funds from this bill, States could provide information about ETS to pediatricians and other child care professionals for distribution to parents. States also could develop advertising aimed at parents. We only need to arm parents with information. They will do the rest.

This bill has a few other provisions. It affirmatively states that there is no federal preemption of State or local efforts to address ETS. It would ban smoking on international flights that originate or terminate in the United States. It also would extend and codify the President's Executive Order banning smoking in federal buildings. My good friend, Senator WARNER, in his capacity as Chairman of the Senate Rules Committee, is working to ban smoking from the public areas of the Senate. I applaud this effort and encourage my colleagues to support it. My legislation would complement his efforts in other federal buildings.

This bill does not address the question of smoking in private workplaces. Up to 3,000 adults die each year from lung cancer caused by ETS. Because of this statistic, some have argued that the federal government should ban smoking in nearly every building in the nation. Most legislative proposals on this issue would subject every dress shop and church hall in the nation to federal smoking regulations.

Ironically, most of those bills exempt bars and restaurants and other places where smoking can be common. That means they ignore the few places where employees faced a substantial threat from ETS while regulating every other workplace. I believe that there is a more efficient way to address workplaces with dangerous levels of ETS.

We should allow State and local governments to take the lead on this matter, but we also should help them to solve the problem. Some towns and States have taken action already. We can encourage more of them to do so by expanding the grant program described in my bill to reward States that reduce dangerous levels of ETS in the workplace. Incentive grants would allow States to tailor their solutions to address local concerns. Some States could seek a gradual ban while others may establish protective ventilation standards.

Any rule that requires changing a habit as deeply ingrained as smoking will be met with resistance. In contrast to a federal one-size-fits-all approach, State and local efforts can be tailored more easily to local concerns, and will, therefore, be more effective.

I did not address smoking in the workplace in my bill because I hope to work with other interested members to develop language that will be supportable on both sides of the aisle. Such a provision must both avoid rigid federal mandates and provide real incentives for States to address those workplaces with dangerous levels of ETS. I will continue to work with interested parties in an effort to devise such a provision. In the meantime, I wanted to offer the balance of my proposal for the Senate's consideration.

By Mr. ASHCROFT (for himself, Mr. LEAHY, Mr. BURNS, Mr. CRAIG, Mrs. BOXER, Mr. FAIRCLOTH, Mr. WYDEN, Mr. KEMPTHORNE, Mrs. MURRAY, and Mrs. HUTCHISON):

S. 2067. A bill to protect the privacy and constitutional rights of Americans, to establish standards and procedures regarding law enforcement access to decryption assistance for encrypted communications and stored electronic information, to affirm the rights of Americans to use and sell encryption products, and for other purposes; to the Committee on the Judiciary.

THE E-PRIVACY ACT

Mr. ASHCROFT. Mr. President, I rise to speak today on an issue that I find very important to the future of this country's leading position in the technology, and that is encryption. This issue has been under consideration since I first came to Capitol Hill, and for more than three years nothing has been accomplished by way of assistance to law enforcement, or to industry, or most importantly to the users of encryption in this country.

My first involvement in this entire discussion came about as a result of the need for protection and privacy. If we are to operate at our highest and best in the information age, instead of settling for something very far below our potential, we are going to need privacy and protection, and we are going to need the ability to operate with integrity on the Internet. The Internet has to be something more than speaking on the public square, it has to have the ability to allow individuals to communicate with each other. It has to have the same kind of rights and protections that are accorded to other aspects of communication. Without this privacy, the potential of the Internet is destroyed. In my judgment, the Internet would be destined to become just a sort of international bull session, nothing more than an international party line of commentary, or an international broadcast device. I do not believe it will fulfill its potential as a communication, entertainment, commercial and educational opportunity unless Internet communications are secure and the right of privacy is respected.

The Internet allows for the most participatory form of communications ever. In order for us to be able to both invite participation by everyone, and to be able to take advantage of it, we have to be able to exclude some parties from a particular communication. I do not know of any more successful exclusion technique in the electronic world than encryption, especially when so much information is going to be transmitted digitally, much of it through space as well as over hard lines of communication.

We have a tremendous potential for commerce on the Internet: everything from selling clothes, to real estate, to software itself. Electronic commerce has not reached its full potential, but it can. I think we've got a big agenda there, not just encryption but we've got to have legally binding signature legislation and therefore solid encryption.

Resisting efforts for mandatory domestic key recovery is also crucial. We have to remind ourselves that the Internet is like so much of the rest of the culture—government can't solve all the problems. At least we have to plead for restraint by those who would harm this technology. As I have said before, now is the time to draw a bright line against federal regulation of the computer industry. Washington must not start down the road of dreaming up regulations to fix problems that may or may not exist. Two things can be predicted with confidence about congressional meddling in this sector of the economy. First, legislation will be obsolete on the day it is passed. Second, it will hurt consumers, workers, shareholders, and the economy. If Congress had helped set up the transportation industry, there still might be a livery stable in every town, and buggy whip factories in large cities.

The irrationality of limiting the United States to levels of encryption which are far below what the world market is demanding and supplying in other settings, has been mind boggling. This legislation declares that American companies will be full and active

participants in the encryption industry. Today, numerous editions of leading American designed and manufactured software bears the stamp, "Not for sale outside the United States," because the software features robust encryption. That stamp does nothing to make Americans more secure, but it does provide aid and comfort to foreign competitors of American business. This legislation would eliminate that stamp once and for all.

Encryption, of course, is the most important issue to the future of electronic commerce and if we are to foster the integrity of the Internet we must have the means of communication domestically and international. I have to reaffirm that we must allow the software industry to compete in an international market where robust encryption already takes place. Months ago I went to a Commerce Committee meeting and took with me an ad from the Internet, which was from Seimens company in Germany advertising robust 128 bit encryption, saying that you can't get this from a U.S. manufacturer. The advertisement also indicated, however, that if you buy this you can use it in the United States and you can use it overseas as well, and, so if you want to have robust encryption buy it from Seimens. The Administration has decided to tie the hands of the U.S. encryption industry. To me that's a disaster, but it is also compounded by people beginning to develop relationships with foreign software providers as a result of the unavailability of 128 bit or robust encryption on the part of U.S. providers.

To see the Germans eagerly promoting this potential, and to have people from my own jurisdiction, from the state of Missouri, say, "John, we have an office in Singapore, we have to be able to speak with them confidentially and communicate with them, and the government is making it impossible for us to send the encryption that we can use domestically. We can't send it to our office in Singapore because we are ineligible to export it." I don't want the situation to be such that I have to say, "Well, go to Seimens in Germany." From Seimens you can buy the encryption that can be sent into the United States and from Seimens in Germany it can be sent to Singapore and so you can have your cake and eat it too by dealing with a non-domestic firm. For us to have a policy which provides for the slitting of our own throats, in a technology arena, where we have held the lead and must continue to hold the lead, I think is foolhardy to say the least. If we are to mark the next century as an "American Century," or even to celebrate this week as high technology week in the Senate, we must be forward thinking and acting. This bill moves us away from antiquated export laws to a future in which American companies will be able to compete in the international marketplace without having one hand tied behind their back by the federal government.

This bill also clarifies the proper approach for encryption domestically as we move ahead in the digital age. The Administration and the FBI first indicated support for language that would mandate key recovery for all domestic encryption and now support several suggested approaches that would make using domestic key escrow a practical—though not legal—necessity. Director Freeh has gone so far as to mention the need for a new Fourth Amendment that considers the realities of the digital age. I think we need a new and improved approach to domestic encryption, not a new updated version of the Fourth Amendment. I, for one, am not eagerly awaiting the FBI's new release of Fourth Amendment 2.0 or First Amendment '98.

I think we have to work together to find a reasonable alternative to the current Administration policy and I think we have to ensure secure transactions. That's a clear responsibility. We can't have a situation where we don't have security and integrity in our business transactions. We have to be able to compete effectively in a worldwide marketplace. For us to limit our own potential in terms of competition makes no sense. We have to make sure that we don't allow those who would use information improperly or illegally to have access to it. That has to do with securing the transactions, and the integrity of the Internet as well.

This legislation is the solution to the problem. It is well thought out and attempts to address the legitimate concerns of all affected parties. I will seek passage of this legislation in this Congress and will commit the resources of my office that may be needed to achieve this end.

Business Week has recently reported that 61 percent of adults responded that they would be more likely to go on-line if the privacy of their information and communications would be protected. Mr. President, simply put, strong encryption means a strong economy. Mandatory access, by contrast, means weaker encryption and a less secure, and therefore less valuable, network.

I ask for unanimous consent that the entire bill be printed in the RECORD.

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

S. 2067

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Encryption Protects the Rights of Individuals from Violation and Abuse in Cyberspace (E-PRIVACY) Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Findings.
Sec. 4. Definitions.

TITLE I—PRIVACY PROTECTION FOR COMMUNICATIONS AND ELECTRONIC INFORMATION

Sec. 101. Freedom to use encryption.
Sec. 102. Purchase and use of encryption products by the Federal Government.
Sec. 103. Enhanced privacy protection for information on computer networks.
Sec. 104. Government access to location information.
Sec. 105. Enhanced privacy protection for transactional information obtained from pen registers or trap and trace devices.

TITLE II—LAW ENFORCEMENT ASSISTANCE

Sec. 201. Encrypted wire or electronic communications and stored electronic communications.

TITLE III—EXPORTS OF ENCRYPTION PRODUCTS

Sec. 301. Commercial encryption products.
Sec. 302. License exception for mass market products.
Sec. 303. License exception for products without encryption capable of working with encryption products.
Sec. 304. License exception for product support and consulting services.
Sec. 305. License exception when comparable foreign products available.
Sec. 306. No export controls on encryption products used for nonconfidentiality purposes.
Sec. 307. Applicability of general export controls.
Sec. 308. Foreign trade barriers to United States products.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to ensure that Americans have the maximum possible choice in encryption methods to protect the security, confidentiality, and privacy of their lawful wire and electronic communications and stored electronic information;

(2) to promote the privacy and constitutional rights of individuals and organizations in networked computer systems and other digital environments, protect the confidentiality of information and security of critical infrastructure systems relied on by individuals, businesses and government agencies, and properly balance the needs of law enforcement to have the same access to electronic communications and information as under current law; and

(3) to establish privacy standards and procedures by which investigative or law enforcement officers may obtain decryption assistance for encrypted communications and stored electronic information.

SEC. 3. FINDINGS.

Congress finds that—

(1) the digitization of information and the explosion in the growth of computing and electronic networking offers tremendous potential benefits to the way Americans live, work, and are entertained, but also raises new threats to the privacy of American citizens and the competitiveness of American businesses;

(2) a secure, private, and trusted national and global information infrastructure is essential to promote economic growth, protect

privacy, and meet the needs of American citizens and businesses;

(3) the rights of Americans to the privacy and security of their communications and in the conducting of personal and business affairs should be promoted and protected;

(4) the authority and ability of investigative and law enforcement officers to access and decipher, in a timely manner and as provided by law, wire and electronic communications, and stored electronic information necessary to provide for public safety and national security should also be preserved;

(5) individuals will not entrust their sensitive personal, medical, financial, and other information to computers and computer networks unless the security and privacy of that information is assured;

(6) businesses will not entrust their proprietary and sensitive corporate information, including information about products, processes, customers, finances, and employees, to computers and computer networks unless the security and privacy of that information is assured;

(7) America's critical infrastructures, including its telecommunications system, banking and financial infrastructure, and power and transportation infrastructure, increasingly rely on vulnerable information systems, and will represent a growing risk to national security and public safety unless the security and privacy of those information systems is assured;

(8) encryption technology is an essential tool to promote and protect the privacy, security, confidentiality, integrity, and authenticity of wire and electronic communications and stored electronic information;

(9) encryption techniques, technology, programs, and products are widely available worldwide;

(10) Americans should be free to use lawfully whatever particular encryption techniques, technologies, programs, or products developed in the marketplace that best suits their needs in order to interact electronically with the government and others worldwide in a secure, private, and confidential manner;

(11) government mandates for, or otherwise compelled use of, third-party key recovery systems or other systems that provide surreptitious access to encrypted data threatens the security and privacy of information systems;

(12) American companies should be free to compete and sell encryption technology, programs, and products, and to exchange encryption technology, programs, and products through the use of the Internet, which is rapidly emerging as the preferred method of distribution of computer software and related information;

(13) a national encryption policy is needed to advance the development of the national and global information infrastructure, and preserve the right to privacy of Americans and the public safety and national security of the United States;

(14) Congress and the American people have recognized the need to balance the right to privacy and the protection of the public safety with national security;

(15) the Constitution of the United States permits lawful electronic surveillance by investigative or law enforcement officers and the seizure of stored electronic information only upon compliance with stringent standards and procedures; and

(16) there is a need to clarify the standards and procedures by which investigative or law enforcement officers obtain decryption assistance from persons—

(A) who are voluntarily entrusted with the means to decrypt wire and electronic communications and stored electronic information; or

(B) have information that enables the decryption of such communications and information.

SEC. 4. DEFINITIONS.

In this Act:

(1) AGENCY.—The term "agency" has the meaning given the term in section 6 of title 18, United States Code.

(2) COMPUTER HARDWARE.—The term "computer hardware" includes computer systems, equipment, application-specific assemblies, smart cards, modules, and integrated circuits.

(3) COMPUTING DEVICE.—The term "computing device" means a device that incorporates 1 or more microprocessor-based central processing units that are capable of accepting, storing, processing, or providing output of data.

(4) ENCRYPT AND ENCRYPTION.—The terms "encrypt" and "encryption" refer to the scrambling (and descrambling) of wire communications, electronic communications, or electronically stored information, using mathematical formulas or algorithms in order to preserve the confidentiality, integrity, or authenticity of, and prevent unauthorized recipients from accessing or altering, such communications or information.

(5) ENCRYPTION PRODUCT.—The term "encryption product"—

(A) means a computing device, computer hardware, computer software, or technology, with encryption capabilities; and

(B) includes any subsequent version of or update to an encryption product, if the encryption capabilities are not changed.

(6) EXPORTABLE.—The term "exportable" means the ability to transfer, ship, or transmit to foreign users.

(7) KEY.—The term "key" means the variable information used in or produced by a mathematical formula, code, or algorithm, or any component thereof, used to encrypt or decrypt wire communications, electronic communications, or electronically stored information.

(8) PERSON.—The term "person" has the meaning given the term in section 2510(6) of title 18, United States Code.

(9) REMOTE COMPUTING SERVICE.—The term "remote computing service" has the meaning given the term in section 2711(2) of title 18, United States Code.

(10) STATE.—The term "State" has the meaning given the term in section 3156(a)(5) of title 18, United States Code.

(11) TECHNICAL REVIEW.—The term "technical review" means a review by the Secretary, based on information about a product's encryption capabilities supplied by the manufacturer, that an encryption product works as represented.

(12) UNITED STATES PERSON.—The term "United States person" means any—

(A) United States citizen; or

(B) any legal entity that—

(i) is organized under the laws of the United States, or any State, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(ii) has its principal place of business in the United States.

TITLE I—PRIVACY PROTECTION FOR COMMUNICATIONS AND ELECTRONIC INFORMATION

SEC. 101. FREEDOM TO USE ENCRYPTION.

(a) IN GENERAL.—Except as otherwise provided by this Act and the amendments made by this Act, it shall be lawful for any person within the United States, and for any United States person in a foreign country, to use, develop, manufacture, sell, distribute, or import any encryption product, regardless of the encryption algorithm selected, encryption key length chosen, existence of key recovery or other plaintext access capability, or implementation or medium used.

(b) PROHIBITION ON GOVERNMENT-COMPELLED KEY ESCROW OR KEY RECOVERY ENCRYPTION.—

(1) IN GENERAL.—Except as provided in paragraph (3), no agency of the United States nor any State may require, compel, set standards for, condition any approval on, or condition the receipt of any benefit on, a requirement that a decryption key, access to a decryption key, key recovery information, or other plaintext access capability be—

(A) given to any other person, including any agency of the United States or a State, or any entity in the private sector; or

(B) retained by any person using encryption.

(2) USE OF PARTICULAR PRODUCTS.—No agency of the United States may require any person who is not an employee or agent of the United States or a State to use any key recovery or other plaintext access features for communicating or transacting business with any agency of the United States.

(3) EXCEPTION.—The prohibition in paragraph (1) does not apply to encryption used by an agency of the United States or a State, or the employees or agents of such an agency, solely for the internal operations and telecommunications systems of the United States or the State.

(c) USE OF ENCRYPTION FOR AUTHENTICATION OR INTEGRITY PURPOSES.—

(1) IN GENERAL.—The use, development, manufacture, sale, distribution and import of encryption products, standards, and services for purposes of assuring the confidentiality, authenticity, or integrity or access control of electronic information shall be voluntary and market driven.

(2) CONDITIONS.—No agency of the United States or a State shall establish any condition, tie, or link between encryption products, standards, and services used for confidentiality, and those used for authentication, integrity, or access control purposes.

SEC. 102. PURCHASE AND USE OF ENCRYPTION PRODUCTS BY THE FEDERAL GOVERNMENT.

(a) PURCHASES.—An agency of the United States may purchase encryption products for—

(1) the internal operations and telecommunications systems of the agency; or

(2) use by, among, and between that agency and any other agency of the United States, the employees of the agency, or persons operating under contract with the agency.

(b) INTEROPERABILITY.—To ensure that secure electronic access to the Government is available to persons outside of and not operating under contract with agencies of the United States, the United States shall purchase no encryption product with a key recovery or other plaintext access feature if such key recovery or plaintext access feature would interfere with use of the product's full encryption capabilities when interoperating with other commercial encryption products.

SEC. 103. ENHANCED PRIVACY PROTECTION FOR INFORMATION ON COMPUTER NETWORKS.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(g) ACCESS TO STORED ELECTRONIC INFORMATION.—

"(1) DISCLOSURE.—

"(A) IN GENERAL.—Subject to subparagraph (B), a governmental entity may require the disclosure by a provider of a remote computing service of the contents of an electronic record in networked electronic storage only if the person who created the record is accorded the same protections that would be available if the record had remained in that person's possession.

"(B) NETWORKED ELECTRONIC STORAGE.—In addition to the requirements of subparagraph (A) and subject to paragraph (2), a governmental entity may require the disclosure of the contents of an electronic record in networked electronic storage only—

"(i) pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant, a copy of which warrant shall be served on the person who created the record prior to or at the same time the warrant is served on the provider of the remote computing service;

"(ii) pursuant to a subpoena issued under the Federal Rules of Criminal Procedure or equivalent State warrant, a copy of which subpoena shall be served on the person who created the record, under circumstances allowing that person a meaningful opportunity to challenge the subpoena; or

"(iii) upon the consent of the person who created the record.

"(2) DEFINITION.—In this subsection, an electronic record is in 'networked electronic storage' if—

"(A) it is not covered by subsection (a) of this section;

"(B) the person holding the record is not authorized to access the contents of such record for any purposes other than in connection with providing the service of storage; and

"(C) the person who created the record is able to access and modify it remotely through electronic means.".

SEC. 104. GOVERNMENT ACCESS TO LOCATION INFORMATION.

(a) COURT ORDER REQUIRED.—Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(h) REQUIREMENTS FOR DISCLOSURE OF LOCATION INFORMATION.—A provider of mobile electronic communication service shall provide to a governmental entity information generated by and disclosing, on a real time basis, the physical location of a subscriber's equipment only if the governmental entity obtains a court order issued upon a finding that there is probable cause to believe that an individual using or possessing the subscriber equipment is committing, has committed, or is about to commit a felony offense.".

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(B) of title 18, United States Code, is amended by inserting "or wireless location information covered by subsection (g) of this section" after "(b) of this section".

SEC. 105. ENHANCED PRIVACY PROTECTION FOR TRANSACTIONAL INFORMATION OBTAINED FROM PEN REGISTERS OR TRAP AND TRACE DEVICES.

Subsection 3123(a) of title 18, United States Code, is amended to read as follows:

"(a) IN GENERAL.—Upon an application made under section 3122, the court may enter an ex parte order—

"(1) authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds, based on the certification by the attorney for the Government or the State law enforcement or investigative officer, that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation; and

"(2) directing that the use of the pen register or trap and trace device be conducted in such a way as to minimize the recording or decoding of any electronic or other impulses that are not related to the dialing and signaling information utilized in call processing.".

TITLE II—LAW ENFORCEMENT ASSISTANCE

SEC. 201. ENCRYPTED WIRE OR ELECTRONIC COMMUNICATIONS AND STORED ELECTRONIC COMMUNICATIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 123 the following:

"CHAPTER 124—ENCRYPTED WIRE OR ELECTRONIC COMMUNICATIONS AND STORED ELECTRONIC INFORMATION

"Sec.
"2801. Definitions.
"2802. Unlawful use of encryption.
"2803. Access to decryption assistance for communications.
"2804. Access to decryption assistance for stored electronic communications or records.
"2805. Foreign government access to decryption assistance.
"2806. Establishment and operations of National Electronic Technologies Center.

"§ 2801. Definitions

"In this chapter:

"(1) DECRYPTION ASSISTANCE.—The term 'decryption assistance' means assistance that provides or facilitates access to the plaintext of an encrypted wire or electronic communication or stored electronic information, including the disclosure of a decryption key or the use of a decryption key to produce plaintext.

"(2) DECRYPTION KEY.—The term 'decryption key' means the variable information used in or produced by a mathematical formula, code, or algorithm, or any component thereof, used to decrypt a wire communication or electronic communication or stored electronic information that has been encrypted.

"(3) ENCRYPT; ENCRYPTION.—The terms 'encrypt' and 'encryption' refer to the scrambling (and descrambling) of wire communications, electronic communications, or electronically stored information, using mathematical formulas or algorithms in order to preserve the confidentiality, integrity, or authenticity of, and prevent unauthorized recipients from accessing or altering, such communications or information.

"(4) FOREIGN GOVERNMENT.—The term 'foreign government' has the meaning given the term in section 1116.

"(5) OFFICIAL REQUEST.—The term 'official request' has the meaning given the term in section 3506(c).

"(6) INCORPORATED DEFINITIONS.—Any term used in this chapter that is not defined in this chapter and that is defined in section 2510, has the meaning given the term in section 2510.

"§ 2802. Unlawful use of encryption

"Any person who, during the commission of a felony under Federal law, knowingly and willfully encrypts any incriminating communication or information relating to that felony, with the intent to conceal that communication or information for the purpose of avoiding detection by a law enforcement agency or prosecutor—

"(1) in the case of a first offense under this section, shall be imprisoned not more than 5 years, fined under this title, or both; and

"(2) in the case of a second or subsequent offense under this section, shall be imprisoned not more than 10 years, fined under this title, or both.

"§ 2803. Access to decryption assistance for communications

"(a) CRIMINAL INVESTIGATIONS.—

"(1) IN GENERAL.—An order authorizing the interception of a wire or electronic communication under section 2518 shall, upon request of the applicant, direct that a provider of wire or electronic communication service, or any other person possessing information capable of decrypting that communication, other than a person whose communications are the subject of the interception, shall promptly furnish the applicant with the necessary decryption assistance, if the court finds that the decryption assistance sought is necessary for the decryption of a communication intercepted pursuant to the order.

"(2) LIMITATIONS.—Each order described in paragraph (1), and any extension of such an order, shall—

"(A) contain a provision that the decryption assistance provided shall involve disclosure of a private key only if no other form of decryption assistance is available and otherwise shall be limited to the minimum necessary to decrypt the communications intercepted pursuant to this chapter; and

"(B) terminate on the earlier of—

"(i) the date on which the authorized objective is attained; or

"(ii) 30 days after the date on which the order or extension, as applicable, is issued.

"(3) NOTICE.—If decryption assistance is provided pursuant to an order under this subsection, the court issuing the order described in paragraph (1)—

"(A) shall cause to be served on the person whose communications are the subject of such decryption assistance, as part of the inventory required to be served pursuant to section 2518(8), notice of the receipt of the decryption assistance and a specific description of the keys or other assistance disclosed; and

"(B) upon the filing of a motion and for good cause shown, shall make available to such person, or to counsel for that person, for inspection, the intercepted communications to which the decryption assistance related, except that on an ex parte showing of good cause, the serving of the inventory required by section 2518(8) may be postponed.

"(b) FOREIGN INTELLIGENCE INVESTIGATIONS.—

"(1) IN GENERAL.—An order authorizing the interception of a wire or electronic communication under section 105(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(b)(2)) shall, upon request of the applicant, direct that a provider of wire or electronic communication service or any other person possessing information capable of decrypting such communications, other than a person whose communications are the subject of the interception, shall promptly furnish the applicant with the necessary decryption assistance, if the court finds that the decryption assistance sought is necessary for the decryption of a communication intercepted pursuant to the order.

"(2) LIMITATIONS.—Each order described in paragraph (1), and any extension of such an order, shall—

"(A) contain a provision that the decryption assistance provided shall be limited to the minimum necessary to decrypt the communications intercepted pursuant to this chapter; and

"(B) terminate on the earlier of—

"(i) the date on which the authorized objective is attained; or

"(ii) 30 days after the date on which the order or extension, as applicable, is issued.

"(c) GENERAL PROHIBITION ON DISCLOSURE.—Other than pursuant to an order under subsection (a) or (b) of this section, no person possessing information capable of decrypting a wire or electronic communication of another person shall disclose that information or provide decryption assistance to an investigative or law enforcement officer (as defined in section 2510(7)).

"§ 2804. Access to decryption assistance for stored electronic communications or records

"(a) DECRYPTION ASSISTANCE.—No person may disclose a decryption key or provide decryption assistance pertaining to the contents of stored electronic communications or records, including those disclosed pursuant to section 2703, to a governmental entity, except—

"(1) pursuant to a warrant issued under the Federal Rules of Criminal Procedure or an equivalent State warrant, a copy of which warrant shall be served on the person who created the electronic communication prior to or at the same time service is made on the keyholder;

"(2) pursuant to a subpoena, a copy of which subpoena shall be served on the person who created the electronic communication or record, under circumstances allowing the person meaningful opportunity to challenge the subpoena; or

"(3) upon the consent of the person who created the electronic communication or record.

"(b) DELAY OF NOTIFICATION.—In the case of communications disclosed pursuant to section 2703(a), service of the copy of the warrant or subpoena on the person who created the electronic communication under subsection (a) may be delayed for a period of not to exceed 90 days upon request to the court by the governmental entity requiring the decryption assistance, if the court determines that there is reason to believe that notification of the existence of the court order or subpoena may have an adverse result described in section 2705(a)(2).

"§ 2805. Foreign government access to decryption assistance

"(a) IN GENERAL.—No investigative or law enforcement officer may—

"(1) release a decryption key to a foreign government or to a law enforcement agency of a foreign government; or

"(2) except as provided in subsection (b), provide decryption assistance to a foreign government or to a law enforcement agency of a foreign government.

"(b) CONDITIONS FOR COOPERATION WITH FOREIGN GOVERNMENT.—

"(1) APPLICATION FOR AN ORDER.—In any case in which the United States has entered into a treaty or convention with a foreign government to provide mutual assistance with respect to providing decryption assistance, the Attorney General (or the designee of the Attorney General) may, upon an official request to the United States from the foreign government, apply for an order described in paragraph (2) from the district court in which the person possessing information capable of decrypting the communication or information at issue resides—

"(A) directing that person to release a decryption key or provide decryption assistance to the Attorney General (or the designee of the Attorney General); and

"(B) authorizing the Attorney General (or the designee of the Attorney General) to furnish the foreign government with the plaintext of the encrypted communication or stored electronic information at issue.

"(2) CONTENTS OF ORDER.—An order is described in this paragraph if it is an order directing the person possessing information capable of decrypting the communication or information at issue to—

"(A) release a decryption key to the Attorney General (or the designee of the Attorney General) so that the plaintext of the communication or information may be furnished to the foreign government; or

"(B) provide decryption assistance to the Attorney General (or the designee of the Attorney General) so that the plaintext of the communication or information may be furnished to the foreign government.

"(3) REQUIREMENTS FOR ORDER.—The court described in paragraph (1) may issue an order described in paragraph (2) if the court finds, on the basis of an application made by the Attorney General under this subsection, that—

"(A) the decryption key or decryption assistance sought is necessary for the decryption of a communication or information that the foreign government is authorized to intercept or seize pursuant to the law of that foreign country;

"(B) the law of the foreign country provides for adequate protection against arbitrary interference with respect to privacy rights; and

"(C) the decryption key or decryption assistance is being sought in connection with a criminal investigation for conduct that would constitute a violation of a criminal law of the United States if committed within the jurisdiction of the United States.

"§ 2806. Establishment and operations of National Electronic Technologies Center

"(a) NATIONAL ELECTRONIC TECHNOLOGIES CENTER.—

"(1) ESTABLISHMENT.—There is established in the Department of Justice a National Electronic Technologies Center (referred to in this section as the 'NET Center').

"(2) DIRECTOR.—The NET Center shall be administered by a Director (referred to in this section as the 'Director'), who shall be appointed by the Attorney General.

"(3) DUTIES.—The NET Center shall—

"(A) serve as a center for Federal, State, and local law enforcement authorities for information and assistance regarding decryption and other access requirements;

"(B) serve as a center for industry and government entities to exchange information and methodology regarding information security techniques and technologies;

"(C) support and share information and methodology regarding information security techniques and technologies with the Computer Investigations and Infrastructure Threat Assessment Center (CITAC) and Field Computer Investigations and Infrastructure Threat Assessment (CITA) Squads of the Federal Bureau of Investigation;

"(D) examine encryption techniques and methods to facilitate the ability of law enforcement to gain efficient access to plaintext of communications and electronic information;

"(E) conduct research to develop efficient methods, and improve the efficiency of existing methods, of accessing plaintext of communications and electronic information;

"(F) investigate and research new and emerging techniques and technologies to facilitate access to communications and electronic information, including—

"(i) reverse-stenography;

"(ii) decompression of information that previously has been compressed for transmission; and

"(iii) demultiplexing;

"(G) investigate and research interception and access techniques that preserve the privacy and security of information not authorized to be intercepted; and

"(H) obtain information regarding the most current hardware, software, telecommunications, and other capabilities to understand how to access digitized information transmitted across networks.

"(4) EQUAL ACCESS.—State and local law enforcement agencies and authorities shall have access to information, services, resources, and assistance provided by the NET Center to the same extent that Federal law enforcement agencies and authorities have such access.

"(5) PERSONNEL.—The Director may appoint such personnel as the Director considers appropriate to carry out the duties of the NET Center.

"(6) ASSISTANCE OF OTHER FEDERAL AGENCIES.—Upon the request of the Director of the NET Center, the head of any department or agency of the Federal Government may, to assist the NET Center in carrying out its duties under this subsection—

"(A) detail, on a reimbursable basis, any of the personnel of such department or agency to the NET Center; and

"(B) provide to the NET Center facilities, information, and other nonpersonnel resources.

"(7) PRIVATE INDUSTRY ASSISTANCE.—The NET Center may accept, use, and dispose of gifts, bequests, or devises of money, services, or property, both real and personal, for the purpose of aiding or facilitating the work of the Center. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Director of the NET Center.

"(8) ADVISORY BOARD.—

"(A) ESTABLISHMENT.—There is established in the NET Center an Advisory Board for Excellence in Information Security (in this paragraph referred to as the 'Advisory Board'), which shall be comprised of members who have the qualifications described in subparagraph (B) and who are appointed by the Attorney General. The Attorney General shall appoint a chairman of the Advisory Board.

"(B) QUALIFICATIONS.—Each member of the Advisory Board shall have experience or expertise in the field of encryption, decryption, electronic communication, information security, electronic commerce, privacy protection, or law enforcement.

"(C) DUTIES.—The duty of the Advisory Board shall be to advise the NET Center and the Federal Government regarding new and emerging technologies relating to encryption and decryption of communications and electronic information.

"(9) IMPLEMENTATION PLAN.—

"(A) IN GENERAL.—Not later than 2 months after the date of enactment of this chapter, the Attorney General shall, in consultation and cooperation with other appropriate Federal agencies and appropriate industry participants, develop and cause to be published in the Federal Register a plan for establishing the NET Center.

"(B) CONTENTS OF PLAN.—The plan published under subparagraph (A) shall—

"(i) specify the physical location of the NET Center and the equipment, software, and personnel resources necessary to carry

out the duties of the NET Center under this subsection;

"(ii) assess the amount of funding necessary to establish and operate the NET Center; and

"(iii) identify sources of probable funding for the NET Center, including any sources of in-kind contributions from private industry.

"(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for the establishment and operation of the NET Center.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for part I of title 18, United States Code, is amended by adding at the end the following:

"124. Encrypted wire or electronic communications and stored electronic information ..... 2801".

TITLE III—EXPORTS OF ENCRYPTION PRODUCTS

SEC. 301. COMMERCIAL ENCRYPTION PRODUCTS.

(a) PROVISIONS APPLICABLE TO COMMERCIAL PRODUCTS.—The provisions of this title apply to all encryption products, regardless of the encryption algorithm selected, encryption key length chosen, exclusion of key recovery or other plaintext access capability, or implementation or medium used, except those specifically designed or modified for military use, including command, control, and intelligence applications.

(b) CONTROL BY SECRETARY OF COMMERCE.—Subject to the provisions of this title, and notwithstanding any other provision of law, the Secretary of Commerce shall have exclusive authority to control exports of encryption products covered under subsection (a).

SEC. 302. LICENSE EXCEPTION FOR MASS MARKET PRODUCTS.

(a) EXPORT CONTROL RELIEF.—Subject to section 307, an encryption product that is generally available, or incorporates or employs in any form, implementation, or medium, an encryption product that is generally available, shall be exportable without the need for an export license, and without restrictions other than those permitted under this Act, after a 1-time 15-day technical review by the Secretary of Commerce.

(b) DEFINITIONS.—In this section, the term "generally available" means an encryption product that is—

(1) offered for sale, license, or transfer to any person without restriction, whether or not for consideration, including, but not limited to, over-the-counter retail sales, mail order transactions, phone order transactions, electronic distribution, or sale on approval; and

(2) not designed, developed, or customized by the manufacturer for specific purchasers except for user or purchaser selection among installation or configuration parameters.

(c) COMMERCE DEPARTMENT ASSURANCE.—

(1) IN GENERAL.—The manufacturer or exporter of an encryption product may request written assurance from the Secretary of Commerce that an encryption product is considered generally available for purposes of this section.

(2) RESPONSE.—Not later than 30 days after receiving a request under paragraph (1), the Secretary shall make a determination regarding whether to issue a written assurance under that paragraph, and shall notify the person making the request, in writing, of that determination.

(3) EFFECT ON MANUFACTURERS AND EXPORTERS.—A manufacturer or exporter who obtains a written assurance under this subsection shall not be held liable, responsible, or subject to sanctions for failing to obtain an export license for the encryption product at issue.

SEC. 303. LICENSE EXCEPTION FOR PRODUCTS WITHOUT ENCRYPTION CAPABLE OF WORKING WITH ENCRYPTION PRODUCTS.

Subject to section 307, any product that does not itself provide encryption capabilities, but that incorporates or employs in any form cryptographic application programming interfaces or other interface mechanisms for interaction with other encryption products covered by section 301(a), shall be exportable without the need for an export license, and without restrictions other than those permitted under this Act, after a 1-time, 15-day technical review by the Secretary of Commerce.

SEC. 304. LICENSE EXCEPTION FOR PRODUCT SUPPORT AND CONSULTING SERVICES.

(a) NO ADDITIONAL EXPORT CONTROLS IMPOSED IF UNDERLYING PRODUCT COVERED BY LICENSE EXCEPTION.—Technical assistance and technical data associated with the installation and maintenance of encryption products covered by sections 302 and 303 shall be exportable without the need for an export license, and without restrictions other than those permitted under this Act.

(b) DEFINITIONS.—In this section:

(1) TECHNICAL ASSISTANCE.—The term "technical assistance" means services, including instruction, skills training, working knowledge, and consulting services, and the transfer of technical data.

(2) TECHNICAL DATA.—The term "technical data" means information including blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, or read-only memories.

SEC. 305. LICENSE EXCEPTION WHEN COMPARABLE FOREIGN PRODUCTS AVAILABLE.

(a) FOREIGN AVAILABILITY STANDARD.—An encryption product not qualifying under section 302 shall be exportable without the need for an export license, and without restrictions other than those permitted under this Act, after a 1-time 15-day technical review by the Secretary of Commerce, if an encryption product utilizing the same or greater key length or otherwise providing comparable security to such encryption product is, or will be within the next 18 months, commercially available outside the United States from a foreign supplier.

(b) DETERMINATION OF FOREIGN AVAILABILITY.—

(1) ENCRYPTION EXPORT ADVISORY BOARD ESTABLISHED.—There is hereby established a board to be known as the "Encryption Export Advisory Board" (in this section referred to as the "Board").

(2) MEMBERSHIP.—The Board shall be comprised of—

(A) the Under Secretary of Commerce for Export Administration, who shall be Chairman;

(B) seven individuals appointed by the President, of whom—

(i) one shall be a representative from each of—

(I) the National Security Agency;

(II) the Central Intelligence Agency; and

(III) the Office of the President; and

(ii) four shall be individuals from the private sector who have expertise in the development, operation, or marketing of information technology products; and

(C) four individuals appointed by Congress from among individuals in the private sector who have expertise in the development, operation, or marketing of information technology products, of whom—

(i) one shall be appointed by the Majority Leader of the Senate;

(ii) one shall be appointed by the Minority Leader of the Senate;

(iii) one shall be appointed by the Speaker of the House of Representatives; and

(iv) one shall be appointed by the Minority Leader of the House of Representatives.

(3) MEETINGS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Board shall meet at the call of the Under Secretary of Commerce for Export Administration.

(B) MEETINGS WHEN APPLICATIONS PENDING.—If any application referred to in paragraph (4)(A) is pending, the Board shall meet not less than once every 30 days.

(4) DUTIES.—

(A) IN GENERAL.—Whenever an application for a license exception for an encryption product under this section is submitted to the Secretary of Commerce, the Board shall determine whether a comparable encryption product is commercially available outside the United States from a foreign supplier as specified in subsection (a).

(B) MAJORITY VOTE REQUIRED.—The Board shall make a determination under this paragraph upon a vote of the majority of the members of the Board.

(C) DEADLINE.—The Board shall make a determination with respect to an encryption product under this paragraph not later than 30 days after receipt by the Secretary of an application for a license exception under this subsection based on the encryption product.

(D) NOTICE OF DETERMINATIONS.—The Board shall notify the Secretary of Commerce of each determination under this paragraph.

(E) REPORTS TO PRESIDENT.—Not later than 30 days after a meeting under this paragraph, the Board shall submit to the President a report on the meeting.

(F) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board or to meetings held by the Board under this paragraph.

(5) ACTION BY SECRETARY OF COMMERCE.—

(A) APPROVAL OR DISAPPROVAL.—The Secretary of Commerce shall specifically approve or disapprove each determination of the Board under paragraph (5) not later than 30 days of the submittal of such determination to the Secretary under that paragraph.

(B) NOTIFICATION AND PUBLICATION OF DECISION.—The Secretary of Commerce shall—

(i) notify the Board of each approval or disapproval under this paragraph; and

(ii) publish a notice of the approval or disapproval in the Federal Register.

(C) CONTENTS OF NOTICE.—Each notice of a decision of disapproval by the Secretary of Commerce under subparagraph (B) of a determination of the Board under paragraph (4) that an encryption product is commercially available outside the United States from a foreign supplier shall set forth an explanation in detail of the reasons for the decision, including why and how continued export control of the encryption product which the determination concerned will be effective in achieving its purpose and the amount of lost sales and loss in market share of United States encryption products as a result of the decision.

(6) JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision of disapproval by the Secretary of Commerce under paragraph (5) of a determination of the Board under paragraph (4) that an

encryption product is commercially available outside the United States from a foreign supplier shall be subject to judicial review under the provisions of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the "Administrative Procedures Act").

(c) INCLUSION OF COMPARABLE FOREIGN ENCRYPTION PRODUCT IN A UNITED STATES PRODUCT NOT BASIS FOR EXPORT CONTROLS.—A product that incorporates or employs a foreign encryption product, in the way it was intended to be used and that the Board has determined to be commercially available outside the United States, shall be exportable without the need for an export license and without restrictions other than those permitted under this Act, after a 1-time 15-day technical review by the Secretary of Commerce.

SEC. 306. NO EXPORT CONTROLS ON ENCRYPTION PRODUCTS USED FOR NONCONFIDENTIALITY PURPOSES.

(a) PROHIBITION ON NEW CONTROLS.—The Federal Government shall not restrict the export of encryption products used for nonconfidentiality purposes such as authentication, integrity, digital signatures, nonrepudiation, and copy protection.

(b) NO REINSTATEMENT OF CONTROLS ON PREVIOUSLY DECONTROLLED PRODUCTS.—Those encryption products previously decontrolled and not requiring an export license as of January 1, 1998, as a result of administrative decision or rulemaking shall not require an export license.

SEC. 307. APPLICABILITY OF GENERAL EXPORT CONTROLS.

(a) SUBJECT TO TERRORIST AND EMBARGO CONTROLS.—Nothing in this Act shall be construed to limit the authority of the President under the International Emergency Economic Powers Act, the Trading with the Enemy Act, or the Export Administration Act, to—

(1) prohibit the export of encryption products to countries that have been determined to repeatedly provide support for acts of international terrorism; or

(2) impose an embargo on exports to, and imports from, a specific country.

(b) SUBJECT TO SPECIFIC DENIALS FOR SPECIFIC REASONS.—The Secretary of Commerce shall prohibit the export of particular encryption products to an individual or organization in a specific foreign country identified by the Secretary if the Secretary determines that there is substantial evidence that such encryption products will be used for military or terrorist end-use, including acts against the national security, public safety, or the integrity of the transportation, communications, or other essential systems of interstate commerce in the United States.

(c) OTHER EXPORT CONTROLS REMAIN APPLICABLE.—(1) Encryption products shall remain subject to all export controls imposed on such products for reasons other than the existence of encryption capabilities.

(2) Nothing in this Act alters the Secretary's ability to control exports of products for reasons other than encryption.

SEC. 308. FOREIGN TRADE BARRIERS TO UNITED STATES PRODUCTS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the United States Trade Representative, shall—

(1) identify foreign barriers to exports of United States encryption products;

(2) initiate appropriate actions to address such barriers; and

(3) submit to Congress a report on the actions taken under this section.

Mr. LEAHY. Mr. President, I am pleased to join Senator ASHCROFT, and others, in introducing today the "Encryption Protects the Rights of Individuals from Violation and Abuse in Cyberspace," or E-PRIVACY Act, to reform our Nation's cryptography policy in a constructive and positive manner. It is time the Administration woke up to the critical need for a common sense encryption policy in this country.

I have been sounding the alarm bells about this issue for several years now, and have introduced encryption legislation, with bipartisan support, in the last Congress and again in this one, to balance the important privacy, economic, national security and law enforcement interests at stake. The volume of those alarm bells should be raised to emergency sirens.

Hardly a month goes by without press reports of serious breaches of computer security that threaten our critical infrastructures, including Defense Department computer systems, the telephone network, or computer systems for airport control towers. The lesson of these computer breaches—often committed by computer savvy teenagers—is that all the physical barriers we might put in place can be circumvented using the wires that run into every building to support the computers and computer networks that are the mainstay of how we do business. A well-focused cyber-attack on the computer networks that support telecommunications, transportation, water supply, banking, electrical power and other critical infrastructure systems could wreak havoc on our national economy or even jeopardize our national defense or public safety.

We have been aware of the vulnerabilities of our computer networks for some time. It became clear to me almost a decade ago, during hearings I chaired of the Judiciary Subcommittee on Technology and the Law on the risks of high-tech terrorism, that merely "hardening" our physical space from potential attack is not enough. We must also "harden" our critical infrastructures to ensure our security and our safety.

That is where encryption technology comes in. Encryption can protect the security of our computer information and networks. Indeed, both former Senator Sam Nunn and former Deputy Attorney General Jamie Gorelick, who serve as co-chairs of the Advisory Committee to the President's Commission on Critical Infrastructure Protection, have testified that "encryption is essential for infrastructure protection."

Yet U.S. encryption policy has acted as a deterrent to better security. As long ago as 1988, at the High-Tech Terrorism hearings I chaired, Jim Woolsey, who later became the director of the Central Intelligence Agency, testified about the need to do a better job of using encryption to protect our computer networks. Of particular concern is the recent testimony of former Senator Sam Nunn that the "continuing federal government-private sector deadlock over encryption and export policies" may pose an obstacle to the cooperation needed to protect our country's critical infrastructures.

I have long advocated the use of strong encryption by individuals, government agencies and private companies to protect their valuable and confidential computer information. Moreover, as more Americans every year use the Internet and other computer networks to obtain critical medical services, and conduct their personal and business affairs, maintaining the privacy and confidentiality of our computer communications both here and abroad has only grown in importance. As an avid computer user and Internet surfer myself, I care deeply about protecting individual privacy and encouraging the development of the Internet as a secure and trusted communications medium.

Encryption is the key to protecting the privacy of our online communications and electronic records by ensuring that only the people we choose can read those communications and records. That is why the primary thrust of the encryption legislation I have introduced is to encourage—and not stand in the way of—the widespread use of strong encryption.

Strong encryption serves as a crime prevention shield to stop hackers, industrial spies and thieves from snooping into private computer files and stealing valuable proprietary information. Unfortunately, we still have a long away to go to reform our country's encryption policy to reflect that this technology is a significant crime and terrorism prevention tool.

Even as our law enforcement and intelligence agencies try to slow down the widespread use of strong encryption, technology continues to move forward. Ironically, foot-dragging by the Administration on export controls is driving encryption technology, expertise and manufacturing overseas where we will lose even more control over its proliferation.

Indeed, due to the sorry state of our export controls on encryption, we are seeing rising numbers of our high-tech companies turning to overseas firms as suppliers of the strong encryption demanded by their customers. For example, Network Associates recently announced that it will make strong encryption software developed in the United States available through a Swiss company. Other companies, including Sun Microsystems, are cooperating with foreign firms to manufacture and distribute overseas strong encryption software originally developed here at home.

Encryption technology, invented with American ingenuity, will now be

manufactured and distributed in Europe, and imported back into this country.

Driving encryption expertise overseas is extremely short-sighted and poses a real threat to our national security. Driving high-tech jobs overseas is a threat to our economic security, and stifling the widespread, integrated use of strong encryption is a threat to our public safety. The E-PRIVACY Act would reverse the incentives for American companies to look abroad for strong encryption by relaxing our export controls.

Specifically, the bill would grant export license exceptions, after a one-time technical review, for mass market products with encryption capabilities, products which do not themselves provide encryption but are capable of interoperating with encryption products, and customized hardware and software with encryption capabilities so long as foreign products with comparable encryption are available.

At the same time, the bill retains important restrictions on encryption exports for military end-uses or to terrorist-designated or embargoed countries, such as Cuba and North Korea. It also affirms the continued authority of the Secretary of Commerce over encryption exports and assures that before export, the Secretary is able to conduct a one-time technical review of all encryption products to ensure that the product works as represented.

The E-PRIVACY Act puts to rest the specter of domestic controls on encryption. This legislation bars government-mandated key recovery (or key escrow encryption) and ensures that all computer users are free to choose any encryption method to protect the privacy of their online communications and computer files.

At the heart of the encryption debate is the power this technology gives computer users to choose who may access their communications and stored records, to the exclusion of all others. For the same reason that encryption is a powerful privacy enhancing tool, it also poses challenges for law enforcement. Law enforcement agencies want access even when we do not choose to give it. We are mindful of these national security and law enforcement concerns that have dictated the Administration's policy choices on encryption.

With the appropriate procedural safeguards in place, law enforcement agencies should be able to get access to decryption assistance. The E-PRIVACY Act contains a number of provisions designed to address these concerns, including a new criminal offense for willful use of encryption to hide incriminating evidence from law enforcement detection, establishment of a NET Center to help federal, state and local law enforcement stay abreast of advanced technologies, and explicit procedures for law enforcement to obtain decryption assistance from third parties for encrypted communications or records to which law enforcement has lawful access.

One of the starkest deficiencies in the Administration's key recovery proposals has always been the question of foreign government access. The Administration has sought reciprocal relationships with foreign governments as a critical part of an effective global key recovery system. Yet many Americans and American companies are rightfully concerned about the terms under which foreign governments would get access to decryption assistance. The E-PRIVACY Act makes clear what those terms will be and ensures that foreign governments will not get access to private decryption keys, but only, at most, plaintext.

This is not just an important issue for the privacy and security of Americans; it also is a significant human rights issue. Today, human rights organizations worldwide are using encryption to protect their work and the lives of investigators, witnesses and victims overseas. Amnesty International uses it. Human Rights Watch uses it. The human rights program in the American Association for the Advancement of Science uses it. It is used to protect witnesses who report human rights abuses in the Balkans, in Burma, in Guatemala, in Tibet. I have been told about a number of other instances in which strong encryption has been used to further the causes of democracy and human rights.

For example, in the ongoing trial of Argentinean military officers in Spain, on charges of genocide and terrorism arising out of the "dirty war," the human rights group Derechos uses the encryption program Pretty Good Privacy (PGP)—which the United States government tried to keep out of the hands of foreigners—to encrypt particularly confidential messages that go between Spain and Argentina, to stop the Argentinean intelligence forces from being able to read them and so try to jeopardize the trial.

A group in Guatemala is using a computer database to track the names of witnesses to military massacres. A South African organization keeps the names of applicants for amnesty for political crimes carried out in South Africa during the apartheid regime. Workers at both groups could be subject to intimidation, harassment, or murder by those intent on preventing the public discussion and analysis of the claims. Both systems are protected by strong cryptography.

A not-for-profit agency working for human rights in the Balkans uses PGP to protect all sensitive files. Its offices have been raided by various police forces looking for evidence of "subversive activities." Last year in Zagreb, security police raided its office and confiscated its computers in the hope of retrieving information about the identity of people who had complained about human rights abuses by the authorities. PGP allowed the group to communicate and protect its files from any attempt to gain access. The director of the organization spent 13 days in prison for not opening his encrypted files but has said "it was a very small price to pay for protecting our clients."

The Iraqi National Congress, a group opposing Saddam Hussein with offices in London and supporters inside Iraq, uses encrypted e-mail to communicate with its supporters inside Iraq. (Nongovernmental Internet connections are banned in Iraq, but the dissidents within Iraq access e-mail by dialing outside the country with satellite telephones).

Burmese human rights activists working in the relative safe haven of Thailand use encryption when communicating on-line, because the Thai government maintains diplomatic relations with the Burmese government and is expected to turn over information to the Burmese authorities.

The FBI has argued that lives may be lost in sensitive terrorist and other investigations if government agencies do not have access to private encryption keys. However, the reverse is equally true: weak encryption or easy government access to decryption assistance could jeopardize lives as well.

Finally, the E-PRIVACY Act contains provisions to enhance the privacy protections for communications, even when encryption is not employed. Specifically, the bill would require law enforcement to obtain a court order based on probable cause before using a cellular telephone as a tracking device. In addition, the bill would require law enforcement agencies to obtain a court order or provide notice when seizing electronic records that a person stores on a computer network rather than on the hard drive of his or her own personal computer. Finally, the bill grants Federal judges authority to evaluate the reasons proffered by a prosecutor for issuance of an ex parte pen register or trap and trace device order, by contrast to their mere ministerial authority under current law.

In sum, the E-PRIVACY Act accomplishes the eight goals that Senator ASHCROFT and I set out during our April 2, 1998, colloquy on the floor. Specifically, we sought to craft legislation that promotes the following principles:

First, ensure the right of Americans to choose how to protect the privacy and security of their communications and information;

Second, bar a government-mandated key escrow encryption system;

Third, establish both procedures and standards for access by law enforcement to decryption keys or decryption assistance for both encrypted communications and stored electronic information and only permit such access

upon court order authorization, with appropriate notice and other procedural safeguards;

Fourth, establish both procedures and standards for access by foreign governments and foreign law enforcement agencies to the plaintext of encrypted communications and stored electronic information of United States persons;

Fifth, modify the current export regime for encryption to promote the global competitiveness of American companies;

Sixth, avoid linking the use of certificate authorities with key recovery agents or, in other words, not link the use of encryption for confidentiality purposes with use of encryption for authenticity and integrity purposes;

Seventh, consistent with these goals of promoting privacy and the global competitiveness of our high-tech industries, help our law enforcement agencies and national security agencies deal with the challenges posed by the use of encryption; and

Eighth, protect the security and privacy of information provided by Americans to the government by ensuring that encryption products used by the government interoperate with commercial encryption products.

Resolving the encryption debate is critical for our economy, our national security and our privacy. This is not a partisan issue. This is not a black-and-white issue of being either for law enforcement and national security or for Internet freedom. Characterizing the debate in these simplistic terms is neither productive nor accurate.

Delays in resolving the encryption debate hurt most the very public safety and national security interests that are posed as obstacles to resolving this issue. We need sensible solutions in legislation that will not be subject to change at the whim of agency bureaucrats.

Every American, not just those in the software and high-tech industries and not just those in law enforcement agencies, has a stake in the outcome of this debate. We have a legislative stalemate right now that needs to be resolved, and I hope to work closely with my colleagues and the Administration on a solution.

I ask unanimous consent that the sectional summary for the "E-PRIVACY Act" be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF E-PRIVACY ACT

SEC. 1. SHORT TITLE.—The Act may be cited as the "Encryption Protects the Rights of Individuals from Violation and Abuse in Cyberspace (E-PRIVACY) Act."

SEC. 2. PURPOSES.—The Act would ensure that Americans have the maximum possible choice in encryption methods to protect the security, confidentiality and privacy of their lawful wire and electronic communications and stored electronic information. The Act would also promote the privacy and constitutional rights of individuals and organizations and the security of critical information infrastructures. Finally, the Act would establish privacy standards and procedures for law enforcement officers to follow to obtain decryption assistance for encrypted communications and information.

SEC. 3. FINDINGS.—The Act enumerates sixteen congressional findings, including that a secure, private and trusted national and global information infrastructure is essential to promote citizens' privacy, economic growth and meet the needs of both American citizens and businesses, that encryption technology widely available worldwide can help meet those needs, that Americans should be free to use, and American businesses free to compete and sell, encryption technology, programs and products, and that there is a need to develop a national encryption policy to advance the global information infrastructure and preserve Americans' right to privacy and the Nation's public safety and national security.

SEC. 4. DEFINITIONS.—The terms "agency", "person", "remote computing service" and "state" have the same meaning given those terms in specified sections of title 18, United States Code.

Additional definitions are provided for the following terms:

The terms "encrypt" and "encryption" mean the use of mathematical formulas or algorithms to scramble or descramble electronic data or communications for purposes of confidentiality, integrity, or authenticity. As defined, the terms cover a broad range of scrambling techniques and applications including cryptographic applications such as PGP or RSA's encryption algorithms; stegonagraphy; authentication; and winnowing and chafing.

The term "encryption product" includes any hardware, software, devices, or other technology with encryption capabilities, whether or not offered for sale or distribution. A particular encryption product includes subsequent versions of the product, if the encryption capabilities remain the same.

The term "exportable" means the ability to transfer, ship, or transmit to foreign users. The term includes the ability to electronically transmit via the Internet.

The term "key" means the variable information used in or produced by a mathematical formula to encrypt or decrypt wire or electronic communications, or electronically stored information.

The term "technical review" means a review by the Secretary of Commerce based on information about a product's encryption capabilities supplied by the manufacturer that an encryption product works as represented.

TITLE I—PRIVACY PROTECTION FOR COMMUNICATIONS AND ELECTRONIC INFORMATION

SEC. 101. FREEDOM TO USE ENCRYPTION.

(a) IN GENERAL.—The Act legislatively confirms current practice in the United States that any person in this country may lawfully use any encryption method, regardless of encryption algorithm, key length, existence of key recovery or other plaintext access capability, or implementation selected. Specifically, the Act states the freedom of any person in the U.S., as well as U.S. persons in a foreign country, to make, use, import, and distribute any encryption product without regard to its strength or the use of key recovery, subject to the other provisions of the Act.

(b) PROHIBITION ON GOVERNMENT-COMPELLED KEY ESCROW OR KEY RECOVERY ENCRYPTION.—The Act prohibits any federal or state agency from compelling the use of key recovery systems or other plaintext access systems. Agencies may not set standards, or condition approval or benefits, to compel use of these systems. U.S. agencies may not require persons to use particular key recovery products for interaction with the government. These prohibitions do not apply to systems for use solely for the internal operations and telecommunications systems of a U.S. or a State government agency.

(c) USE OF ENCRYPTION FOR AUTHENTICATION OR INTEGRITY PURPOSES.—The Act requires that the use of encryption products shall be voluntary and market-driven, and no federal or state agency may link the use of encryption for authentication or identity (such as through certificate authority and digital signature systems) to the use of encryption for confidentiality purposes. For example, some Administration proposals would condition receipt of a digital certificate from a licensed certificate authority on the use of key recovery. Such conditions would be prohibited.

SEC. 102. PURCHASE AND USE OF ENCRYPTION PRODUCTS BY THE FEDERAL GOVERNMENT.—The Act authorizes agencies of the United States to purchase encryption products for internal governmental operations and telecommunications systems. To ensure that secure electronic access to the Government is available to persons outside of and not operating under contract with Federal agencies, the Act requires that any key recovery features in encryption products used by the Government interoperate with commercial encryption products.

SEC. 103. ENHANCED PRIVACY PROTECTION FOR ELECTRONIC RECORDS ON COMPUTER NETWORKS.—The Act adds a new subsection (g) to section 2703 of title 18, United States Code, to extend privacy protections to electronic information stored on computer networks.

Under *United States* v. *Miller*, 425 U.S. 435 (1976) (customer has no standing to object to bank disclosure of customer records) and its progeny, records in the possession of third parties do not receive Fourth Amendment protection. When held in a person's home, such records can only be seized pursuant to a warrant based upon probable cause, or compelled under a subpoena which can be challenged and quashed. In both these instances, the record owner has notice of the search and an opportunity to challenge it. By contrast, production of records held by third parties can be compelled by a governmental agent with a subpoena to the third party holding the information, without notice to the person to whom the records belong or pertain. The record owner may never receive notice or any meaningful opportunity to challenge the production.

This lack of protection for records held by third parties presents new privacy problems in the information age. With the rise of network computing, electronic information that was previously held on a person's own computer is increasingly stored elsewhere, such as on a network server or an ISP's computers. In many cases the location of such information is not even known to the record's owner.

The Act amends section 2703 to extend the same privacy protections to a person's records whether storage takes place on that person's personal computer in their possession or in networked electronic storage. The term "networked electronic storage" applies to electronic records held by a third party,

who is not authorized to access the contents of the record except in connection with providing storage services, and where the person who created the record is able to access and modify the record remotely through electronic means. Electronic data stored incident to transmission (such as e-mail) and covered under 2703(a) is not included.

The new section 2703(g) requires that a governmental entity may only require disclosure of electronic records in "networked electronic storage" pursuant to (i) a state or federal warrant (based upon probable cause), with a copy to be served on the record owner at the same time the warrant is served on the record holder; (ii) a subpoena that must also be served on the record owner with a meaningful opportunity to challenge the subpoena; or (iii) the consent of the record owner.

SEC. 104. GOVERNMENT ACCESS TO LOCATION INFORMATION.—The Act adds a new subsection (h) to section 2703 of title 18, United States Code, to extend privacy protections for physical location information generated on a real time basis by mobile electronic communications services, such as cellular telephones. This section requires that when cellular telephones are used as contemporaneous tracking devices, the physical location information generated by the service provider may only be released to a governmental entity pursuant to a court order based upon probable cause.

SEC. 105. ENHANCED PRIVACY PROTECTION FOR TRANSACTIONAL INFORMATION OBTAINED FROM PEN REGISTERS OR TRAP AND TRACE DEVICES.—The Act enhances privacy protections for information obtained from pen register and trap and trace devices by amending section 3123(a) of title 18, United States Code. This amendment would not change the standard for issuance of an ex parte order authorizing use of a pen register or trap and trace device, but would grant a court authority to review the information presented in a certification by the prosecuting attorney to determine whether the information likely to be obtained is relevant to an ongoing criminal investigation. Under current law, the court is relegated to a mere ministerial function and must issue the order upon presentation of a certification.

In addition, the amendment requires law enforcement to minimize the information obtained from the pen register or trap and trace device that is not related to the dialing and signaling information utilized in call processing. Currently, such devices capture not just such dialing information but also any other dialed digits after a call has been completed.

TITLE II—LAW ENFORCEMENT ASSISTANCE

SEC. 201. ENCRYPTED WIRE OR ELECTRONIC COMMUNICATIONS AND STORED ELECTRONIC COMMUNICATIONS.—The Act adds a new chapter 124 to Title 18, Part I, governing the unlawful use of encryption, protections and standards for governmental access, including foreign governments, to decryption assistance from third parties, and establishment of a "Net Center" to assist law enforcement in dealing with advanced technologies, such as encryption.

(a) IN GENERAL.—New chapter 124 has six sections. This chapter applies to wire or electronic communications and communications in electronic storage, as defined in 18 U.S.C. §2510, and to stored electronic data. Thus, this chapter describes procedures for law enforcement to obtain assistance in decrypting encrypted electronic mail messages, encrypted telephone conversations, encrypted facsimile transmissions, encrypted computer transmissions and encrypted file transfers over the Internet that are lawfully intercepted pursuant to a wiretap order, under 18 U.S.C. §2518, or obtained pursuant to lawful process, under 18 U.S.C. §2703, and encrypted information stored on computers that are seized pursuant to a search warrant or other lawful process.

§2801. Definitions.—Generally, the terms used in the new chapter have the same meanings as in the federal wiretap statute, 18 U.S.C. §2510. Definitions are provided for "decryption assistance", "decryption key", "encrypt; encryption", "foreign government" and "official request".

§2802. Unlawful use of encryption.—This section creates a new federal crime for knowingly and willfully using encryption during the commission of a Federal felony offense, with the intent to conceal that information for the purpose of avoiding detection by law enforcement. This new offense would be subject to a fine and up to 5 years' imprisonment for a first offense, and up to 10 years' imprisonment for a second or subsequent offense.

§2803. Access to decryption assistance for communications.—In the United States today, decryption keys and other decryption assistance held by third parties constitute third party records and may be disclosed to a governmental entity with a subpoena or an administrative request, and without any notice to the owner of the encrypted data. Such a low standard of access creates new problems in the information age because encryption users rely heavily on the integrity of keys to protect personal information or sensitive trade secrets, even when those keys are placed in the hands of trusted agents for recovery purposes.

Under new section 2803, in criminal investigations a third party holding decryption keys or other decryption assistance for wire or electronic communications may be required to release such assistance pursuant to a court order, if the court issuing the order finds that such assistance is needed for the decryption of communications covered by the order. Specifically, such an order for decryption assistance may be issued upon a finding that the key or assistance is necessary to decrypt communications or stored data lawfully intercepted or seized. The standard for release of the key or provision of decryption assistance is tied directly to the problem at hand: the need to decrypt a message or information that the government is otherwise authorized to intercept or obtain.

This will ensure that third parties holding decryption keys or decryption information need respond to only one type of compulsory process—a court order. Moreover, this Act will set a single standard for law enforcement, removing any extra burden on law enforcement to demonstrate, for example, probable cause for two separate orders (i.e., for the encrypted communications or information and for decryption assistance) and possibly before two different judges (i.e., the judge issuing the order for the encrypted communications or information and the judge issuing the order to the third party able to provide decryption assistance).

The Act reinforces the principle of minimization. The decryption assistance provided is limited to the minimum necessary to access the particular communications or information specified by court order. Under some key recovery schemes, release of a key holder's private key—rather than an individual session key—might provide the ability to decrypt every communication or stored file ever encrypted by a particular key owner, or by every user in an entire corporation, or by every user who was ever a customer of the key holder. The Act protects against such over broad releases of keys by requiring the court issuing the order to find that the decryption assistance being sought is necessary. Private keys may only be released if no other form of decryption assistance is available.

Notice of the assistance given will be included as part of the inventory provided to subjects of the interception pursuant to current wiretap law standards.

For foreign intelligence investigations, new section 2803 allows FISA orders to direct third-party holders to release decryption assistance if the court finds the assistance is needed to decrypt covered communications. Minimization is also required, though no notice is provided to the target of the investigation.

Under new section 2803, decryption assistance is only required under third-parties (i.e., other than those whose communications are the subject of interception), thereby avoiding self-incrimination problems.

Finally, new section 2803 generally prohibits any person from providing decryption assistance for another person's communications to a governmental entity, except pursuant to the orders described.

§2804. Access to decryption assistance for stored electronic communications or records.—New section 2804 governs access to decryption assistance for stored electronic communications and records.

As noted above, under current law third party decryption assistance may be disclosed to a governmental entity with a subpoena or even a mere request and without notice. This standard is particularly problematic for stored encrypted data, which may exist in insecure media but rely on encryption to maintain security; in such cases easy access to keys destroys the encryption security so heavily relied upon.

Under new section 2804, third parties holding decryption keys or other decryption assistance for stored electronic communications may only release such assistance to a governmental entity pursuant to (1) a state or federal warrant (based upon probable cause), with a copy to be served on the record owner at the same time the warrant is served on the record holder; (2) a subpoena that must also be served on the record owner with a meaningful opportunity to challenge the subpoena; or (3) the consent of the record owner. This standard closely mirrors the protection that would be afforded to encryption keys that are actually kept in the possession of those whose records were encrypted. In the specific case of decryption assistance for communications stored incident to transit (such as e-mail), notice may be delayed under the standards laid out for delayed notice under current law in section 2705(a)(2) of title 18, United States Code.

§2805. Foreign government access to decryption assistance.—New section 2805 creates standards for the U.S. government to provide decryption assistance to foreign governments. No law enforcement officer would be permitted to release decryption keys to a foreign government, but only to provide decryption assistance in the form of producing plaintext. No officer would be permitted to provide decryption assistance except upon an order requested by the Attorney General or designee. Such an order could require the production of decryption keys or assistance to the Attorney General only if the court finds that (1) the assistance is necessary to decrypt data the foreign government is authorized to intercept under foreign

law; (2) the foreign country's laws provide "adequate protection against arbitrary interference with respect to privacy rights"; and (3) the assistance is sought for a criminal investigation of conduct that would violate U.S. criminal law if committed in the United States.

§2806. Establishment and operations of National Electronic Technologies Center.—This section establishes a National Electronic Technologies Center ("NET Center") to serve as a focal point for information and assistance to federal, state, and local law enforcement authorities to address the technical difficulties of obtaining plaintext of communications and electronic information through the use of encryption, steganography, compression, multiplexing, and other techniques.

TITLE III—EXPORTS OF ENCRYPTION PRODUCTS

SEC. 1301. COMMERCIAL ENCRYPTION PRODUCTS.

(a) PROVISIONS APPLICABLE TO COMMERCIAL PRODUCTS.—This title applies to *all* encryption products other than those specifically designed or modified for military use.

(b) CONTROL BY SECRETARY OF COMMERCE.—This section grants exclusive authority to the Secretary of Commerce (the "Secretary") to control commercial encryption product exports.

SEC. 302. LICENSE EXCEPTION FOR MASS MARKET PRODUCTS.

(a) EXPORT CONTROL RELIEF.—The Act permits export under a license exception of generally available, mass market, encryption products, which by their nature are uncontrollable given the volume sold and ease of distribution, without a license or restrictions, other than those permitted under this Act, after a 1-time 15-day technical review by the Secretary.

(b) DEFINITIONS.—This section defines "generally available" as a product offered for sale, license, or transfer, including over-the-counter sales, mail or phone order transactions, electronic distribution, or sale on approval and not designed, developed or customized by the manufacturer for specific purchasers (except for installation or configuration parameters).

(c) COMMERCE DEPARTMENT ASSURANCE.—This section permits requests from manufacturers or exporters to the Secretary for written assurance that a product is "generally available," and requires that the Secretary notify the petitioner of a decision within 30 days. This section prohibits imposition of liability or sanctions on petitioners who receive such a written assurance for failing to obtain an export license.

SEC. 303. LICENSE EXCEPTION FOR PRODUCTS WITHOUT ENCRYPTION CAPABLE OF WORKING WITH ENCRYPTION PRODUCTS.

This section permits export under a license exception of products, which do not provide any encryption themselves, but that are capable of working with encryption products, without restriction other than those permitted under this Act, after a 1-time, 15-day technical review by the Secretary.

SEC. 304. LICENSE EXCEPTION FOR PRODUCT SUPPORT AND CONSULTING SERVICES.

(a) NO ADDITIONAL EXPORT CONTROLS IMPOSED IF UNDERLYING PRODUCT COVERED BY LICENSE EXCEPTION.—This section permits export of product support and consulting services, including technical assistance and technical data associated with the installation and maintenance of mass market encryption products or products capable of working with encryption products without an export license and without restrictions other than those permitted under this Act.

(b) DEFINITIONS.—This section defines technical assistance as services, such as instruction, skills training, working knowledge, consulting services and transfer of technical data. "Technical data" is defined as information, including blueprints, plans, diagrams, models, formulae, table, engineering designs and specifications, manuals and instructions.

SEC. 304. LICENSE EXCEPTION WHEN COMPARABLE FOREIGN PRODUCTS AVAILABLE.

(a) FOREIGN AVAILABILITY STANDARD.—This section permits unrestricted export of customized encryption hardware and software products (i.e., not generally available mass market products) if a foreign encryption product using the same or greater key length or providing comparable security is, or will within 18 months, be commercially available outside the United States.

(b) DETERMINATION OF FOREIGN AVAILABILITY.—This section establishes an Encryption Export Advisory Board (the "Board"), which is chaired by the Under Secretary of Commerce for Export Administration, with seven Presidential appointees (3 government and 4 private sector representatives); and four Congressional appointees from the private sector. The Board is required to meet at the call of the Chairman, or if there are any pending applications for a license exception, the Board shall meet at least once every 30 days.

The primary duties of the Board shall be to determine whether comparable foreign encryption products are commercially available outside the United States. The decision is by majority vote, and must be made within 30 days of receipt of application for a license exception. The Board must notify the Secretary of its determination, and submit a report to the President within 30 days. Board meetings are exempt from the Federal Advisory Committee Act.

The Secretary is required to approve or disapprove each Board determination within 30 days of receipt of that determination, notify the Board of the approval or disapproval, and publish notice of the approval or disapproval in the Federal Register. The notice shall include an explanation in detail of the reasons for the decision, including why and how continued export controls will be effective and the amount of lost sales and market share of U.S. encryption product which resulted. Judicial review of the Secretary's decision to disapprove a Board decision that a product is commercially available is permitted.

(c) INCLUSION OF COMPARABLE FOREIGN ENCRYPTION PRODUCTS IN A UNITED STATES PRODUCT NOT BAISS FOR EXPORT CONTROLS.—This section permits export under a license exception of products incorporating or employing a foreign encryption product in the way it was intended to be used and that the Board has determined to be commercially available outside the United States, without an export license and without restrictions other than those under the Act, after a 1-time 15-day review by the Secretary.

SEC. 306. No Export Controls on Encryption Products Used For Nonconfidentiality Purposes.

(a) PROHIBITION ON NEW CONTROLS.—This section prohibits restrictions on encryption exports used for nonconfidentiality purposes such as authentication, integrity, digital signatures, nonrepudiation and copy protection.

(b) NO REINSTATEMENT OF CONTROLS ON PREVIOUSLY DECONTROLLED PRODUCTS.—This section prohibits administratively imposed encryption controls on previously decontrolled products not requiring an export license as of January 1, 1998.

SEC. 307. APPLICABILITY OF GENERAL EXPORT CONTROLS.

(a) SUBJECT TO TERRORISTS AND EMBARGO CONTROLS.—Nothing in the Act shall limit the President's authority under the International Emergency Economic Powers Act, the Trading With the Enemy Act, or the Export Administration Act to prohibit export of encryption products to countries that have repeatedly provided support for international terrorism, or impose an embargo on exports or imports from a specific country.

(b) SUBJECT TO SPECIFIC DENIALS FOR SPECIFIC REASONS.—The Secretary is required to prohibit export of encryption products to an individual or organization in a specific foreign country identified by the Secretary, if the Secretary determines that there is substantial evidence that such encryption product will be used for military or terrorist end-use, including acts against the critical infrastructure of the United States.

(c) OTHER EXPORT CONTROLS REMAIN APPLICABLE.—Encryption products remain subject to all export controls imposed for reasons other than the existence of encryption capabilities, and the Secretary retains the authority to control exports of products for reasons other than encryption.

SEC. 308. FOREIGN TRADE BARRIERS TO UNITED STATES PRODUCTS.

The Secretary, in consultation with the United States Trade Representative, is required within 180 days of enactment of the Act to: (1) identify foreign barriers to the export of U.S. encryption products; (2) initiate appropriate actions to address such barriers; and (3) submit to Congress a report on the actions taken under this section.

Mr. BURNS. Mr. President, I stand before the Chamber today in support of the e-Privacy Act because the very future of electronic commerce on the Internet is being held hostage to cold-war era export controls. These outdated regulations tie the hands of the U.S. high technology industry and pose a threat to privacy and security of all Americans who use the Internet. Despite some small concessions by the Administration, the competitive advantage of the U.S. high technology industries and the privacy and security of our citizens remain trapped by the Clinton Administration's outdated policy.

The e-Privacy Act will relax current export controls on encryption technologies so that U.S. companies can effectively compete in the global marketplace. The bill will also prevent the government from mandating risky and expensive "key-recovery" or "key-escrow" encryption systems domestically. It's a good bill, it has broad support from the computer and communications industry, Internet users, and privacy advocates from both the left and right of the political spectrum.

The Clinton Administration has expressed concerns about the impact the e-Privacy Act would have on the legitimate needs of law enforcement and national security. My colleagues and I do not take their concerns lightly. Several provisions in the e-Privacy Act address the Administration's valid concerns while at the same time freeing U.S. companies to effectively compete

in the global marketplace, and ensuring that the American people can trust the Internet as a secure means of commerce, education, and free expression of ideas.

The e-Privacy Act would create a National Electronic Technology Center ("NET Center") to serve as a central point for information and assistance to federal, state, and local law enforcement authorities to address the technical difficulties of obtaining electronic information because of encryption. National security and law enforcement would be given seats at the table in making these determinations. Once again, I am very sensitive to the legitimate needs of national security and law enforcement, and I think the provisions made in the e-Privacy Act address them.

The e-Privacy Act also extends to citizens that same privacy rights that they have in their homes to their digital property in cyberspace. The bill would require a court order or subpoena to obtain either the plaintext or decryption key from their parties. I believe that this is the correct approach.

Citizens are also specifically given the right to use whatever kind of encryption software at whatever strength they choose. The bill recognizes the folly of requiring the government to create procedures to license "key certificate authorities" and "key-recovery agents," as well as require the development of a massive and complicated infrastructure to ensure that the government could recover the right key out of the hundreds of millions of keys in real time.

On many occasions, the world's leading cryptographers concluded that building such a key recovery infrastructure would be prohibitively expensive and would create a less secure network. The bill recognizes that mandatory key escrow will never work, no one will use it and certainly no criminals or other bad actors will use a system that is immediately accessible by the government.

I urge my colleagues to support the e-Privacy Act, which I feel is the true compromise package. We all have the same goals in mind—allowing for the continued growth of high tech industries while not harming national security. If we move forward with the compromise bill being offered today, I am confident we can do both.

By Mr. THOMPSON (for himself and Mr. GLENN):

S. 2068. A bill to clarify the application of the Unfunded Mandates Reform Act of 1995, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other committee have 30 days to report or be discharged.

UNFUNDED MANDATES LEGISLATION

Mr. THOMPSON. Mr. President, I rise today to introduce a bill to clarify the application of the Unfunded Mandates Reform Act of 1995. On its face, this legislation is necessary to correct the Congressional Budget Office's interpretation of the law as it applies to large entitlement programs. But more fundamentally, it is a bill to force Congress to abide by the spirit of the law we passed in 1995 to discourage Congress from imposing costly new mandates on States and local governments.

CBO's performance in fulfilling its responsibilities under the Unfunded Mandates Reform Act has been commendable. CBO cost estimates have been timely and sound, and analysts have been responsive. However, I have serious concern that CBO is misinterpreting the definition of "Federal intergovernmental mandate" as provided in the law. The result is a loophole that makes the Unfunded Mandates Reform Act inoperative for two-thirds of all federal aid to all governments for all purposes. Every State, every municipality is justifiably concerned; indeed, it is with the strong backing of the National Governors' Association that I introduce this bill today.

The Unfunded Mandates Reform Act defined "federal intergovernmental mandate" with the intent to cover new requirements or a cap on the federal share of costs under Medicaid or other large entitlement programs—unless the legislation imposing the new mandates also provides new flexibility in the program to offset the cost. However, CBO has taken the position that existing flexibility is sufficient to offset the cost of new mandates. For example, CBO has determined that the current ability of States to reduce "optional" Medicaid services is, in effect, the flexibility called for in the law. If this had been the intent of the drafters, there would have been no reason for them to cover Medicaid under the Act in the first place. CBO's interpretation of the law largely removes the point of order as a tool to discourage new mandates or cost-shifts to States under the large entitlement programs where mandates tend to be the most burdensome and expensive.

Let's stop for a moment and consider why it is so important that we act to correct this problem. Congress passed the Unfunded Mandates Reform Act in 1995 with the recognition that State and local governments are not wayward subordinates who cannot be trusted to run their own affairs, nor are they just more entities for the Federal Government to regulate. They are our partners in government. The Unfunded Mandates Reform Act was intended to force Congress to stop and think twice before violating this partnership. It does not preclude new mandates, but it does give any member the right to raise a point of order against new mandates which would cost States or localities more than fifty million dollars.

To avoid the point of order, the House and Senate intended that the flexibility required under the Act be new flexibility, concomitant with the mandate-imposing legislation, for States to amend their responsibilities to provide "required services"—not optional services. CBO is not reading the law as Congress intended. The bill I am introducing today amends the Unfunded Mandates Reform Act to clarify that new flexibility is required to offset any new federally-imposed costs that States or localities will incur under large entitlement programs.

I am pleased that Senator GLENN, an original cosponsor and conferee on the Unfunded Mandates Reform Act of 1995, has joined me in cosponsoring this bill to clarify its application.

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. 2068

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

SECTION 1. FEDERAL INTERGOVERNMENTAL MANDATE.

Section 421(5)(B) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(5)(B)) is amended—

(1) by striking "the provision" after "if";

(2) in clause (i)(I) by inserting "the provision" before "would";

(3) in clause (i)(II) by inserting "the provision" before "would"; and

(4) in clause (ii)—

(A) by inserting "that legislation, statute, or regulation does not provide" before "the State"; and

(B) by striking "lack" and inserting "new or expanded".

By Mr. DEWINE:

S. 2070. A bill to provide for an Underground Railroad Educational and Cultural Program; to the Committee on Labor and Human Resources.

THE UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL ACT

Mr. DEWINE. Mr. President, today I am introducing the Underground Railroad Educational and Cultural Act. This legislation will provide for the establishment of programs to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

Let me tell you how important the Underground Railroad is to Ohio—and to me personally. In the 20 years prior to the Civil War, more than 40,000 slaves escaped bondage and made their way to free soil on the trails of the Underground Railroad. More than 150 key Underground Railroad sites have been identified in Ohio—sites that symbolized freedom for thousands of enslaved Americans.

When I visit these places, it gives me some real cause for hope about the future of America. When we talk about race relations in this country, we would do well to remind ourselves that at one of the darkest times in our Nation's history—the period of slavery—some blacks and whites took immense personal risks to work together to liberate slaves.

That is the part of the American story that we should be proud of—and build on. In Ohio, we are very proud of the part our ancestors played in this great story—and why I think this legislation is so important.

Mr. President, I ask my colleagues to support this legislation. It is very important to recognize this period in our history.

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. 2070

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

SECTION 1. UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Underground Railroad Educational and Cultural Act".

(b) PROGRAM ESTABLISHED.—The Secretary of Education, in consultation and cooperation with the Secretary of the Interior, is authorized to make grants to 1 or more nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

(c) GRANT AGREEMENT.—Each nonprofit educational organization awarded a grant under this section shall enter into an agreement with the Secretary of Education. Each such agreement shall require the organization—

(1) to establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad;

(2) to demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility, which private entity shall provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;

(3) to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) to establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, if such satellite centers raise 80 percent of the funds required to establish the satellite centers from non-Federal public and private sources;

(5) to establish the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad; and

(6) to submit, for each fiscal year for which the organization receives funding under this section, a report to the Secretary of Education that contains—

(A) a description of the programs and activities supported by the funding;

(B) the audited financial statement of the organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the funding as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the funding as the Secretary may require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1999, $6,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $3,000,000 for fiscal year 2002, and $3,000,000 for fiscal year 2003.

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. D'AMATO, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 632

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 719

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 719, a bill to expedite the naturalization of aliens who served with special guerrilla units in Laos.

S. 852

At the request of Mr. LOTT, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1089

At the request of Mr. SPECTER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1089, a bill to terminate the effectiveness of certain amendments to the foreign repair station rules of the Federal Aviation Administration, and for other purposes.

S. 1220

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1244

At the request of Mr. GRASSLEY, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 1244, a bill to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1321

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1344

At the request of Mr. BROWNBACK, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1344, a bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of South Caucasus and Central Asia.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1529

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1609

At the request of Mr. FRIST, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1609, a bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next

Generation Internet program and report to the President and the Congress in its activities, and for other purposes.

S. 1645

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1645, a bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

S. 1723

At the request of Mr. ABRAHAM, the names of the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from Idaho (Mr. CRAIG), and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 1723, a bill to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 2017

At the request of Mr. D'AMATO, the names of the Senator from Iowa (Mr. HARKIN), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2053

At the request of Mr. WARNER, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 2053, a bill to require the Secretary of the Treasury to redesign the $1 bill so as to incorporate the preamble to the Constitution of the United States, the Bill of Rights, and a list of Articles of the Constitution on the reverse side of such currency.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. D'AMATO, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Nevada (Mr. REID) were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Minnesota (Mr. WELLSTONE), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Georgia (Mr. COVERDELL), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as "National Character Counts Week."

SENATE CONCURRENT RESOLUTION 95—EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO PROMOTING COVERAGE OF INDIVIDUALS UNDER LONG-TERM CARE INSURANCE

Mr. DODD (for himself and Mr. GRASSLEY) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 95

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PROMOTION OF COVERAGE OF INDIVIDUALS UNDER LONG-TERM CARE INSURANCE.

(a) FINDINGS.—The Congress finds the following:

(1) As the baby boom generation begins to retire, funding Social Security and Medicare will put a strain on the financial resources of younger Americans.

(2) Medicaid was designed as a program for the poor, but in many States Medicaid is being used for middle income elderly people to fund long-term care expenses.

(3) In the coming decade, people over age 65 will represent up to 20 percent or more of the population, and the proportion of the population composed of individuals who are over age 85, who are most likely to be in need of long-term care, may double or triple.

(4) With nursing home care now costing $40,000 to $50,000 on average per year, long-term care expenses can have a catastrophic effect on families, wiping out a lifetime of savings before a spouse, parent, or grandparent becomes eligible for Medicaid.

(5) Many people are unaware that most long-term care costs are not covered by Medicare and that Medicaid covers long-term care only after the person's assets have been exhausted.

(6) Widespread use of private long-term care insurance has the potential to protect families from the catastrophic costs of long-term care services while, at the same time, easing the burden on Medicaid as the baby boom generation ages.

(7) The Federal Government has endorsed the concept of private long-term care insurance by establishing Federal tax rules for tax-qualified policies in the Health Insurance Portability and Accountability Act of 1996.

(8) The Federal Government has ensured the availability of quality long-term care insurance products and sales practices by adopting strict consumer protections in the Health Insurance Portability and Accountability Act of 1996.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Federal Government should take all appropriate steps to inform the public about the financial risks posed by rapidly increasing long-term care costs and about the need for families to plan for their long-term care needs;

(2) the Federal Government should take all appropriate steps to inform the public that Medicare does not cover most long-term care costs and that Medicaid covers long-term care costs only when the beneficiary has exhausted his or her assets;

(3) the Federal Government should take all appropriate steps not only to encourage employers to offer private long-term care insurance coverage to employees, but also to encourage both working-aged people and older citizens to obtain long-term care insurance either through their employees or on their own;

(4) appropriate committees of Congress, together with the Department of Health and Human Services and other appropriate Executive Branch agencies, should develop specific ideas for encouraging Americans to plan for their own long-term care needs;

(5) the congressional tax-writing committees, together with the Department of the Treasury should determine whether the tax rules for long-term care insurance need to be modified to ensure that the rules adequately facilitate the affordability of long-term care insurance; and

(6) the National Summit on Retirement Income Savings should consider the importance of planning for long-term care in its discussion of retirement security.

Mr. DODD. Mr. President, I am pleased to submit, with my colleague Senator GRASSLEY, a Senate resolution that will focus attention on an extremely important health care issue for American families—long-term care needs.

Rapidly increasing long-term care costs pose huge financial risks to families. With the average cost of nursing home care at $40,000 per year, early planning is required to ensure that long-term care needs don't leave the spouses or children of the elderly and disabled destitute.

What most Americans do not realize is that Medicare is very limited in the type of long-term costs it covers. Medicare only provides coverage for "acute" health care costs, such as short-term stays in certain kinds of nursing homes, or short-term nursing care in the home following a hospitalization. Medicare was never meant to cover chronic long-term health needs.

Medicaid does offer assistance with long-term costs, but only after an individual has totally exhausted his or her assets. This means that families must become completely impoverished in order to get Medicaid coverage for nursing home care.

What fills in the gaps? We know that sixty-five percent of many elderly who live at home and need help rely exclusively on unpaid sources, such as family and friends. But this help is not without a price—it takes a huge toll on families. Caregiving frequently competes with the demand of employment

and requires caregivers to reduce work hours, take time off without pay, or quit their jobs. Families whose members must be in institutional settings often exhaust all of their resources paying privately for nursing home care.

As a country, we need to have better alternatives so that our Golden Years can be lived out with dignity. Our job as policy makers is to inform the public of the importance of planning ahead. Employers need to be encouraged to make private long-term care insurance coverage available to their employees. In turn, families should be encouraged to prepare themselves financially well in advance for this potential expense.

A similar proposal by my fellow Connecticut colleague in the House of Representatives, Congressman CHRIS SHAYS, has received strong bi-partisan support. My hope is that this common-sense, forward-looking proposal will receive the same kind of support by my colleagues here in the Senate. This Senate resolution truly represents an investment in our future.

Mr. GRASSLEY. Mr. President, today I am pleased to join Senator DODD in submitting a common-sense Senate resolution to raise public awareness of the need for all Americans to plan ahead for their long-term care needs.

Earlier this year, the Special Committee on Aging, which I chair, held a hearing to explore the challenges of providing long-term care for the baby boomer generation. A key message from that hearing was that policy makers need to encourage personal responsibility for financing long-term care.

It is difficult to pay for long-term care even when one has worked hard and saved for retirement. It's impossible when a family is not prepared. Unfortunately, many seniors and their families find out too late that they have not saved enough. Today's average cost of nursing home care is about $40,000 a year. When individuals are faced with a chronic or disabling condition in retirement, they often quickly exhaust their resources. As a result, these individuals turn to Medicaid for help. In fact, the care for nearly 2 out of every 3 nursing home residents is paid for by Medicaid.

As policy makers, our job is to develop policies for public programs that can deliver efficient and cost-effective services. Yet, equally important is the role of private long-term care financing. We must inform everyone about the importance of planning for potential long-term care needs. And, we must provide incentives now for the baby boomer generation to prepare financially for their retirement.

As Congress works to prepare for a growing demand for long-term care services, the role of private long-term care insurance must not be ignored. Over the past ten years, the long-term care insurance market has grown significantly. The products that are available today are affordable and of high quality.

This common-sense proposal has also been introduced in the House of Representatives by Congress SHAYS where it has received strong bi-partisan support. I encourage my colleagues in the Senate to so-sponsor this worthwhile proposal. And, I look forward to the passage of this resolution this year.

SENATE RESOLUTION 227—EXPRESSING THE SENSE OF THE SENATE REGARDING THE MAY 11, 1998 INDIAN NUCLEAR TESTS

Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, and Mr. GLENN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 227

Whereas the Government of India conducted an underground nuclear explosion on May 15, 1974;

Whereas since the 1974 nuclear test by the Government of India, the United States and its allies have worked extensively to prevent the further proliferation of nuclear weapons in South Asia;

Whereas on May 11, 1998, the Government of India conducted underground tests of three separate nuclear explosive devices, including a fission device, a low-yield device, and a thermo-nuclear device;

Whereas this decision by the Government of India has needlessly raised tension in the South Asia region and threatens to exacerbate the nuclear arms race in that region;

Whereas the five declared nuclear weapons states and 144 other nations have signed the Comprehensive Test Ban Treaty in hopes of putting a permanent end to nuclear testing;

Whereas the Government of India has refused to sign the Comprehensive Test Ban Treaty;

Whereas the Government of India has refused to sign the Nuclear Non-Proliferation Treaty;

Whereas India has refused to enter into a safeguards agreement with the International Atomic Energy Agency covering any of its nuclear research facilities;

Whereas the Nuclear Proliferation Prevention Act of 1994 requires the President to impose a variety of aid and trade sanctions against any non-nuclear weapons state that detonates a nuclear explosive device; Therefore, be it

Resolved, That the Senate

(1) Condemns in the strongest possible terms the decision of the Government of India to conduct three nuclear tests on May 11, 1998;

(2) Calls upon the President to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and invoke all sanctions therein;

(3) Calls upon the Government of India to take immediate steps to reduce tensions that this unilateral and unnecessary step has caused;

(4) Expresses its regret that this decision by the Government of India will, of necessity, negatively affect relations between the United States and India;

(5) Urges the Government of Pakistan, the Government of the People's Republic of China, and all governments to exercise restraint in response to the Indian nuclear tests, in order to avoid further exacerbating the nuclear arms race in South Asia;

(6) Calls upon all governments in the region to take steps to prevent further proliferation of nuclear weapons and ballistic missiles; and

(7) Urges the Government of India to enter into a safeguards agreement with the International Atomic energy Agency which would cover all Indian nuclear research facilities at the earliest possible time.

Mrs. FEINSTEIN. Mr. President, at this time, on behalf of Senator BROWNBACK, Senator GLENN, and myself, I send to the desk for reference to committee a sense-of-the-Senate resolution which, in essence, deals with the explosion of three nuclear devices by the Government of India yesterday. As this body well knows, the Government of India conducted underground tests on three separate nuclear explosive devices, including a fission device, a low-yield device, and a thermonuclear device. They did this also very close to the border of Pakistan, thereby raising tensions between the two countries and in the entire south Asia region.

This sense of the Senate will condemn that explosion in the strongest possible terms and will call upon the President of the United States to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and invoke all sanctions therein.

It will also call upon the Government of India to take immediate steps to reduce tensions that this unilateral and unnecessary step has caused.

I am aware that Senator BROWNBACK's subcommittee, of which I am a member, will be meeting tomorrow, and will be discussing this issue, and, hopefully, will be able to agree to this resolution.

I am delighted to work with the Senator, and I note that he is present on the floor at this time, so I will say no more but simply send this to the desk.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I would like to note my support for the resolution of my colleague from California. I think this is an important, quick statement for us to be making to the Government of India and to the nations in the region, both Pakistan and China in particular. The nuclear test that took place yesterday will have a tremendously destabilizing impact in the region. It was a bad move on the part of the Government of India. I think this is something the U.S. Senate needs to speak out on clearly and quickly, to state our displeasure, and that this will have consequences to it. I urge the administration to put forward the sanctions that are called for in the Glenn amendment. I don't think we can stand by and tolerate the sort of actions that have taken place. I urge my colleagues to look at this resolution, to sign on. Hopefully, we can pass this in an expedited fashion.

SENATE RESOLUTION 228—AUTHORIZING THE PRINTING OF A DOCUMENT ENTITLED "WASHINGTON'S FAREWELL ADDRESS"

Mr. WARNER (for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 228

Resolved, That the booklet entitled, "Washington's Farewell Address," prepared by the Senate Historical Office under the direction of the Secretary of the Senate, be printed as a Senate document.

SEC. 2. The Senate document described in Section 1 shall include illustrations and shall be in the style, form, manner, and printing as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed 600 additional copies of the document specified in Sec. 1 for the use of the Secretary of the Senate.

SENATE RESOLUTION 229—COMMEMORATING THE 150TH ANNIVERSARY OF THE ESTABLISHMENT OF THE CHICAGO BOARD OF TRADE

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 229

Whereas the Chicago Board of Trade, which celebrates in April 1998 the 150th anniversary of its establishment, has been an essential contributor to financial growth in Chicago, Illinois, and our Nation;

Whereas futures markets were developed by finance pioneers in Chicago and today Chicago remains the commercial crossroads of the world;

Whereas the Chicago Board of Trade, the oldest and largest futures and options exchange, continues its tradition of innovation, functioning as a global financial leader;

Whereas the Chicago Board of Trade's 150 years of accomplishments include such major achievements as inventing grain futures, founding the world's premier trade clearing system, launching the first stock options exchange, developing the first interest rate futures, advancing the use of technology with its electronic trading system, and constructing the largest and most technologically advanced trading floor in the world;

Whereas the Chicago Board of Trade and its members have achieved success while adhering to the highest standards of uncompromising integrity; and

Whereas the Chicago Board of Trade will continue as a world-leading financial institution into the next millennium: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Chicago Board of Trade and the city of Chicago, Illinois, on the 150th anniversary of the establishment of the exchange; and

(2) expresses its wishes for continued years of innovation, service, and leadership by the Chicago Board of Trade into the next millennium.

AMENDMENTS SUBMITTED

THE NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1998

McCAIN (AND OTHERS) AMENDMENT NO. 2386

Mr. JEFFORDS (for Mr. McCAIN, for himself, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. FRIST, Mr. ROCKEFELLER, and Ms. COLLINS) proposed an amendment to the bill (S. 1046) to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Science Foundation Authorization Act of 1998".

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(2) FOUNDATION.—The term "Foundation" means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(d) BOARD.—The term "Board" means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) UNITED STATES.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(5) NATIONAL RESEARCH FACILITY.—The term "national research facility" means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

SEC. 101. FINDINGS; CORE STRATEGIES.

(a) FINDINGS.—Congress finds the following:

(1) The United States depends upon its scientific and technological capabilities to preserve the military and economic security of the United States.

(2) America's leadership in the global marketplace is dependent upon a strong commitment to education, basic research, and development.

(3) A nation that is not technologically literate cannot compete in the emerging global economy.

(4) A coordinated commitment to mathematics and science instruction at all levels of education is a necessary component of successful efforts to produce technologically literate citizens.

(5) Professional development is a necessary component of efforts to produce system wide improvements in mathematics, engineering, and science education in secondary, elementary, and postsecondary settings.

(6)(A) The mission of the National Science Foundation is to provide Federal support for basic scientific and engineering research, and to be a primary contributor to mathematics, science, and engineering education at academic institutions in the United States.

(B) In accordance with such mission, the long-term goals of the National Science Foundation include providing leadership to—

(i) enable the United States to maintain a position of world leadership in all aspects of science, mathematics, engineering, and technology;

(ii) promote the discovery, integration, dissemination, and application of new knowledge in service to society; and

(iii) achieve excellence in United States science, mathematics, engineering, and technology education at all levels.

(b) CORE STRATEGIES.—In carrying out activities designed to achieve the goals described in subsection (a), the Foundation shall use the following core strategies:

(1) Develop intellectual capital, both people and ideas, with particular emphasis on groups and regions that traditionally have not participated fully in science, mathematics, and engineering.

(2) Strengthen the scientific infrastructure by investing in facilities planning and modernization, instrument acquisition, instrument design and development, and shared-use research platforms.

(3) Integrate research and education through activities that emphasize and strengthen the natural connections between learning and inquiry.

(4) Promote partnerships with industry, elementary and secondary schools, community colleges, colleges and universities, other agencies, State and local governments, and other institutions involved in science, mathematics, and engineering to enhance the delivery of math and science education and improve the technological literacy of the citizens of the United States.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1998.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,505,630,000 for fiscal year 1998.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,576,200,000 shall be made available to carry out Research and Related Activities, of which—

(i) $370,820,000 shall be made available for Biological Sciences;

(ii) $289,170,000 shall be made available for Computer and Information Science and Engineering;

(iii) $360,470,000 shall be made available for Engineering;

(iv) $455,110,000 shall be made available for Geosciences;

(v) $715,710,000 shall be made available for Mathematical and Physical Sciences;

(vi) $130,660,000 shall be made available for Social, Behavioral, and Economic Sciences, of which up to $1,000,000 may be made available for the U.S.-Mexico Foundation for Science;

(vii) $165,930,000 shall be made available for United States Polar Research Programs;

(viii) $62,600,000 shall be made available for United States Antarctic Logistical Support Activities;

(ix) $2,730,000 shall be made available for the Critical Technologies Institute; and

(x) $23,000,000 shall be made available for the Next Generation Internet program;

(B) $632,500,000 shall be made available to carry out Education and Human Resources Activities;

(C) $155,130,000 shall be made available for Major Research Equipment;

(D) $136,950,000 shall be made available for Salaries and Expenses; and

(E) $4,850,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 1999.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,773,000,000 for fiscal year 1999.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,846,800,000 shall be made available to carry out Research and Related Activities, of which—

(i) $417,820,000 shall be made available for Biological Sciences;

(ii) $331,140,000 shall be made available for Computer and Information Science and Engineering, including $25,000,000 for the Next Generation Internet program;

(iii) $400,550,000 shall be made available for Engineering;

(iv) $507,310,000 shall be made available for Geosciences;

(v) $792,030,000 shall be made available for Mathematical and Physical Sciences;

(vi) $150,260,000 shall be made available for Social, Behavioral, and Economic Sciences, of which up to $2,000,000 may be made available for the U.S.-Mexico Foundation for Science;

(vii) $182,360,000 shall be made available for United States Polar Research Programs;

(viii) $62,600,000 shall be made available for United States Antarctic Logistical Support Activities;

(ix) $2,730,000 shall be made available for the Critical Technologies Institute; and

(B) $683,000,000 shall be made available to carry out Education and Human Resources Activities;

(C) $94,000,000 shall be made available for Major Research Equipment;

(D) $144,000,000 shall be made available for Salaries and Expenses; and

(E) $5,200,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2000.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,886,190,000 for fiscal year 2000.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,935,024,000 shall be made available to carry out Research and Related Activities, of which up to—

(i) $2,000,000 may be made available for the U.S.-Mexico Foundation for Science;

(ii) $25,000,000 may be made available for the Next Generation Internet program;

(B) $703,490,000 shall be made available to carry out Education and Human Resources Activities;

(C) $94,000,000 shall be made available for Major Research Equipment;

(D) $148,320,000 shall be made available for Salaries and Expenses; and

(E) $5,356,000 shall be made available for the Office of Inspector General.

SEC. 103. PROPORTIONAL REDUCTION OF RESEARCH AND RELATED ACTIVITIES AMOUNTS.

If the amount appropriated pursuant to section 102(a)(2)(A) or (b)(2)(A) is less than the amount authorized under that paragraph, the amount available for each scientific directorate under that paragraph shall be reduced by the same proportion.

SEC. 104. CONSULTATION AND REPRESENTATION EXPENSES.

From appropriations made under authorizations provided in this Act, not more than $10,000 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses. The Director shall have the discretion to determine the expenses (as described in this section) for which the funds described in this section shall be used. Such a determination by the Director shall be final and binding on the accounting officers of the Federal Government.

SEC. 105. UNITED STATES MAN AND THE BIOSPHERE PROGRAM LIMITATION.

No funds appropriated pursuant to this Act shall be used for the United States Man and the Biosphere Program, or related projects.

TITLE II—GENERAL PROVISIONS

SEC. 201. NATIONAL RESEARCH FACILITIES.

(a) FACILITIES PLAN.—

(1) IN GENERAL.—Not later than December 1, of each year, the Director shall, as part of the annual budget request, prepare and submit to Congress a plan for the proposed construction of, and repair and upgrades to, national research facilities.

(2) CONTENTS OF THE PLAN.—The plan shall include—

(A) estimates of the costs for the construction, repairs, and upgrades described in paragraph (1);

(B) estimates of the costs for the operation and maintenance of existing and proposed new facilities; and

(C) in the case of proposed new construction and for major upgrades to existing facilities, funding profiles, by fiscal year, and milestones for major phases of the construction.

(3) SPECIAL RULE.—The plan shall include cost estimates in the categories of construction, repair, and upgrades—

(A) for the year in which the plan is submitted to Congress; and

(B) for not fewer than the succeeding 4 years.

(b) STATUS OF FACILITIES UNDER CONSTRUCTION.—The plan required under subsection (a) shall include a status report for each uncompleted construction project included in current and previous plans. The status report shall include data on cumulative construction costs by project compared with estimated costs, and shall compare the current and original schedules for achievement of milestones for the major phases of the construction.

SEC. 202. ADMINISTRATIVE AMENDMENTS.

(a) NATIONAL SCIENCE FOUNDATION ACT OF 1950 AMENDMENTS.—The National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.) is amended—

(1) in section 4(g) (42 U.S.C. 1863(g))—

(A) by striking "the appropriate rate provided for individuals in grade GS–18 of the General Schedule under section 5332" and inserting "the maximum rate payable under section 5376"; and

(B) by redesignating the second subsection (k) as subsection (l);

(2) in section 5(e) (42 U.S.C. 1854(e)) by striking paragraph (2), and inserting the following:

"(2) Any delegation of authority or imposition of conditions under paragraph (1) shall be promptly published in the Federal Register and reported to the Committee on Labor and Human Resources, and the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Science of the House of Representatives.";

(3) in section 14(c) (42 U.S.C. 1873(c))—

(A) by striking "shall receive" and inserting "shall be entitled to receive";

(B) by striking "the rate specified for the daily rate for GS–18 of the General Schedule under section 5332" and inserting "the maximum rate payable under section 5376"; and

(C) by adding at the end the following "For the purpose of determining the payment of compensation under this subsection, the time spent in travel by any member of the Board or any member of a special commission shall be deemed as time engaged in the business of the Foundation. Members of the Board and members of special commissions may waive compensation and reimbursement for traveling expenses."; and

(4) in section 15(a) (42 U.S.C. 1874(a)), by striking "Atomic Energy Commission" and inserting "Secretary of Energy".

(b) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1976 AMENDMENTS.—Section 6(a) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a(a)) is amended by striking "social," the first place it appears.

(c) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1988 AMENDMENTS.—Section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b(a)) is amended—

(1) by striking paragraph (1)(B)(v) and inserting the following:

"(v) from schools established outside the several States and the District of Columbia by any agency of the Federal Government for dependents of the employees of such agency."; and

(2) in paragraph (3)(A) by striking "Science and Engineering Education" and inserting "Education and Human Resources".

(d) SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.—The Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.) is amended—

(1) in section 34 (42 U.S.C. 1885b)—

(A) by striking the section heading and inserting the following:

"PARTICIPATION IN SCIENCE AND ENGINEERING OF MINORITIES AND PERSONS WITH DISABILITIES";

and

(B) by striking subsection (b) and inserting the following:

"(b) The Foundation is authorized to undertake or support programs and activities to encourage the participation of persons with disabilities in the science and engineering professions."; and

(2) in section 36 (42 U.S.C. 1885c)—

(A) in subsection (a), by striking "minorities," and all that follows through "in scientific" and inserting "minorities, and persons with disabilities in scientific";

(B) in subsection (b)—

(i) by striking "with the concurrence of the National Science Board"; and

(ii) by striking the second sentence and inserting the following: "In addition, the Chairman of the National Science Board may designate a member of the Board as a member of the Committee."; (C) by striking subsection (c) and (d); (D) by inserting after subsection (b) the following:

"(c) The Committee shall be responsible for reviewing and evaluating all Foundation matters relating to opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education, training, and science and engineering research programs.";

(E) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(F) in subsection (d), as so redesignated by subparagraph (E), by striking "additional".

(e) TECHNICAL AMENDMENT.—The second subsection (g) of section 3 of the National Science Foundation Act of 1950 is repealed.

SEC. 203. INDIRECT COSTS.

(a) MATCHING FUNDS.—Matching funds required pursuant to section 204(a)(2)(C) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862c(a)(2)(C)) shall not

be considered facilities costs for purposes of determining indirect cost rates under Office of Management and Budget Circular A-21.

(b) REPORT.—

(1) IN GENERAL.—The Director of the Office of Science and Technology Policy, in consultation with other Federal agencies the Director deems appropriate, shall prepare a report—

(A) analyzing the Federal indirect cost reimbursement rates (as the term is defined in Office of Management and Budget Circular A-21) paid to universities in comparison with Federal indirect cost reimbursement rates paid to other entities, such as industry, government laboratories, research hospitals, and non-profit institutions;

(B)(i) analyzing the distribution of the Federal indirect cost reimbursement rates by category (such as administration, facilities, utilities, and libraries), and by the type of entity; and

(ii) determining what factors, including the type of research, influence the distribution;

(C) analyzing the impact, if any, that changes in Office of Management and Budget Circular A-21 have had on—

(i) the Federal indirect cost reimbursement rates, the rate of change of the Federal indirect cost reimbursement rates, the distribution by category of the Federal indirect cost reimbursement rates, and the distribution by type of entity of the Federal indirect cost reimbursement rates; and

(ii) the Federal indirect cost reimbursement (as calculated in accordance with Office of Management and Budget Circular A-21), the rate of change of the Federal indirect cost reimbursement, the distribution by category of the Federal indirect cost reimbursement, and the distribution by type of entity of the Federal indirect cost reimbursement;

(D) analyzing the impact, if any, of Federal and State law on the Federal indirect cost reimbursement rates;

(E)(i) analyzing options to reduce or control the rate of growth of the Federal indirect cost reimbursement rates, including options such as benchmarking of facilities and equipment cost, elimination of cost studies, mandated percentage reductions in the Federal indirect cost reimbursement; and

(ii) assessing the benefits and burdens of the options to the Federal Government, research institutions, and researchers; and

(F) analyzing options for creating a database—

(i) for tracking the Federal indirect cost reimbursement rates and the Federal indirect cost reimbursement; and

(ii) for analyzing the impact that changes in policies with respect to Federal indirect cost reimbursement will have on the Federal Government, researchers, and research institutions.

(2) REPORT TO CONGRESS.—The report prepared under paragraph (1) shall be submitted to Congress not later than 1 year after the date of enactment of this Act.

SEC. 204. FINANCIAL DISCLOSURE.

Persons temporarily employed by or at the Foundation shall be subject to the same financial disclosure requirements and related sanctions under the Ethics in Government Act of 1978 (5 U.S.C. App) as are permanent employees of the Foundation in equivalent positions.

SEC. 205. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds appropriated pursuant to the amendments made by this act are subject to a reprogramming action that requires notice to be provided to the committees on appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Labor and Human Resources of the Senate, and the Committee on Science of the House of Representatives.

(b) NOTICE OF REORGANIZATION.—Not later than 15 days before any major reorganization of any program, project, or activity of the National Science Foundation, the Director of the National Science Foundation shall provide notice to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science and Transportation, Labor and Human Resources of the Senate, and Appropriations of the Senate.

SEC. 206. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term "educationally useful federal equipment" means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) SCHOOL.—The term "school" means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) SENSE OF CONGRESS.—

(1) IN GENERAL.—It is the sense of the Congress that the Director should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director shall prepare and submit to the President a report that meets the requirements of this paragraph. The President shall submit that report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) CONTENTS OF REPORT.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

SEC. 207. REPORT ON RESERVIST EDUCATION ISSUES.

(a) CONVENING APPROPRIATE REPRESENTATIVES.—The Director of the National Science Foundation, with the assistance of the Office of Science and Technology Policy, shall convene appropriate officials of the Federal Government and appropriate representatives of the postsecondary education community and of members of reserve components of the Armed Forces for the purpose of discussing and seeking a consensus on the appropriate resolution to problems relating to the academic standing and financial responsibilities of postsecondary students called or ordered to active duty in the Armed Forces.

(b) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Director of the National Science Foundation shall transmit to the Congress a report summarizing the results of the convening individuals under subsection (a), including any consensus recommendations resulting therefrom as well as any significant opinions expressed by each participant that are not incorporated in such a consensus recommendation.

SEC. 208. SCIENCE AND TECHNOLOGY POLICY INSTITUTE.

(a) AMENDMENT.—Section 822 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 6686) is amended—

(1) by striking "Critical Technologies Institute" in the section heading and in subsection (a), and inserting in lieu thereof "Science and Technology Policy Institute";

(2) in subsection (b) by striking "As determined by the chairman of the committee referred to in subsection (c), the" and inserting in lieu thereof "The";

(3) by striking subsection (c), and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively;

(4) in subsection (c), as so redesignated by paragraph (3) of this subsection—

(A) by inserting "science and" after "developments and trends in" in paragraph (1);

(B) by striking "with particular emphasis on" in paragraph (1) and inserting "including";

(C) by inserting "and developing and maintaining relevant information and analytical tools" before the period at the end of the paragraph (1);

(D) by striking "to determine" and all that follows through "technology policies" in paragraph (2) and inserting "with particular attention to the scope and content of the Federal science and technology research and develop portfolio as it affects interagency and national issues";

(E) by amending paragraph (3) to read as follows:

"(3) Initiation of studies and analysis of alternatives available for ensuring the long-term strength of the United States in the development and application of science and technology, including appropriate roles for the Federal Government, State governments, private industry, and institutions of higher education in the development and application of science and technology.";

(F) by inserting "science and" after "Executive branch on" in paragraph (4)(A); and

(G) by amending paragraph (4)(B) to read as follows:

"(B) to the interagency committees and panels of the Federal Government concerned with science and technology.";

(5) by striking "subsection (d)" in subsection (d), as redesignated by paragraph (3) of this subsection, and inserting in lieu thereof "subsection (c)";

(6) by striking "Committee" in each place it appears in subsection (e), as redesignated by paragraph (3) of this subsection, and inserting "Institute";

(7) by striking "subsection (d)" in subsection (f), as redesignated by paragraph (3) of this subsection, and inserting in lieu thereof "subsection (c)"; and

(8) by striking "Chairman of Committee" each place it appears in subsection (f), as designated by paragraph (3) of this subsection, and inserting "Director of Office of Science and Technology Policy".

(b) CONFORMING USAGE.—All references in Federal law or regulations to the Critical Technologies Institute shall be considered to be references to the Science and Technology Policy Institute.

SEC. 209. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the Foundation should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Foundation posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Foundation is unable to correct in time.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

HUTCHINSON AMENDMENTS NOS. 2387–2388

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted two amendments intended to be proposed by him to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

AMENDMENT NO. 2387

Add at the end the following new title:

TITLE ____—COMMERCIAL ACTIVITIES OF PEOPLE'S LIBERATION ARMY

SEC. ____. FINDINGS.

Congress makes the following findings:

(1) The People's Liberation Army is the principal instrument of repression within the People's Republic of China, responsible for occupying Tibet since 1950, massacring hundreds of students and demonstrators for democracy in Tiananmen Square on June 4, 1989, and running the Laogai ("reform through labor") slave labor camps.

(2) The People's Liberation Army is engaged in a massive military buildup, which has involved a doubling since 1992 of announced official figures for military spending by the People's Republic of China.

(3) The People's Liberation Army is engaging in a major ballistic missile modernization program which could undermine peace and stability in East Asia, including 2 new intercontinental missile programs, 1 submarine-launched missile program, a new class of compact but long-range cruise missiles, and an upgrading of medium- and short-range ballistic missiles.

(4) The People's Liberation Army is working to coproduce the SU–27 fighter with Russia, and is in the process of purchasing several substantial weapons systems from Russia, including the 633 model of the Kilo-class submarine and the SS–N–22 Sunburn missile system specifically designed to incapacitate United States aircraft carriers and Aegis cruisers.

(5) The People's Liberation Army has carried out acts of aggression in the South China Sea, including the February 1995 seizure of the Mischief Reef in the Spratley Islands, which is claimed by the Philippines.

(6) In July 1995 and in March 1996, the People's Liberation Army conducted missile tests to intimidate Taiwan when Taiwan held historic free elections, and those tests effectively blockaded Taiwan's 2 principal ports of Keelung and Kaohsiung.

(7) The People's Liberation Army has contributed to the proliferation of technologies relevant to the refinement of weapons-grade nuclear material, including transferring ring magnets to Pakistan.

(8) The People's Liberation Army and associated defense companies have provided ballistic missile components, cruise missiles, and chemical weapons ingredients to Iran, a country that the executive branch has repeatedly reported to Congress is the greatest sponsor of terrorism in the world.

(9) In May 1996, United States authorities caught the People's Liberation Army enterprise Poly Technologies and the civilian defense industrial company Norinco attempting to smuggle 2,000 AK–47s into Oakland, California, and offering to sell urban gangs shoulder-held missile launchers capable of "taking out a 747" (which the affidavit of the United States Customs Service of May 21, 1996, indicated that the representative of Poly Technologies and Norinco claimed), and Communist Chinese authorities punished only 4 low-level arms merchants by sentencing them on May 17, 1997, to brief prison terms.

(10) The People's Liberation Army contributes to the People's Republic of China's failure to meet the standards of the 1995 Memorandum of Understanding with the United States on intellectual property rights by running factories which pirate videos, compact discs, and computer software that are products of the United States.

(11) The People's Liberation Army contributes to the People's Republic of China's failing to meet the standards of the February 1997 Memorandum of Understanding with the United States on textiles by operating enterprises engaged in the transshipment of textile products to the United States through third countries.

(12) The estimated $2,000,0000,000 to $3,000,000,000 in annual earnings of People's Liberation Army enterprises subsidize the expansion and activities of the People's Liberation Army described in this subsection.

(13) The commercial activities of the People's Liberation Army are frequently conducted on noncommercial terms, or for noncommercial purposes such as military or foreign policy considerations.

SEC. ____. APPLICATION OF AUTHORITIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT TO CHINESE MILITARY COMPANIES.

(a) DETERMINATION OF COMMUNIST CHINESE MILITARY COMPANIES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall compile a list of persons who are Communist Chinese military companies and who are operating directly or indirectly in the United States or any of its territories and possessions, and shall publish the list of such persons in the Federal Register. On an ongoing basis, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall make additions or deletions to the list based on the latest information available.

(2) COMMUNIST CHINESE MILITARY COMPANY.—For purposes of making the determination required by paragraph (1), the term "Communist Chinese military company"—

(A) means a person that is—

(i) engaged in providing commercial services, manufacturing, producing, or exporting, and

(ii) owned or controlled by the People's Liberation Army, and

(B) includes, but is not limited to, any person identified in the United States Defense Intelligence Agency publication numbered VP–1920–271–90, dated September 1990, or PC–1921–57–95, dated October 1995, and any update of such reports for the purposes of this title.

(b) PRESIDENTIAL AUTHORITY.—

(1) AUTHORITY.—The President may exercise the authorities set forth in section 203(a) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)) with respect to any commercial activity in the United States by a Communist Chinese military company (except with respect to authorities relating to importation), without regard to section 202 of that Act.

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to violations of any license, order, or regulation issued under paragraph (1).

SEC. ____. DEFINITION.

For purposes of this title, the term "People's Liberation Army" means the land, naval, and air military services, the police, and the intelligence services of the Communist Government of the People's Republic of China, and any member of any such service or of such police.

AMENDMENT NO. 2388

Add at the end the following new sections:

SEC. ____. FINDINGS.

Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured under conditions of convict labor, forced labor, and indentured labor in several countries.

(2) The United States Customs Service has actively pursued attempts to import products made with forced labor, resulting in seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) The United States Customs Service does not currently have the tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor that are destined for the United States market.

SEC. ____. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED LABOR.

There are authorized to be appropriated for monitoring by the United States Customs Service of the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, $2,000,000 for fiscal year 1999.

SEC. ____. REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Customs shall prepare and transmit to Congress a report on products made with forced labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor in manufacturing products destined for the United States market.

(2) The volume of products made with forced labor, destined for the United States market, that is in violation of section 307 of the Tariff Act of 1930 or section 1761 of the title 18, United States Code, and is seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor that are destined for the United States market.

SEC. ___. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade which involves goods made with forced labor is frustrating implementation of the memorandum. Should an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor, including improved procedures to request investigations of suspected prison labor facilities by international monitors.

SEC. ___. DEFINITION OF FORCED LABOR.

As used in sections ___ through ___ of this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930.

COMMUNICATIONS ACT AMENDMENTS

McCAIN (AND HOLLINGS) AMENDMENT NO. 2389

Mr. McCAIN (for himself and Mr. HOLLINGS) proposed an amendment to the bill (S. 1618) to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-slamming Amendment Act".

TITLE I—SLAMMING

SEC. 101. IMPROVED PROTECTION FOR CONSUMERS.

(a) VERIFICATION OF AUTHORIZATION.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—No telecommunications carrier or reseller of telecommunications services shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

"(2) VERIFICATION.—

"(A) IN GENERAL.—In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this section, the telecommunications carrier or reseller shall, at a minimum, require the subscriber—

"(i) to affirm that the subscriber is authorized to select the provider of that service for the telephone number in question;

"(ii) to acknowledge the type of service to be changed as a result of the selection;

"(iii) to affirm the subscriber's intent to select the provider as the provider of that service;

"(iv) to acknowledge that the selection of the provider will result in a change in providers of that service; and

"(v) to provide such other information as the Commission considers appropriate for the protection of the subscriber.

"(B) ADDITIONAL REQUIREMENTS.—The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall—

"(i) preclude the use of negative option marketing;

"(ii) provide for a complete copy of verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form;

"(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate;

"(iv) mandate that verification occur in the same language as that in which the change was solicited; and

"(v) provide for verification to be made available to a subscriber on request.

"(3) ACTION BY UNAFFILIATED RESELLER NOT IMPUTED TO CARRIER.—No telecommunications carrier may be found to be in violation of this section solely on the basis of a violation of this section by an unaffiliated reseller of that carrier's services or facilities.

"(4) FREEZE OPTION PROTECTED.—The Commission may not take action under this section to limit or inhibit a subscriber's ability to require that any change in the subscriber's choice of a provider of interexchange service not be effected unless the change is expressly and directly communicated by the subscriber to the subscriber's existing telephone exchange service provider.

"(5) APPLICATION TO WIRELESS.—This section does not apply to a provider of commercial mobile service.".

(b) LIABILITY FOR CHARGES.—Subsection (b) of such section is amended—

(1) by striking "(b) LIABILITY FOR CHARGES.—Any telecommunications carrier" and inserting the following:

"(b) LIABILITY FOR CHARGES.—

"(1) IN GENERAL.—Any telecommunications carrier or reseller of telecommunications services";

(2) by designating the second sentence as paragraph (3) and inserting at the beginning of such paragraph, as so designated, the following:

"(3) CONSTRUCTION OF REMEDIES.—"; and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following:

"(2) SUBSCRIBER PAYMENT OPTION.—

"(A) IN GENERAL.—A subscriber whose telephone exchange service or telephone toll service is changed in violation of the provisions of this section, or the procedures prescribed under subsection (a), may elect to pay the carrier or reseller previously selected by the subscriber for any such service received after the change in full satisfaction of amounts due from the subscriber to the carrier or reseller providing such service after the change.

"(B) PAYMENT RATE.—Payment for service under subparagraph (A) shall be at the rate for such service charged by the carrier or reseller previously selected by the subscriber concerned.".

(c) RESOLUTION OF COMPLAINTS.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end thereof the following:

"(c) NOTICE TO SUBSCRIBER.—Whenever there is a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, the telecommunications carrier or reseller shall notify the subscriber in a specific and unambiguous writing, not more than 15 days after the change is processed by the telecommunications carrier or the reseller—

"(1) of the subscriber's new carrier or reseller; and

"(2) that the subscriber may request information regarding the date on which the change was agreed to and the name of the individual who authorized the change.

"(d) RESOLUTION OF COMPLAINTS.—

"(1) PROMPT RESOLUTION.—

"(A) IN GENERAL.—The Commission shall prescribe a period of time for a telecommunications carrier or reseller to resolve a complaint by a subscriber concerning an unauthorized change in the subscriber's selection of a provider of telephone exchange service or telephone toll service not in excess of 120 days after the telecommunications carrier or reseller receives notice from the subscriber of the complaint. A subscriber may at any time pursue such a complaint with the Commission, in a State or local administrative or judicial body, or elsewhere.

"(B) UNRESOLVED COMPLAINTS.—If a telecommunication carrier or reseller fails to resolve a complaint within the time period prescribed by the Commission, then, within 10 days after the end of that period, the telecommunication carrier or reseller shall—

"(i) notify the subscriber in writing of the subscriber's right to file a complaint with the Commission and of the subscriber's rights and remedies under this section;

"(ii) inform the subscriber in writing of the procedures prescribed by the Commission for filing such a complaint; and

"(iii) provide the subscriber a copy of any evidence in the carrier's or reseller's possession showing that the change in the subscriber's provider of telephone exchange service or telephone toll service was submitted or executed in accordance with the verification procedures prescribed under subsection (a).

"(2) RESOLUTION BY COMMISSION.—

"(A) DETERMINATION OF VIOLATION.—The Commission shall provide a simplified process for resolving complaints under paragraph (1)(B). The simplified procedure shall preclude the use of interrogatories, depositions, discovery, or other procedural techniques that might unduly increase the expense, formality, and time involved in the process. The Commission shall determine whether there has been a violation of subsection (a) and shall issue a decision or ruling at the earliest date practicable, but in no event later than 150 days after the date on which it received the complaint.

"(B) DETERMINATION OF DAMAGES AND PENALTIES.—If the Commission determines that there has been a violation of subsection (a), it shall issue a decision or ruling determining the amount of the damages and penalties at the earliest practicable date, but in no event later than 90 days after the date on which it issued its decision or ruling under subparagraph (A).

"(3) DAMAGES AWARDED BY COMMISSION.—If a violation of subsection (a) is found by the Commission, the Commission may award damages equal to the greater of $500 or the amount of actual damages for each violation.

The Commission may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(e) DISQUALIFICATION AND REINSTATEMENT.—

"(1) DISQUALIFICATION FROM CERTAIN ACTIVITIES BASED ON CONVICTION.—

"(A) DISQUALIFICATION OF PERSONS.—Subject to subparagraph (C), any person convicted under section 2328 of title 18, United States Code, in addition to any fines or imprisonment under that section, may not carry out any activities covered by section 214.

"(B) DISQUALIFICATION OF COMPANIES.—Subject to subparagraph (C), any company substantially controlled by a person convicted under section 2328 of title 18, United States Code, in addition to any fines or imprisonment under that section, may not carry out any activities covered by section 214.

"(C) REINSTATEMENT.—

"(i) IN GENERAL.—The Commission may terminate the application of subparagraph (A) to a person, or subparagraph (B) to a company, if the Commission determines that the termination would be in the public interest.

"(ii) EFFECTIVE DATE.—The termination of the applicability of subparagraph (A) to a person, or subparagraph (B) to a company, under clause (i) may not take effect earlier than 5 years after the date on which the applicable subparagraph applied to the person or company concerned.

"(2) CERTIFICATION REQUIREMENT.—Any person described in subparagraph (A) of paragraph (1), or company described in subparagraph (B) of that paragraph, not reinstated under subparagraph (C) of that paragraph shall include with any application to the Commission under section 214 a certification that the person or company, as the case may be, is described in paragraph (1)(A) or (B), as the case may be.

"(f) CIVIL PENALTIES.—

"(1) IN GENERAL.—Unless the Commission determines that there are mitigating circumstances, violation of subsection (a) is punishable by a forfeiture of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

"(2) FAILURE TO NOTIFY TREATED AS VIOLATION OF SUBSECTION (A).—If a telecommunications carrier or reseller fails to comply with the requirements of subsection (d)(1)(B), then that failure shall be treated as a violation of subsection (a).

"(g) RECOVERY OF FORFEITURES.—The Commission may take such action as may be necessary—

"(1) to collect any forfeitures it imposes under this section; and

"(2) on behalf of any subscriber, to collect any damages awarded the subscriber under this section.

"(h) CHANGE INCLUDES INITIAL SELECTION.—For purposes of this section, the initiation of service to a subscriber by a telecommunications carrier or a reseller shall be treated as a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.".

(d) CRIMINAL PENALTY.—

(1) IN GENERAL.—Chapter 113A of title 18, United States Code, is amended by adding at the end thereof the following:

§ 2328. Slamming

"Any person who submits or executes a change in a provider of telephone exchange service or telephone toll service not authorized by the subscriber in willful violation of the provisions of section 258 of the Communications Act of 1934 (47 U.S.C. 258), or the procedures prescribed under section 258(a) of that Act—

"(A) shall be fined in accordance with this title, imprisoned not more than 1 year, or both; but

"(B) if previously convicted under this paragraph at the time of a subsequent offense, shall be fined in accordance with this title, imprisoned not more than 5 years, or both, for such subsequent offense.".

"(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding at the end thereof the following:

"2328. Slamming".

"(e) STATE RIGHT-OF-ACTION.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258), as amended by subsection (c), is amended by adding at the end thereof the following:

"(i) ACTION BY STATES.—

"(1) IN GENERAL.—The attorney general of a State, or an official or agency designated by a State—

"(A) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d)(3);

"(B) may bring a criminal action to enforce this section under section 2328 of title 18, United States Code; and

"(C) may bring an action for the assessment of civil penalties under subsection (f), and for purposes of such an action, subsections (d)(3) and (f)(1) shall be applied by substituting "the court" for "the Commission".

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all actions brought under this section. When a State brings an action under this section, the court in which the action is brought has pendant jurisdiction of any claim brought under the law of that State. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the subscriber or defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(j) STATE LAW NOT PREEMPTED.—

"(1) IN GENERAL.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive requirements, regulations, damages, costs, or penalties on changes in a subscriber's service or selection of a provider of telephone exchange service or telephone toll services than are imposed under this section.

"(2) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State not preempted by this section.

"(3) LIMITATIONS.—Whenever a complaint is pending before the Commission involving a violation of regulations prescribed under this section, no State may, during the pendency of such complaint, institute a civil action against any defendant party to the complaint for any violation affecting the same subscriber alleged in the complaint.

"(k) REPORTS ON COMPLAINTS.—

"(1) REPORTS REQUIRED.—Each telecommunications carrier or reseller shall submit to the Commission, quarterly, a report on the number of complaints of unauthorized changes in providers of telephone exchange service or telephone toll service that are submitted to the carrier or reseller by its subscribers. Each report shall specify each provider of service complained of and the number of complaints relating to such provider.

"(2) LIMITATION ON SCOPE.—The Commission may not require any information in a report under paragraph (1) other than the information specified in the second sentence of that paragraph.

"(3) UTILIZATION.—The Commission shall use the information submitted in reports under paragraph (1) to identify telecommunications carriers or resellers that engage in patterns and practices of unauthorized changes in providers of telephone exchange service or telephone toll service.

"(l) DEFINITIONS.—For purposes of this section—

"(1) ATTORNEY GENERAL.—The term 'attorney general' means the chief legal officer of a State.

"(2) SUBSCRIBER.—The term 'subscriber' means the person named on the billing statement or account, or any other person authorized to make changes in the providers of telephone exchange service or telephone toll service.".

(f) REPORT ON CARRIERS EXECUTING UNAUTHORIZED CHANGES OR TELEPHONE SERVICE.—

(1) REPORT.—Not later than October 31, 1998, the Federal Communications Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service.

(2) ELEMENTS.—The report shall include the following:

(A) A list of the 10 telecommunications carriers or resellers that, during the 1-year period ending on the date of the report, were

subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers or resellers.

(B) The telecommunications carriers or resellers, if any, assessed forfeitures under section 258(f) of the Communications Act of 1934 (as added by subsection (d)), during that period, including the amount of each such forfeiture and whether the forfeiture was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

SEC. 102. ADDITIONAL ENFORCEMENT AUTHORITY.

Section 504 of the Communications Act of 1934 (47 U.S.C. 504) is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, the failure of a person to pay a forfeiture imposed for violation of section 258(a) may be used as a basis for revoking, denying, or limiting that person's operating authority under section 214 or 312.".

SEC. 103. OBLIGATIONS OF BILLING AGENTS.

(a) IN GENERAL.—Part I of title II of the Communications Act 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

"SEC. 231. OBLIGATIONS OF TELEPHONE BILLING AGENTS.

"(a) IN GENERAL.—A billing agent, including a telecommunications carrier or reseller, who issues a bill for telephone exchange service or telephone toll service to a subscriber shall

"(1) state on the bill—

"(A) the name and toll-free telephone number of any telecommunications carrier or reseller for the subscriber's telephone exchange service and telephone toll service;

"(B) the identity of the presubscribed carrier or reseller; and

"(C) the charges associated with each carrier's or reseller's provision of telecommunications service during the billing period;

"(2) for services other than those described in paragraph (1), state on a separate page—

"(A) the name of any company whose charges are reflected on the subscriber's bill;

"(B) the services for which the subscriber is being charged by that company;

"(C) the charges associated with that company's provision of service during the billing period;

"(D) the toll-free telephone number that the subscriber may call to dispute that company's charges; and

"(E) that disputes about that company's charges will not result in disruption of telephone exchange service or telephone toll service; and

"(3) show the mailing address of any telecommunications carrier or reseller or other company whose charges are reflected on the bill.

"(b) KNOWING INCLUSION OF UNAUTHORIZED OR IMPROPER CHARGES PROHIBITED.—A billing agent may not submit charges for telecommunications services or other services to a subscriber if the billing agent knows, or should know, that the subscriber did not authorize the charges or that the charges are otherwise improper.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to bills to subscribers for telecommunications services sent to subscribers more than 60 days after the date of enactment of this Act.

SEC. 104. FCC JURISDICTION OVER BILLING SERVICE PROVIDERS.

Part III of title II of the Communications Act of 1934 (47 U.S.C. 271 et seq.) is amended by adding at the end thereof the following:

"SEC. 277. JURISDICTION OVER BILLING SERVICE PROVIDERS.

"The Commission has jurisdiction to assess and recover any penalty imposed under title V of this Act against an entity not a telecommunications carrier or reseller to the extent that entity provides billing services for the provision of telecommunications services, or for services other than telecommunications services that appear on a subscriber's telephone bill for telecommunications services, but the Commission may assess and recover such penalties only if that entity knowingly or willfully violates the provisions of this Act or any rule or order of the Commission.".

SEC. 105. REPORT; STUDY.

(a) IN GENERAL.—The Federal Communications Commission shall issue a report within 180 days after the date of enactment of this Act on the telemarketing and other solicitation practices used by telecommunications carriers or resellers or their agents or employees for the purpose of changing the telephone exchange service or telephone toll service provider of a subscriber.

(b) SPECIFIC ISSUES.—As part of the report required under subsection (a), the Commission shall include findings on—

(1) the extent to which imposing penalties on telemarketers would deter unauthorized changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service;

(2) the need for rules requiring third-party verification of changes in a subscriber's selection of such a provider and independent third party administration of presubscribed interexchange carrier changes; and

(3) whether wireless carriers should continue to be exempt from the requirements imposed by section 258 of the Communications Act of 1934 (47 U.S.C. 258).

(c) RULEMAKING.—If the Commission determines that particular telemarketing or other solicitation practices are being used with the intention to mislead, deceive, or confuse subscribers and that they are likely to mislead, deceive, or confuse subscribers, then the Commission shall initiate a rulemaking to prohibit the use of such practices within 120 days after the completion of its report.

SEC. 106. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703 (c)(1)(B) of title 18, United States Code, is amended by—

(1) by striking "or" at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting "; or"; and

(3) adding at the end the following:

"(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

TITLE II—SWITCHLESS RESELLERS

SEC. 201. REQUIREMENT FOR SURETY BONDS FROM TELECOMMUNICATIONS CARRIERS OPERATING AS SWITCHLESS RESELLERS.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following: , as amended by section 103 of this Act,

"SEC. 232. SURETY BONDS FROM TELECOMMUNICATIONS CARRIERS OPERATING AS SWITCHLESS RESELLERS.

"(a) REQUIREMENT.—Under such regulations as the Commission shall prescribe, any telecommunications carrier operating or seeking to operate as a switchless reseller shall furnish to the Commission a surety bond in a form and an amount determined by the Commission to be satisfactory for purposes of this section.

"(b) SURETY.—A surety bond furnished pursuant to this section shall be issued by a surety corporation that meets the requirements of section 9304 of title 31, United States Code.

"(c) CLAIMS AGAINST BOND.—A surety bond furnished under this section shall be available to pay the following:

"(1) Any fine or penalty imposed against the carrier concerned while operating as a switchless reseller as a result of a violation of the provisions of section 258 (relating to unauthorized changes in subscriber selections to telecommunications carriers).

"(2) Any penalty imposed against the carrier under this section.

"(3) Any other fine or penalty, including a forfeiture penalty, imposed against the carrier under this Act.

"(d) RESIDENT AGENT.—A telecommunications carrier operating as a switchless reseller that is not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"(e) PENALTIES.—

"(1) SUSPENSION.—The Commission may suspend the right of any telecommunications carrier to operate as a switchless reseller—

"(A) for failure to furnish or maintain the surety bond required by subsection (a);

"(B) for failure to designate an agent as required by subsection (d); or

"(C) for a violation of section 258 while operating as a switchless reseller.

"(2) ADDITIONAL PENALTIES.—In addition to suspension under paragraph (1), any telecommunications carrier operating as a switchless reseller that fails to furnish or maintain a surety body under this section shall be subject to any forfeiture provided for under sections 503 and 504.

"(f) BILLING SERVICES FOR UNBONDED SWITCHLESS RESELLERS.—

"(1) PROHIBITION.—No common carrier or billing agent may provide billing services for any services provided by a switchless reseller unless the switchless reseller—

"(A) has furnished the bond required by subsection (a); and

"(B) in the case of a switchless reseller not domiciled in the United States, has designated an agent under section (d).

"(2) PENALTY.—

"(A) PENALTY.—Any common carrier or billing agent that knowingly and willfully provides billing services to a switchless reseller in violation of paragraph (1) shall be liable to the United States for a civil penalty not to exceed $50,000.

"(B) APPLICABILITY.—For purposes of subparagraph (A), the provision of services to any particular reseller in violation of paragraph (1) shall constitute a separate violation of that paragraph.

"(3) COMMISSION AUTHORITY TO ASSESS AND COLLECT PENALTIES.—The Commission shall have the authority to assess and collect any penalty provided for under this subsection upon a finding by the Commission of a violation of paragraph (1).

"(g) RETURN OF BONDS.—

"(1) REVIEW.—

"(A) IN GENERAL.—The Commission may from time to time review the activities of a telecommunications carrier that has furnished a surety bond under this section for purposes of determining whether or not to retain the bond under this section.

"(B) STANDARDS OF REVIEW.—The Commission shall prescribe any standards applicable to its review of activities under this paragraph.

"(C) FIRST REVIEW.—The Commission may not first review the activities of a carrier under subparagraph (A) before the date that is 3 years after the date on which the carrier furnishes the bond concerned under this section.

"(2) RETURN.—The Commission may return a surety bond as a result of a review under this subsection.

"(h) DEFINITIONS.—In this section:

"(1) BILLING AGENT.—The term 'billing agent' means any entity (other than a telecommunications carrier) that provides billing services for services provided by a telecommunications carrier, or other services, if charges for such services appear on the bill of a subscriber for telecommunications services.

"(2) SWITCHLESS RESELLER.—The term 'switchless reseller' means a telecommunications carrier that resells the switched telecommunications service of another telecommunications carrier without the use of any switching facilities under its own ownership or control.

"(i) DETARIFFING AUTHORITY NOT IMPAIRED.—Nothing in this section is intended to prohibit the Commission from adopting rules providing for the permissive detariffing of long-distance telephone companies, if the Commission determines that such permissive detariffing would otherwise serve the public interest, convenience, and necessity.".

TITLE III—SPAMMING

SEC. 301. REQUIREMENTS RELATING TO TRANSMISSIONS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) INFORMATION TO BE INCLUDED IN TRANSMISSIONS.—

(1) IN GENERAL.—A person who transmits an unsolicited commercial electronic mail message shall cause to appear in each such electronic mail message the information specified in paragraph (2).

(2) COVERED INFORMATION.—The following information shall appear at the beginning of the body of an unsolicited commercial electronic mail message under paragraph (1):

(A) The name, physical address, electronic mail address, and telephone number of the person who initiates transmission of the message.

(B) The name, physical address, electronic mail address, and telephone number of the person who created the content of the message, if different from the information under subparagraph (A).

(C) A statement that further transmissions of unsolicited commercial electronic mail to the recipient by the person who initiates transmission of the message may be stopped at no cost to the recipient by sending a reply to the originating electronic mail address with the word "remove" in the subject line.

(b) ROUTING INFORMATION.—All Internet routing information contained within or accompanying an electronic mail message described in subsection (a) must be accurate, valid according to the prevailing standards for Internet protocols, and accurately reflect message routing.

(c) EFFECTIVE DATE.—The requirements in this section shall take effect 30 days after the date of enactment of this Act.

SEC. 302. FEDERAL OVERSIGHT OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) TRANSMISSIONS.—

(1) IN GENERAL.—Upon notice from a person of the person's receipt of electronic mail in violation of a provision of section 301 or 305, the Commission—

(A) may conduct an investigation to determine whether or not the electronic mail was transmitted in violation of such provision; and

(B) if the Commission determines that the electronic mail was transmitted in violation of such provision, may—

(i) impose upon the person initiating the transmission a civil fine in an amount not to exceed $15,000;

(ii) commence in a district court of the United States a civil action to recover a civil penalty in an amount not to exceed $15,000 against the person initiating the transmission;

(iii) commence an action in a district court of the United States a civil action to seek injunctive relief; or

(iv) proceed under any combination of the authorities set forth in clauses (i), (ii), and (iii).

(2) DEADLINE.—The Commission may not take action under paragraph (1)(B) with respect to a transmission of electronic mail more than 2 years after the date of the transmission.

(b) ADMINISTRATION.—

(1) NOTICE BY ELECTRONIC MEANS.—The Commission shall establish an Internet web site with an electronic mail address for the receipt of notices under subsection (a).

(2) INFORMATION ON ENFORCEMENT.—The Commission shall make available through the Internet web site established under paragraph (1) information on the actions taken by the Commission under subsection (a)(1)(B).

(3) ASSISTANCE OF OTHER FEDERAL AGENCIES.—Other Federal agencies may assist the Commission in carrying out its duties under this section.

SEC. 303. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever the attorney general of a State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected because any person is engaging in a pattern or practice of the transmission of electronic mail in violation of a provision of section 301 or 305, the State, as parens patriae, may bring a civil action on behalf of its residents to enjoin such transmission, to enforce compliance with such provision, to obtain damages or other compensation on behalf of its residents, or to obtain such further and other relief as the court considers appropriate.

(b) NOTICE TO COMMISSION.—

(1) NOTICE.—The State shall serve prior written notice of any civil action under this section on the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve written notice immediately on instituting such action.

(2) RIGHTS OF COMMISSION.—On receiving a notice with respect to a civil action under paragraph (1), the Commission shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard in all matters arising therein; and

(C) to file petitions for appeal.

(c) ACTIONS BY COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of a provision of section 301 or 305, no State may, during the pendency of such action, institute a civil action under this section against any defendant named in the complaint in such action for violation of any provision as alleged in the complaint.

(d) CONSTRUCTION.—For purposes of bringing a civil action under subsection (a), nothing in this section shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of the State concerned to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary or other evidence.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) ACTIONS BY OTHER STATE OFFICIALS.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of the State concerned.

(g) DEFINITIONS.—In this section:

(1) ATTORNEY GENERAL.—The term "attorney general" means the chief legal officer of a State.

(2) STATE.—The term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marina Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and any possession of the United States.

SEC. 304. INTERACTIVE COMPUTER SERVICE PROVIDERS

(a) EXEMPTION FOR CERTAIN TRANSMISSIONS.—

(1) EXEMPTION.—Sections 301 or 305 shall not apply to a transmission of electronic mail by an interactive computer service provider unless—

(A) the provider initiates the transmission; or

(B) the transmission is not made to its own customers.

(2) CONSTRUCTION.—Nothing in this subsection may be construed to require an interactive computer service provider to transmit or otherwise deliver any electronic mail message.

(b) ACTIONS BY INTERACTIVE COMPUTER SERVICE PROVIDERS.—

(1) IN GENERAL.—In addition to any other remedies available under any other provision of law, any interactive computer service provider adversely affected by a violation of a provision of section 301 or 305 may, within 1 year after discovery of the violation, bring a civil action in a district court of the United States against a person who violates such provision. Such an action may be brought to enjoin the violation, to enforce compliance with such provision, to obtain damages, or to obtain such further and other relief as the court considers appropriate.

(2) DAMAGES.—

(A) IN GENERAL.—The amount of damages in an action under this subsection for a violation specified in paragraph (1) may not exceed $15,000 per violation.

(B) RELATIONSHIP TO OTHER DAMAGES.—Damages awarded for a violation under this subsection are in addition to any other damages awardable for the violation under any other provision of law.

(C) COST AND FEES.—The court may, in issuing any final order in any action brought under paragraph (1), award costs of suit, reasonable costs of obtaining services of process, reasonable attorney fees, and expert witness fees for the prevailing party.

(3) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant or in which the interactive computer service provider is located, is an inhabitant, or transacts business or wherever venue is proper under section 1391 or title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(c) INTERACTIVE COMPUTER SERVICE PROVIDER DEFINED.—In this section, the term "interactive computer service provider" has the meaning given the term "interactive computer service" in section 230(e)(2) of the Communications Act of 1934 (47 U.S.C. 230(e)(2)).

SEC. 305. RECEIPT OF TRANSMISSIONS BY PRIVATE PERSONS.

(a) TERMINATION OF TRANSMISSIONS.—A person who receives from any other person an electronic mail message requesting the termination of further transmission of commercial electronic mail shall cease the initiation of further transmissions of such mail to the person making the request.

(b) AFFIRMATIVE AUTHORIZATION OF TRANSMISSION.—

(1) IN GENERAL.—Subject to paragraph (2), a person may authorize another person to initiate transmissions of unsolicited commercial electronic mail to the person.

(2) AVAILABILITY OF TERMINATION.—A person initiating transmissions of electronic mail under paragraph (1) shall include, with each transmission of such mail to a person authorizing the transmission under that paragraph, the information specified in section 301(a)(2)(C).

(c) CONSTRUCTIVE AUTHORIZATION OF TRANSMISSIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a person who secures a good or service from, or otherwise responds electronically to, an offer in a transmission of unsolicited commercial electronic mail shall be deemed to have authorized the initiation of transmissions of unsolicited commercial electronic mail from the person who initiated the transmission.

(2) NO AUTHORIZATION FOR REQUESTS FOR TERMINATION.—An electronic mail request to cease the initiation of further transmissions of electronic mail under subsection (a) shall not constitute authorization for the initiation of further electronic mail under this subsection.

(3) AVAILABILITY OF TERMINATION.—A person initiating transmissions of electronic mail under paragraph (1) shall include, with each transmission of such mail to a person deemed to have authorized the transmission under that paragraph, the information specified in section 301(a)(2)(C).

(d) EFFECTIVE DATE OF TERMINATION REQUIREMENTS.—Subsections (a), (b)(2), and (c)(3) shall take effect 30 days after the date of enactment of this Act.

SEC. 306. DEFINITIONS.

In this title.

(1) COMMERCIAL ELECTRONIC MAIL.—The term "commercial electronic mail" means any electronic mail that—

(A) contains an advertisement for the sale of a product or service;

(B) contains a solicitation for the use of a telephone number, the use of which connects the user to a person or service that advertises the sale of or sells a product or service; or

(C) promotes the use of or contains a list of one or more Internet sites that contain an advertisement referred to in subparagraph (A) or a solicitation referred to in subparagraph (B).

(2) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(3) The term "initiate the transmission" in the case of an electronic mail message means to originate the electronic mail message, and does not encompass any intervening interactive computer service whose facilities may have been used to relay, handle, or otherwise retransmit the electronic mail message, unless the intervening interactive computer service provider knowingly and intentionally retransmits, any electronic mail in violation of section 301 or 305.

FEINGOLD AMENDMENT NO. 2390

Mr. MCCAIN (for Mr. FEINGOLD) proposed an amendment to the bill, S. 1618, supar; as follows:

At the appropriate place, insert the following:

SEC. ___. ENFORCEMENT OF REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), a State or local government may enforce the following regulations of the Commission under this section:

"(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

"(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

"(2) Possession of a station license issued by the Commission pursuant to section 301 in any radio service for the operation at issue shall preclude action by a State or local government under this subsection.

"(3) The Commission shall provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

"(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government enforcing a regulation under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, acted outside the authority provided in this subsection.

"(B) A person shall submit an appeal on a decision of a State or local government to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government becomes final.

"(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

"(D) If the Commission determines under subparagraph (C) that a State or local government has acted outside its authority in enforcing a regulation, the Commission shall reverse the decision enforcing the regulation.

"(5) The enforcement of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

"(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.".

FEINSTEIN AMENDMENT NO. 2391

Mr. DORGAN (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 1618, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATION OF EXCEPTION TO PROHIBITION ON INTERCEPTION OF COMMUNICATIONS.

(a) MODIFICATION.—Section 2511(2)(d) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, it shall not be unlawful under this chapter for a person not acting under the color of law to intercept a wire, oral, or electronic communication between a health insurance issuer or health plan and a subscriber of such issuer or plan, or between a health care provider and a patient, only if all of the parties to the communication have given prior express consent to such interception. For purposes of the preceding sentence, the term 'health insurance issuer' has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), the term 'health plan' means a group health plan, as defined in such section of such Act, an individual or self-insured health plan, the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.), the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.), and the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, and the term 'health care provider' means a physician or other health care professional.".

(b) RECORDING AND MONITORING OF COMMUNICATIONS WITH HEALTH INSURERS.—

(1) COMMUNICATION WITHOUT RECORDING OR MONITORING.—Notwithstanding any other provision of law, a health insurance issuer, health plan, or health care provider that notifies any customer of its intent to record or monitor any communication with such customer shall provide the customer the option to conduct the communication without being recorded or monitored by the health insurance issuer, health plan, or health care provider.

(2) DEFINITIONS.—In this subsection:

(A) HEALTH CARE PROVIDER.—The term "health care provider" means a physician or other health care professional.

(B) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b).

(C) HEALTH PLAN.—The term "health plan" means—

(i) a group health plan, as defined in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b);

(ii) an individual or self-insured health plan;

(iii) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(iv) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(v) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.); and

(vi) the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, United States Code.

ROCKEFELLER AMENDMENT NO. 2392

Mr. DORGAN (for Mr. ROCKEFELLER) proposed an amendment to the bill, S. 1618, supra; as follows:

At the appropriate place, insert the following:

SEC. . CONSUMER TRUTH IN BILLING DISCLOSURE ACT.

(a) FINDINGS.—Congress makes the following findings—

(1) Billing practices by telecommunications carriers may not reflect accurately the cost or basis of the additional telecommunications services and benefits that consumers receive as a result of the enactment the Telecommunications Act of 1996 (Public Law 104–104) and other Federal regulatory actions taken since the enactment of that Act.

(2) The Telecommunications Act of 1996 was not intended to allow providers of telecommunications services to misrepresent to customers the costs of providing services or the services provided.

(3) Certain providers of telecommunications services have established new, specific charges on customer bills commonly known as "line-item charges".

(4) Certain providers of telecommunications services have described such charges as "Federal Universal Service Fees" or similar fees.

(5) Such charges have generated significant confusion among customers regarding the nature of and scope of universal service and of the fees associated with universal service.

(6) The State of New York is considering action to protect consumers by requiring telecommunications carriers to disclose fully in the bills of all classes of customers the fee increases and fee reductions resulting from the enactment of the Telecommunications Act of 1996 and other regulatory actions taken since the enactment of that Act.

(7) The National Association of Regulatory Utility Commissioners adopted a resolution in February 1998 supporting action by the Federal Communications Commission and the Federal Trade Commission to protect consumers of telecommunications services by assuring accurate cost reporting and billing practices by telecommunications carriers nationwide.

(b) REQUIREMENTS.—Any telecommunications carrier that includes any change resulting from Federal regulatory action shall specify in such bill—

(1) the reduction in charges or fees for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers) resulting from any regulatory action of the Federal Communications Commission;

(2) total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers);

(3) notify consumers one billing cycle in advance of any charges in existing charges or imposition of new charges; and

(4) disclose, upon subscription, total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including residential basic service, customers of other residential service, small business customers, and other business customers).

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

BROWNBACK AMENDMENT NO. 2393

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

Strike out section 527, and insert in lieu thereof the following:

SEC. 527. REQUIREMENTS RELATING TO RECRUIT BASIC TRAINING.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Army shall require that access by drill sergeants and other training personnel to a barracks floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate housing and privacy for male and female recruits.".

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.
"6931. Recruit basic training: separate housing and privacy for male and female recruits.

"§ 6931. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a barracks floor on which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally ..... 6931".

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a dormitory floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate housing and privacy for male and female recruits.".

(d) IMPLEMENTATION.—(1) The Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force shall implement section 4319, 6931, or 9319, respectively, of title 10, United States Code (as added by this section), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(2)(A) If the Secretary of the military department concerned determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with the requirement for separate housing at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of the requirement with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with the requirement for separate housing.

(B) If the Secretary of a military department grants a waiver under subparagraph (A) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

(3) In this subsection:

(A) The term "requirement for separate housing" means—

(i) with respect to the Army, the requirement set forth in section 4319(a) of title 10, United States Code, as added by subsection (a);

(ii) with respect to the Navy and the Marine Corps, the requirement set forth in section 6931(a) of such title, as added by subsection (b); and

(iii) with respect to the Air Force, the requirement set forth in section 9319(a) of such title, as added by subsection (c).

(B) The term "basic training" means the initial entry training program of an armed force that constitutes the basic training of new recruits.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Thursday, May 14, 1998 at 9:00 a.m. in SR–328A. The purpose of this meeting will be to examine the year 2000 computer problem compliance of the U.S. Department of Agriculture, Commodity Futures Trading Commission and Farm Credit Administration.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 12, 11998, at 2:00 p.m. to hold a hearing.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, May 12, 1998 at 9:30 a.m. on Indian gaming, focusing on lands taken into trust for purposes of gaming. The hearing will be held in room 106 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, May 12, 1998 at 10:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on "Raising Tobacco Prices: the Consequences."

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

ADDITIONAL STATEMENTS

A CRITICAL TIME IN THE MIDDLE EAST PEACE PROCESS

• Mr. WELLSTONE. Mr. President, as a long-time strong supporter of Israel and her security, and a fierce advocate of the Middle East peace process, I want to commend President Clinton, Secretary Albright, Ambassador Ross and Assistant Secretary Indyk for their ongoing efforts to preserve, and even reinvigorate, the stalled peace process. I was encouraged to read this morning that President Clinton has asked Secretary Albright to forgo the G–7 meeting in Germany in order to meet with Prime Minister Netanyahu while he is here this week in the United States.

While they have come under fire recently, as a Member of the Foreign Relations Committee who has for years followed closely the peace process, I believe they should be supported in their efforts to help forge a just and lasting peace for the region by helping the parties to move forward urgently on the Israeli-Palestinian track.

About a month ago 81 Senators joined in a letter to President Clinton expressing concern about the Administration's ideas for the next phase of redeployment being made public, about certain of Israel's security concerns, and about final status talks. I did not sign that letter, in part because I believe the Administration should be commended, not criticized, for sticking with this process at a critical time, and for its willingness to press for Israel's legitimate security concerns while recognizing the legitimate claims of the Palestinians.

I have watched with growing concern over the past week or so as some critics of the Administration's policy toward Israel here in Congress have launched fierce, often partisan, attacks on that policy. The Speaker, late last week, was even quoted as saying, in a press conference in which he criticized the Administration's recent handling of the peace process, that "America's strong-arm tactics would send a clear signal to the supporters of terrorism that their murderous actions are an effective tool in forcing concessions from Israel."

That is, simply put, Mr. President, a scandalous and demagogic accusation to level at the President, who has been engaged for over a year, along with his senior foreign policy advisors, in a vigorous effort to bring the two sides together at a critical time in the peace process, and to help bridge the gaps that exist between them by offering constructive, creative ideas for each to consider. I understand that this proposal was crafted over many months, and was designed to address many of the Israeli government's most pressing security concerns and to meet many of its criteria for evaluating real progress on these issues.

The President has repeatedly made clear that he is not trying to impose a solution on the parties, nor could he. And that he is not issuing ultimatums to anyone—as further evidenced by his willingness to have Secretary Albright reach out again to Mr. Netanyahu this week. After months of on-and-off negotiations, with U.S. envoys shuttling back and forth among the parties, the major points of disagreement have become clear, and President Clinton is now simply offering ideas for them to consider—an approach consistent with America's role at virtually every other critical point in the Middle East peace process over the years. At Camp David, in Madrid, and at subsequent major negotiations, American attempts to bridge the gaps between the parties have played a critical role in reaching final agreement. I have talked with senior American officials involved in the discussions, and remain hopeful that a final agreement will soon be reached. The parties must not miss this key opportunity to move forward in the peace process.

Over the weekend Mr. Netanyahu rejected the Administration's offer, which Mr. Arafat had accepted, to come to Washington this week for a summit to agree on terms for a further withdrawal from the West Bank, and to agree to accelerate final status talks provided for in the Oslo Agreement. I understand from news reports that alternative proposals are now being considered by the Israeli government for a 13 percent withdrawal which could happen in two stages—a substantial withdrawal immediately, followed by an additional 2–4 percent withdrawal once Mr. Arafat makes good on certain tough new security commitments he has reportedly agreed to make as a part of the overall agreement.

I understand these new arrangements include the kind of strong new Palestinian commitments to fight terrorism which the Israeli government has long been seeking, strengthening the terms of the Memorandum of Understanding negotiated at the end of last year, and providing for a test period before this phase of withdrawal is completed. That is a major victory for Israel, and should help to address legitimate Israeli concerns about the Palestinian Authority's commitment to fighting terrorism.

Now I am not an expert, and I acknowledge that I do not know all the details of the various land parcels that are being discussed. But it is clear that on the issue of land, some progress is possible. Let us not forget that the Palestinians had originally sought a 30 percent withdrawal from the West Bank, as the first in a 3-phase withdrawal to which Israel agreed—though the timing and extent of each withdrawal were not explicitly established. So the Palestinians had sought a 30 percent withdrawal, the Israelis offered just under ten percent, and the Administration has been pressing for a compromise of 13 percent. Mr. Netanyahu has reportedly now privately agreed to a withdrawal of about 11 percent.

I understand that Mr. Arafat has also agreed, as a condition for attending a Washington summit meeting with President Clinton and Mr. Arafat, to allow the next redeployment to be considered alongside final status talks, by a joint Palestinian-Israeli Committee,

operating on a parallel track. The American proposal also reportedly contemplates greater flexibility on the Oslo timetable, which had been set to conclude by May 4, 1999. Each of these changes would be significant achievements for Israeli negotiators.

Let me make four points about this situation, Mr. President. First, despite all of the recent (frequently partisan) criticism of the Administration, recent polls both here and in Israel show substantial support for further progress in the peace process. And this includes polls of Jewish Americans, of which I am proud to be one. Indeed, I read about a poll last week which noted that a substantial majority of Jewish Americans polled agreed that the U.S. in this process was doing just what we should be doing—offering ideas, facilitating discussions, working with the parties on alternative formulations which could meet all of their legitimate security and other interests.

Second, let me remind my colleagues, especially those who have offered such fierce criticism of the Administration's efforts in recent days, of the need for a sense of proportion. Let me point out that the Administration is not threatening, as the Bush Administration did with settlement assistance, to cut off any kind of aid to Israel in this dispute. It is simply playing the role mediators should play in offering creative ideas, and allowing the parties to make their own decision about whether those ideas are acceptable to them.

Third, let me commend the Administration on remaining engaged in the peace process, a process for which many Israelis—including most recently Prime Minister Rabin—have given their lives. President Clinton has been a strong friend of Israel, and the Administration is right to press the parties to come to a final agreement, to offer solutions which can bridge gaps, to ensure that proposals are on the table from a neutral mediator which one side could perhaps not accept from their adversary, but could accept from a third party.

The administration has done so, I believe, because it knows that the success of these efforts is crucial to fulfilling longstanding American commitments to preserve the peace process, ensure Israel's security, enhance regional stability, and protect U.S. interests in the Middle East. Most urgently, the President recognizes that without a peaceful permanent resolution of the Israeli-Palestinian conflict, Israel's security—clearly a vital U.S. interest—can never be guaranteed. Let us not forget one thing in all of this, Mr. President: peace is the ultimate guarantor of Israel's security.

Finally, let me ask my colleagues to contemplate what could happen if the Administration did not press to preserve this process, and it collapsed—as it almost surely would without such intervention. An alternative scenario, with the peace process in a shambles—an escalation in terrorist attacks, Israel facing newly hostile Arab neighbors on all sides, and increased pressure from the Arab street for violent action against her—is frightening to consider.

Some here in Washington act as if the Israeli-Palestinian stalemate of the past fifteen months does not pose dangers for all sides. I think they are wrong. It poses very grave dangers to Israel, to the Palestinians, and to the whole region. That's why the President's approach of urging the parties to uphold their commitments, facilitating ongoing contacts and negotiations, helping each side understand the other's legitimate security and other needs, and presenting creative ideas intended to help bridge gaps between the parties, makes sense.

Senator FEINSTEIN observed on the floor last week that the Administration's attempts to facilitate an agreement between the parties efforts were "principled, worthy efforts . . . grounded in a deep commitment to Israel's security." I agree with that assessment, and join her, Senator LAUTENBERG, and others in calling for restraint by my colleagues who have unfairly criticized the Administration during this difficult and sensitive time in the peace process. Of course, offering principled, thoughtful critiques of Administration foreign policy-making is a legitimate role of Congress, an important aspect of our system of checks and balances. But it is a right accompanied by a responsibility to be fair and informed.

Mr. President, the recent crisis in the peace negotiations coincides with Israel's celebration of her 50-year jubilee, an occasion of great joy for all of us who love Israel. With the founding of modern Israel, the Children of Abraham and Sara, survivors of over 2000 years of persecution and exile, were home at last and free at last. But Israel's founder David Ben-Gurion's dream, and that of his allies, was not simply to provide a safe haven from centuries of Jewish suffering. It was also about fulfilling Isaiah's prophecy of making Israel "a light unto the nations," a powerful sign and symbol of justice and compassion to all peoples of the world.

Although it's fitting that we pause this year to celebrate all that the people of Israel have accomplished over these past 50 years, we must also look forward to the tasks which face her in the next millennium, chief among them the task of building a just, secure and lasting peace. It is my deepest prayer that our children and grandchildren, fifty years from this year, will be able to say with gratitude that we were the generation which overcame ancient hatreds, and enabled them to achieve a just and lasting peace which has by then embraced the entire region and all its peoples. That is a vision worthy of Israel's founder, and of all those who come after. It is a vision for which we should and must be willing to struggle, to fight for, for which all must continue to take risks.

Prime Minister Netanyahu is coming to the U.S. this week, and will be meeting with Secretary Albright. I have heard from sources both in the Administration and in Israel that the Israeli government is actually close to reaching internal agreement on a variation of the Administration's proposed plan. I hope that is true, and that all the parties will reassess their positions in light of recent developments, and agree this week to take one more important step toward resolving this longstanding and bitter dispute, thereby helping to forge a just and lasting peace for the region worthy of Israel's founders' dream.•

CREDIT UNION MEMBERSHIP

• Mr. ABRAHAM. Mr. President, I rise to support legislation protecting the 70 million Americans who belong to credit unions from being stripped of their financial security and to allow tens of millions of others, who currently are denied access to a credit union, to become members.

One of the most important financial assets our country has, Mr. President, is our extensive system of not-for-profit, community-based credit unions. Credit unions provide unique and valuable services to members, most of whom work for small businesses. Credit unions offer their members lower costs, higher returns, lower loan rates and greater convenience. They nonetheless provide important benefits to their members and crucial competition in the financial services marketplace.

But credit unions have been put in significant danger by a recent Supreme Court decision. That Court ruled that attempts by the National Credit Union Administration during the Reagan Administration to more broadly interpret the 1982 "common bond" requirement for membership are beyond the scope of original intent.

The Court's interpretation of this requirement could result in over 10 million Americans being forced out of their credit unions. It also means that small businesses with fewer than 500 employees—the engine of economic growth in this country—are barred from offering credit union memberships to their employees.

Clearly, in the wake of the Court's ruling, the laws pertaining to credit union membership must be modified. Credit Unions have a proud history of providing important benefits without cost to either businesses or taxpayers. In Michigan alone 4 million people avail themselves of these benefits, and they should be protected against unfair

limitations on credit union membership. What is more, the growth of credit unions in America has coincided with a significant expansion of earnings for community bankers, another crucial financial services asset for our people and our economy. As reported by the ABA Banking Journal's Annual Community Banking Earnings Report, the vast majority of community bankers believe that earnings will continue expanding, seeing no threat from credit union expansion.

There is no reason, in my view, to see credit union expansion as anything but a significant benefit for our people and our economy. That is why I am supporting legislation authored by Senator D'AMATO, modelled after H.R. 1151, legislation that already has passed the House. This legislation will grant credit unions authority to add Select Employee Groups of 3,000 or less to their membership.

This legislation also sets a moderate cap on commercial loans in the interest of fairness and consensus. In my opinion, such a requirement was necessary to respond to some of the concerns raised in response to extended membership.

The critical issue, Mr. President, is whether we are going to allow credit unions to continue to provide important services at reasonable cost to a vast and growing number of Americans, or impose new regulatory burdens on one of our economy's most important assets. I believe it is crucial that we save credit unions from undue limitations, and that this legislation will achieve that goal without harming any other industry. I urge my colleagues to support this legislation.●

FIFTH CLASS OF INDUCTEES INTO THE CONNECTICUT WOMEN'S HALL OF FAME

● Mr. DODD. Mr. President, I rise today to congratulate the fifth class of inductees into the Connecticut Women's Hall of Fame. These 5 women gained recognition in fields of nature, justice, the arts, and finance and represent the best of my state and of our nation.

I want to take this opportunity to speak about each of this year's inductees.

Dorrit Hoffleit, a resident of New Haven, Connecticut, has established herself as a premiere astronomer through her work as senior researcher at Yale University. For over seventy years she has studied astronomy and has received an undergraduate degree from Radcliffe in mathematics and a doctorate from Harvard. Her interest in stars began early in her childhood when she saw two stars collide.

During World War II, Professor Hoffleit worked as a mathematician at the Ballistic Research Laboratories at the Aberdeen Proving Ground in Maryland. It is here that she felt the effects of being a female in a male-dominated field. She was paid less for doing the same work as her male colleagues. In fact, despite her doctorate she still received a sub-professional ranking. However, she protested this treatment and as a result was given her due rank and ultimately transferred to Washington.

In 1956, she went on to direct the Maria Mitchell Observatory in Nantucket, Mass. Her work there helped to provide women with more substantial opportunities in astronomy. An indication of her success is that twenty-five percent of the students who worked with Professor Hoffleit have gone on to become professional astronomers.

As a member of the Yale research faculty, Professor Hoffleit has made immense academic contributions to her field. She is most renowned for her two star catalogs. Her most well known catalog, The Bright Star Catalogue, has been defined as "the bible of virtually every stellar astronomer."

Despite retiring from Yale over twenty years ago, Professor Hoffleit continues to go to work every day. In these past twenty years, she has not drawn a salary. She is dedicated to educating her colleagues and future astronomers, rather than promoting herself and her career. As a result of her profound selflessness and service, the effects of her efforts will be as limitless as the stars she has spent a lifetime studying.

A second inductee is Judge Constance Baker Motley. Born in New Haven, Connecticut, Judge Motley first became interested in civil rights after being denied admission into a local public beach and skating rink.

After graduating from high school, she was unable to afford college, so she worked for $50 a month refinishing furniture. She continued to be active and to voice her beliefs, despite her inability to further her education. A local philanthropist, Clarence Blakeslee, heard her speak at the Youth Council in 1939, and he was so impressed with her that he offered to pay for her education. She graduated from New York University in 1943, and three years later received her law degree from Columbia University.

After graduating from Columbia, she worked full time for the Legal Defense and Educational Fund of the NAACP, under then chief counsel Thurgood Marshall. She worked there for twenty years as a staff member and associate counsel and she was known for her impressive skill as an oral advocate. During her time at the Legal Defense and Educational Fund she argued before the Supreme Court ten times, winning nine appeals. She is renowned for her work with Thurgood Marshall and others on the landmark Brown versus Board of Education case.

Judge Motley entered politics in 1964, serving in the New York State Senate. In 1965 she became the first woman to serve as a City Borough President. During this time, she worked on ways to improve the inner-city through better housing and schools. In 1966, she became the first African-American woman to be appointed to a federal judgeship in the U.S. District Court for the Southern District of New York. As a federal judge she continued to break new ground. In 1982 she was made chief judge and in 1986 was appointed senior judge. Neither position had ever been held by a woman before her.

Judge Motley's work for justice over five decades has been responsible for some of the most extraordinary changes in American culture during our history. She has received many awards and honorary degrees for her immense contributions to civil rights and the legal profession.

A third inductee is Rosa Ponselle. Born Rosa Melba Ponzillo, she was a first generation American, the daughter of Italian immigrants who settled in Meriden, Connecticut. She began studying music and singing at age ten. Her musical break came at eighteen when she auditioned for the great opera legend, Enrico Caruso. Immediately after auditioning, she was cast in the role of Leonora in the Metropolitan Opera's staging of Verdi's "La Forza del Destino." She remained loyal to the Metropolitan throughout her career, and she spent all but four seasons of her nineteen-year career performing there. In fact, she was the first American-trained singer to star at the Metropolitan.

Ms. Ponselle shocked the opera world when she retired in 1937. She dedicated the remaining forty-four years of her life to helping train and teach aspiring young operatic youths. One of her most notable students was Placido Domingo. She also served as the artistic director of the Baltimore Civic Opera Company. She died in Baltimore in May 1991.

Her voice was said to exude a blend of youthfulness and maturity and she remains an inspiration to opera students and audiences worldwide.

Lillian Vernon, another inductee, is a resident of Greenwich, Connecticut. She is the founder and CEO of Lillian Vernon Corporation. She entered the industry of mail order catalogues in the 1950's when it was dominated by industry moguls such as Richard Sears and A. Montgomery Ward. The company, which began in 1951, was one of the first to offer personalized merchandise by mail. The corporation was the first company founded by a woman to be publicly traded on the American Stock Exchange.

Ms. Vernon also does a great deal of charity work. She serves on the boards of various non-profit organizations, including the Kennedy Center, Lincoln Center, New York University's College of Arts and Science, and the Children's Museum. She has been honored for her

work as a business leader and community activist. She received the Ellis Island Medal of Honor, the Big Brothers-Big Sisters National Hero Award, and the Direct Marketing Hall of Fame Award. Ms. Vernon is a remarkable entrepreneur, businesswoman, and role model.

The final inductee is Mabel Osgood Wright. She was a resident of Fairfield, Connecticut and was the founder and President of the Connecticut Audubon Society. Wright established the first bird sanctuary in the United States, naming it Birdcraft. She founded the sanctuary around the turn of the century, fearing that bird life was being gradually eradicated.

Wright saw conservation education as a key element to sustaining wildlife. She wrote many books in an effort to introduce children to nature appreciation and conservation. She published a field guide to New England birds in 1895. During this time, the Audubon movement was still young and was lacking public support. Through her involvement she helped to revive the organization on the state level. Aside from serving as President of the Connecticut Audubon Society, she served as an officer of the national group and as an editor and writer for Bird Lore magazine.

It is said that Wright was unique in the environmental movement. This is because she was a nature writer as well as a community leader and her message focused not on the protection of our national parks but the preservation of our backyards, our gardens, and our bird sanctuaries. She believed the best way to preserve nature was through teaching children how to do it.

Although she died in 1935, her message lives on at the Birdcraft Bird Sanctuary which remains a museum containing exhibits of Connecticut wildlife and providing frequent tours for school children.

All five of these inductees are richly deserving of this award. I am pleased, indeed, that their remarkable lives will now become better known to the people of Connecticut and the United States for generations to come.•

VETERANS' EQUALITY FOR TREATMENT AND SERVICES ACT OF 1998

• Mr. SPECTER. Mr. President, as Chairman of the Veterans' Affairs Committee, I have sought recognition to express my support for the Medicare subvention demonstration project legislation which has been introduced by Senator JEFFORDS. This important legislation was approved by the Senate last year as part of the Balanced Budget Act, but the measure was stricken from the final version of that legislation in conference. I hope that this year, the House will recede from its objections, and we can send this legislation, which is supported by the Administration, to the President for his signature.

This bill would begin the process of opening a new—and vitally needed—source of funding for the provision of health care services by the Department of Veterans Affairs (VA). It would grant to VA, on a demonstration project basis, the authority to collect and retain funds from Medicare—just as VA collects reimbursement funds from veterans' private insurance carriers—for the costs associated with treating Medicare-eligible veterans' non-service-connected illnesses and injuries.

The Balanced Budget Act specifies that appropriated funding for the provision of health care services by VA will be flat over the next five fiscal years. At the same time, 7.7 million World War II veterans and 4.5 million Korean War veterans—veterans who are eligible for Medicare benefits—will require extensive heath care assistance as they age. It is critical that these veterans be allowed to bring their Medicare benefits to VA so that VA might be better able to meet their needs.

This legislation will surely assist VA by providing a new revenue stream. But it will also benefit Medicare. Under the plan set out in this legislation, VA would be reimbursed at a level not to exceed 95% of the rate Medicare would otherwise pay a private hospital for care supplied to a Medicare-eligible veterans. In summary, under this legislation Medicare would receive care for its veteran beneficiaries at a discount, and VA would receive a vitally needed new source of funding.

Medicare subvention legislation is supported by all of the members of the Veterans Affairs Committee. It is supported by the Administration. All of the major veterans' service organizations have urged enactment of this legislation. And, as I previously noted, the Senate approved this legislation last year as part of the Senate-approved Balanced Budget Act.

I am pleased to add my name to this bill as a cosponsor, and I urge my colleagues to support this legislation.•

RECOGNITION OF DR. LOUIS AVIOLI

• Mr. BOND. Mr. President, on May 19, an endowed lectureship, at Washington University in my home State of Missouri, will be named in honor of Louis Avioli, M.D., for his contribution to the field of bone and mineral metabolism. Washington University and St. Louis University employ the largest group of bone research scientists in the world. Dr. Avioli is known as a legend in this field and for good reason.

Dr. Avioli is the founder of the American Society for Bone and Mineral Research (ASBMR), and is responsible for individually combining the growing research interests beginning from a large range of disciplines into what is now the top scientific society devoted to bone and mineral research. The membership of ASBMR has grown to more than 3,000 scientists and more than 5,000 attend the annual convention. Dr. Avioli has been appointed to numerous positions, been published countless times and has several honorary degrees.

With so many impressive accomplishments, it is no wonder an endowed lectureship is named in his honor. Commending Dr. Avioli for his many years of service to the field of bone and mineral metabolism, I am glad to say that the State of Missouri is enriched with his wisdom and leadership. I join the many who congratulate and thank him for his hard work and wish him continued success in future years.•

VETERANS' EQUALITY FOR TREATMENT AND SERVICES (VETS) ACT OF 1998

• Mr. HOLLINGS. Mr. President, as a supporter of the Veterans' Equality for Treatment and Services Act of 1998, introduced last Friday by Senator JEFFORDS on behalf of myself, Senator ROCKEFELLER, Senator SPECTER, and Senator MURKOWSKI, I am committed to ensuring that our aging veterans have access to quality, affordable, reliable, and convenient health services.

However, as budgets decrease so, unfortunately, do services provided. The demonstration project outlined in the VETS Act of 1998 will allow Medicare to reimburse the VA for its services without putting a strain on the Medicare trust, and will provide an additional funding source for the VA. The project authorized by this legislation will be conducted over a three-year period, at up to 12 sites across the nation, and annual Medicare spending will be capped. Safeguards will also be imposed to ensure the cap is not exceeded. This bill may even save Medicare dollars by imposing a mandatory five percent discount on its reimbursement for services provided to veterans.

Those targeted by this legislation are lower- and middle-income veterans who are no longer eligible for treatment at the VA because of its constrained resources. People like Mr. John C. Elkins, of Columbia, South Carolina, who is in his late seventies and who served over 28 years in the military. Recently, Mr. Elkins wrote this in a letter to me: "Oh, I know some think we hang on to life and drain government resources that are being paid for by the younger workers. But I must ask you and those who question us: isn't three wars in a lifetime worth something?"

The veterans of our nation have served honorably and faithfully, often under perilous conditions, and they have sacrificed both with the loss of

their lives and with their livelihoods. Thousands of veterans have experienced any number of health care problems. These veterans should have the same access to health care as all other Americans and, quite frankly, Mr. President, they deserve more for the sacrifices they have made.

Mr. President, you will remember what my good friend, the late President John F. Kennedy said in his inaugural address: "Ask not what your country can do for you. Ask what you can do for your country." The men and women of the armed services, our veterans, did just that. They answered their country's call to duty, and in response they were often put in harm's way. They served 24 hours a day, seven days a week, all around the world. They continue to support and defend our nation's interests, and I believe it is time our nation supported their interests.

I urge my distinguished colleagues to join Senators JEFFORDS, ROCKEFELLER, SPECTER, MURKOWSKI, and me in supporting the VETS Act of 1998. It is among the very least that we in Congress can do to continue our support for these veterans, like Mr. Elkins, who have given so much to this country, while at the same time helping to preserve the VA medical system and the Medicare trust.•

RECOGNITION OF CFIDS AWARENESS DAY

• Mr. SANTORUM. Mr. President, I rise today to reaffirm my support for the tireless efforts of the Chronic Fatigue Syndrome Association of Lehigh Valley to fight Chronic Fatigue and Immune Dysfunction Syndrome (CFIDS), or Chronic Fatigue Syndrome (CFS).

For six years, the CFS Association of Lehigh Valley has been dedicated to finding a cure for CFIDS, increasing public awareness, and supporting victims of this disease. The Lehigh Valley organization is actively involved in CFS-related research. In addition, they regularly participate in seminars to train health care professionals. Public education is an essential aspect of the association's mission. Likewise, the Lehigh Valley organization raises public awareness through the International CFIDS Awareness Day, which is held on May 12 each year. I would also note that the CFS Association of Lehigh Valley received the CFIDS Support Network Action Award in both 1995 and 1996 for their initiatives in public advocacy.

Although researchers have made some advances in the study of this condition, CFIDS remains a mysterious illness. Presently, there is no known cause or cure. Victims experience a wide range of symptoms including extreme fatigue, fever, muscle and joint pain, cognitive and neurological problems, tender lymph nodes, nausea, and vertigo. Recently, the Centers for Disease Control gave CFIDS "Priority 1" status in the new infectious disease category, which also includes cholera, malaria, hepatitis C and tuberculosis. Until this disease is obliterated, the CFS Association of Lehigh Valley will continue its research and education campaigns.

Mr. President, I urge my colleagues to join me in commending the Lehigh Valley organization and in supporting the following proclamation:

PROCLAMATION

Whereas, the Chronic Fatigue Syndrome (CFS) Association of the Lehigh Valley joined the Chronic Fatigue and Immune Dysfunction Syndrome (CFIDS) Association of America, the world's largest organization dedicated to conquering CFIDS, in observing May 12, 1998 as International Chronic Fatigue and Immune Dysfunction Syndrome Awareness Day; and

Whereas, the Chronic Fatigue Syndrome Association of the Lehigh Valley, a member of the Support Network of the CFIDS Association of America, is celebrating their sixth year of service to the community; and

Whereas, CFIDS is a complex illness which is characterized by neurological, rheumatological and immunological problems, incapacitating fatigue, and numerous other symptoms that can persist for months or years and can be severely debilitating; and

Whereas, estimates suggest that hundreds of thousands of American adults already have CFIDS; and

Whereas, the medical community and the general public should receive more information and develop a greater awareness of the problems associated with CFIDS. While much has been done at the national, state, and local levels, more must be done to support patients and their families; and

Whereas, research has been strengthened by the efforts of the Centers for Disease Control, the National Institutes of Health, and other private institutions, the CFS Association of the Lehigh Valley recognizes that much more must be done to encourage further research so that the mission of conquering CFIDS and related disorders can be achieved;

Therefore, the United States Senate commends the designation of May 12, 1998 as CFIDS Awareness Day and applauds the efforts of those battling the illness.

I appreciate the Senate's consideration of this issue, and I thank my colleagues for their attention.•

TRIBUTE TO DEBORAH MILLER

• Mr. LAUTENBERG. Mr. President, I am pleased to extend my congratulations to Deborah Miller on her 14 years of outstanding service to the Solomon Schecter Day School of Raritan Valley in East Brunswick, NJ, where she currently serves as Director. Deborah has decided to leave the school to pursue her own education, and I want to wish her continued success in her future endeavors.

While I'm sure that everyone at Solomon Schecter is saddened by Deborah's departure, her eagerness to earn a Ph.D. in Jewish Education at the Jewish Theological Seminary is a fitting next step in Deborah's already distinguished academic career. After finishing her undergraduate work at Barnard College, Deborah went on to earn a Masters in Jewish Education and a Day School Principals Certificate from the Jewish Theological Seminary of America.

Deborah has been a devoted educator and administrator during her many years teaching. Since her arrival at Solomon Schecter Day School 14 years ago, Deborah has done everything to develop the school and make it a complete success.

While Deborah has served as Director, the school has been nationally recognized for its excellence in education. It is particularly well known for its integration of Jewish and General Studies curricula and its "immersion" Jewish Studies courses in Hebrew. The school has also grown in size during Deborah's tenure. It originally taught students in pre-kindergarten through 6th grade. Now the school teaches 7th and 8th graders as well. When Deborah started, there were 180 students enrolled. Now there are 315.

As if Deborah didn't have enough to keep her busy, her extracurricular activities are equally impressive. Outside of Solomon Schecter, Deborah teaches Jewish Studies to adults in neighboring educational facilities and synagogues. She also happens to be a well-known author of children's fiction. She currently has written five books for children about Judaism. Her style is clever and fun-loving, and her books are enjoyed by all ages as a result.

Deborah's departure from Solomon Schecter Day School may be bittersweet, but she has a great deal to look forward to as she continues to learn about Jewish literature, history and the Torah. The lucky ones are not only those who have known her at Solomon Schecter, but those students who will have the privilege of being in Deborah's classroom when she returns to teaching full time.•

RECOGNITION OF DR. INEZ KAISER

• Mr. BOND. Mr. President, I rise to pay tribute to Dr. Inez Kaiser for being named 1997 National Minority Advocate of the Year. She received this prestigious award from the United States Department of Commerce's Minority in Business Development Agency (MBDA). Dr. Kaiser is president of Inez Kaiser & Associates, Inc., the oldest African-American female-owned public relations firm in the United States.

Dr. Kaiser was chosen for the award based on her forty+ years of advocacy on behalf of minority business development. In addition to her untiring efforts to expand minority roles in the business industry, she was a consultant and advisor to former Presidents Nixon

and Ford on minority women's business issues and organized the first nationwide conference of Women in Business for the United States Department of Commerce. Over the years she has strived to help other minority businesses by identifying their problems and offering advice on how to address those problems. Being the only African-American female in the National Hall of Fame of Women in Public Relations, she is also the president of the National Association of Minority Women in Business.

Dr. Kaiser has set a positive example for minority business people everywhere and it is a pleasure to see her impressive accomplishments receive the recognition they deserve. My home State of Missouri is extremely fortunate to have such a shining example of success and hard work. I wish her continued prosperity and achievement in the coming years.•

PRESIDENT OF SUNY FARMINGDALE CELEBRATES TWENTY YEARS

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to Dr. Frank A. Cipriani, whose long and outstanding career as president of SUNY Farmingdale will be celebrated with much pomp on Wednesday, May 20, 1998.

Dr. Cipriani's outstanding qualities of enlightened leadership and innovation brought unprecedented success to SUNY Farmingdale. Dr. Cipriani took the school from a two year agrarian institution to a four-year college, one of the largest of the nine Colleges of Technology in the New York State University system.

His great success is readily visible on the SUNY Farmingdale Campus. Mr. Cipriani's other associations and affiliations are not as well known but are worthy of commendation. They include: Team Chairman for the Middle States Association of Colleges and Schools Evaluation; Chairman of the Board, Regional Industrial Technical Education; Member, New York Statewide Job Training Partnership Council; Member, New York State Education Department's Advisory Council on Postsecondary Education; just to name a few of the associations and affiliations that demonstrate the special concern that Dr. Cipriani has for education.

Born in New York of immigrant parents, Dr. Cipriani has been a New Yorker all of his life, with the exception of a stint in the United States Air Force. He attended PS 14 in Corona, Queens, and Brooklyn Technical High School, and holds the A.B. degree from Queens College and the M.A. and Ph.D. Degrees from New York University.

Dr. Cipriani was an officer in the United States Air Force who achieved the rank of Captain and the rating of Navigator-Flight Instructor before receiving an honorable discharge. As a member of the American Society of Safety Engineers, he pursued his graduate studies while employed in the Engineering Department of an international insurance company. He speaks Italian and French fluently, and has been a strong advocate of international education and a strong supporter of a humanities component in technical education curricula.

Dr. Cipriani is married to Judith M. Pellathy and has four children—Maria, Frank, Michael and Dominique.

His accomplishments are varied and great and we might say that Dr. Frank A. Cipriani is the salt of the earth. He has done much for SUNY Farmingdale and for the state of New York. It is no wonder that such a fine celebration is being prepared to commemorate his twenty years of service to such a fine institution. Frank, I salute you and wish you much health and happiness in the days to come.•

"WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION"

• Mr. McCONNELL. Mr. President, last week, more than 1200 students from across the nation came to Washington, D.C. to compete in the national finals of the "We the People . . . The Citizen and the Constitution" program. I am proud to announce that the competing class for Kentucky represented Louisville Male High School. These young scholars worked diligently to reach the national finals by winning local competitions in the Commonwealth.

The distinguished members of the class who represented Kentucky were: Angela Adams, Perry Bacon, Katherine Breeding, Will Carle, Eric Coatley, Courtney Coffee, Brian Davis, Mary Fleming, Matt Gilbert, Amanda Holloway, Holly Jessie, Heath Lambert, Gwen Malone, Kristy Martin, Brian Palmer, Lauren Reynolds, Shane Skoner, LaVonda Willis, Bryan Wilson, Darreshia Wilson, Beth Wilson, Janelle Winfree, Treva Winlock, Jodie Zeller.

I would also like to recognize their teacher, Sandy Hoover, who deserves much of the credit for the success of the class. The state coordinators, Deborah Williamson and Jennifer Van Hoose, and the district coordinator, Dianne Meredith, also contributed a significant amount of time and effort to help the class reach the national finals.

The "We the People . . . the Citizen and the Constitution" program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition simulates a congressional hearing whereby students are given the opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary constitutional issues. The simulated congressional hearing consists of oral presentations by the students before panels of adult judges.

Administered by the Center for Civic Education, the "We the People . . ." program has provided curricular materials at upper elementary, middle, and high school levels for more than 75,000 teachers and 24 million students nationwide. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The "We the People . . ." program is designed to help students achieve a reasoned commitment to the fundamental values and principles that bind Americans together as a people. The program also fosters civic dispositions or traits of public and private character conducive to effective and responsible participation in politics and government.

I want to commend these constitutional experts on their academic achievements as participants in the "We the People . . ." program and commend them for their great achievement in reaching the national finals.•

NEXT GENERATION INTERNET

• Mr. FRIST. Mr. President, I rise today in support of S. 1609, the "Next Generation Internet Research Act of 1998." This legislation funds six agencies that are involved in creating advanced computer networking technology that will make tomorrow's Internet faster, more versatile, more affordable, and more accessible than today. The Next Generation Internet (NGI) is an advanced research program which fosters partnerships among academia, industry, and Federal laboratories to develop and experiment with technologies that will enable more powerful, flexible information networks in the 21st century. The overall objective of the program is to perform fundamental research in technologies that will accelerate the development of a high-speed, high-quality network infrastructure to support revolutionary applications.

The Internet is a prototypical success story. There are in fact, multiple dimensions to its success. It was a successful public-private collaboration. It demonstrated successful commercial application of technology developed as part of a mission-directed research program. It exhibited a successful transition of an operational system from the public to the private sector. And most importantly, it is a prime example of a successful Federal investment.

In some respects the Internet is now "suffering" from too much success. We are currently constrained by the capacity and capabilities of today's Internet technologies, which were not designed for either the scale or mode of its current use. Even though new applications

and dramatic private investment have increased the Internet's abilities, technological bottlenecks have sprung up throughout the system.

The Next Generation Internet comes at a crucial juncture in the development of the nation's information infrastructure. During the period of NGI-sponsored research, the telecommunications backbone of the US will likely undergo a dramatic transition in which the levels of packet-based traffic will surpass that of conventional telephone traffic. The speed and degree of the impending transition is indicative of the urgency with which the NGI goals must be pursued and the results of that research transition to the commercial sector.

Recently, I had a first-hand look at some of these advanced applications. Highway 1, a non-profit organization established to educate Members of Congress and their staffs about the Internet and associated technical developments, showcased several remarkable projects. As a physician, I was intrigued by the virtual reality "Immersion Desk" collaboration demonstration. Using special glasses, I was able to take a guided tour of the human ear, observing its structure in three dimensions, and able to interact with the guided and the structure in "real time". It was immediately obvious to me the educational benefits that will evolve from putting similar devices into the hands of our nation's teachers and students. Sophisticated applications, such as the ones I witnessed at Highway 1, place heavy technical demands upon the network. However, until the Internet's infrastructure limitations have been overcome, these applications will remain outside the reach of those who benefit the most.

Some of the limitations that now impede advanced applications can be mastered through a straightforward application of the existing technology, but there is an entire class of problems that requires new approaches. I believe that our nation's research and development enterprise hold the key. The Next Generation Internet program will provide grants to our universities and national laboratories to perform the research that will surmount these technical challenges and create the technology that will energize the Internet of tomorrow.

Mr. President, I believe that passage of this legislation will continue the tradition of prudent and successful investment in science and technology. The Next Generation Internet Research Act will help ensure that the Internet reaches its maximum potential to provide greater education and economic benefits to the country.●

ORDER OF BUSINESS

Mr. McCAIN. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

(The remarks of Mrs. FEINSTEIN and Mr. BROWNBACK pertaining to the submission of S. Res. 227 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

SKILLED WORKERS IMMIGRATION BILL

Mr. McCAIN. Mr. President, I had intended to propound a unanimous consent agreement concerning S. 1723, the skilled workers immigration bill, which Senator ABRAHAM has worked on for at least a year and a half that I know of, and worked very hard. There are still some objections. I do not think those objections are major on the other side of the aisle. And since those objections would be voiced, I will not propound that unanimous consent request at this time.

I hope we can work with the other side of the aisle so that there can be an agreement on relevant amendments and we can move forward on this issue. It is a very, very important issue, as Senator ABRAHAM pointed out earlier today. We have now reached our quota of H–1B workers for the year. Our high-tech industries need workers. And this modest proposal, although an important one, would simply raise that limit by at least enough to get these high-tech industries through this year.

I understand the concerns on the other side of the aisle about this bill, and yet I believe that we could address those through the amending process. So it would be our intention tomorrow to try and work out any concerns there might be and move forward tomorrow with the legislation.

Mr. President, as soon as the staff is ready, it will be my intention to move to adjourn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AUTHORIZING THE PRINTING OF A DOCUMENT ENTITLED "WASHINGTON'S FAREWELL ADDRESS"

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 228, submitted earlier today by Senators WARNER and FORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 228) to authorize the printing of a document entitled "Washington's Farewell Address."

The Senate proceeded to consider the resolution.

Mr. McCAIN. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The resolution (S. Res. 228) was agreed to as follows:

S. RES. 228

Resolved, That the booklet entitled, "Washington's Farewell Address", prepared by the Senate Historical Office under the direction of the Secretary of the Senate, be printed as a Senate document.

SEC. 2. The Senate document described in Section 1 shall include illustrations and shall be in the style, form, manner, and printing as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed 600 additional copies of the document specified in Sec. 1 for the use of the Secretary of the Senate.

COMMEMORATING THE 150TH ANNIVERSARY OF THE ESTABLISHMENT OF THE CHICAGO BOARD OF TRADE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 229 introduced earlier today by Senators MOSELEY-BRAUN and DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 229) commemorating the 150th anniversary of the establishment of the Chicago Board of Trade.

The Senate proceeded to consider the resolution.

Ms. MOSELEY-BRAUN. Mr. President, this year, the Chicago Board of Trade is celebrating its 150th anniversary. Its an anniversary well worth celebrating, and not just in Chicago, but all across our country, because the vibrant, creative marketplace the Chicago Board of Trade created has meant a lot to all of us.

Whether we are in the food production and distribution system, or not; whether we participate in our nation's financial markets or not, we have all benefitted from the agricultural and financial marketplace the Chicago Board of Trade first established 150 years ago. Food prices in the United States are lower than they otherwise would be because of the Board of Trade. Interest rates on federal securities—and, therefore, all interest rates that are related to rates on Treasury securities—are lower than they otherwise would be because of the Chicago Board of Trade. The existence of this extremely efficient, vital marketplace has saved us all money, whether we have ever purchased a futures contract or not.

It is not by accident that this market is located in Chicago. Due to its central location, access to waterways and proximity to farmland, Chicago is the natural crossroads of commerce in the United States. Before the Board was created, however, problems of supply and demand, transportation, and storage created chaos in the agricultural marketplace. The solution was simple but ingenious. Eighty-two Chicago merchants came together to establish a price discovery mechanism to insure against volatile grains prices. The exchange began modestly—even giving a free lunch to guarantee the attendance of traders—but the concept caught on rapidly and spawned the global multibillion dollar futures industry we know today.

Belying its age, the Chicago Board of Trade remains energetic and eternally innovative. In the past ten years, the Board has introduced over 100 new products. Four years ago, the Board launched Project A, their global overnight electronic trading system, that has enjoyed tremendous success and will soon be expanded. This year, the Board of Trade will launch the Chicago Board Brokerage, a new electronic trading system for the trading of cash US Treasury securities.

The success of the Board of Trade has not only created huge benefits for our nation generally, it has also contributed enormously to the economy of Chicago. Chicago's two future exchanges have created over 150,000 jobs, and put over $10 billion each night in the city's banks.

Moreover, the Board has also made major aesthetic contributions to Chicago. In a city world-renowned for its architecture, the beautiful Board of Trade structure stands out as a major example of late Art Deco style—and one of Chicago's treasured landmarks.

The Chicago Board of Trade is a shining example of what a little ingenuity and Midwest common sense can accomplish. The resolution my good friend from Illinois, Senator DURBIN, and I are today introducing, congratulates the Board for 150 years of real accomplishment, and salutes the Board for demonstrating the kind of leadership that will ensure that their markets are as dynamic and useful to everyone involved in agricultural and our financial system—and to our economy generally—over the next 150 years. The Chicago Board of Trade richly deserves to be celebrated, and I urge all of my Colleagues to work with Senator DURBIN and I to ensure that this resolution receives prompt and favorable consideration by the Senate.

Mr. President, I ask unanimous consent that the editorials from the Chicago Tribune and Chicago Sun-Times be printed in the RECORD.

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

[From the Chicago Tribune, Apr. 3, 1998]

CBOT LOOKS BACK AND FORWARD AT 150

As the City of Chicago grew up out of the prairie grasses and farmlands of the American Midwest in the latter half of the 19th Century, the Chicago Board of Trade grew with it. Some would say it was the other way around: The city grew as its status as a trade center grew. They wouldn't be wrong.

The first "skyscrapers" to dominate this particular landscape were giant grain silos, erected to hold the millions of bushels of grain pouring into the city from the west and south. The silos are long gone, but the Board of Trade, which celebrates its 150th anniversary this year, remains a vibrant center of commerce linking the buyers and sellers of the world.

Founded by 82 Chicago merchants in 1848, CBOT made its mark by revolutionizing how grain was stored and sold. It standardized a method of weighing and grading grains so that all grain of a particular grade could be stored together. The seller was given a receipt for the grain he brought in, and that receipt was sold to the buyer, who redeemed it for the stated amount and grade of grain.

Of course, it didn't take long for traders to figure out they could make a bundle if they contracted at this month's wheat prices to deliver a load of wheat next month—if the price of wheat were to drop next month. Then they could buy it at next month's low price and sell it for this month's higher price.

Thus was born the futures market, a centralized marketplace for sellers and buyers of grain that replaced the cumbersome method of exchanging specific loads of grain. From those origins have sprouted the world's largest futures exchange, now making markets in everything from soybeans to U.S. Treasury bonds to the Dow Jones industrial average.

Just as in the last century development of the railroads and telegraph helped CBOT reach beyond the Midwest, the modern Board of Trade is using cutting-edge technology to forge links with trading partners worldwide. In 1995, it became the first futures exchange to open a commercial service on the Internet, and since then it has established an electronic system for overnight trades.

This year CBOT has entered into a cooperative agreement with Eurex, its Swiss-German counterpart, and plans are in the works to add a partner in Asia. Eventually, traders on the after-hours electronic system will be able to access those international markets from a single screen.

That's a long way from a bunch of grain merchants exchanging slips of paper and shouting prices in a cloud of wheat dust. But a remnant of that history lives on even at the board's new multimillion-dollar trading floor, where "open outcry" trading still rules during normal trading hours.

It's a charming, chaotic anachronism—a link to the last century that cannot long endure into the next if the Chicago Board of Trade is to maintain its pre-eminent place in global commerce.

[From the Chicago Sun-Times, Apr. 3, 1998]

150 YEARS OF SUCCESS

What has been here as long as Chicago's first railroad? What arrived here with the first telegraph line and the digging of the Illinois and Michigan Canal?

What, despite its age, is so healthy and vital that it is one of the city's biggest economic engines, generating 150,000 jobs and producing $35 billion in bank deposits? And what is so uniquely successful that cities around the world are trying to copy it?

Obviously we are not talking about the Cubs or the White Sox. Not even the world famous Michael Jordan can claim this kind of impact. The answer is the Chicago Board of Trade, which today celebrates the 150th anniversary of its founding.

A far cry from the striking and historic edifice it now occupies at the foot of La Salle Street, the exchange began in 1848 when 83 grain merchants met in rooms over a Water Street flour shop to discuss a creative idea: How to protect themselves against the risks of ever-changing grain prices.

Their idea caught on as Chicago rapidly became an agricultural and shipping hub. Simply put, the exchange offered traders a chance to buy or sell grain for a certain price at a later date. For some, it offered the security of a hedge against troublesome price fluctuations; for others it offered a chance for lucrative profits.

It was pure Chicago—innovative, risky, boisterous, expansive, entrepreneurial and gritty. And it grew with the city, from a handful of corn, soybean and other grain contracts to imaginative trading in everything from precious metals, stock options and interest rate futures to pollution emission allowances and, most recently, the Dow Jones Industrial Average index. That growth and its impact on Chicago and the world are detailed in today's Business section on Page 58.

Its growth has not been without problems. The city's leadership in this form of "risk management" is threatened by copycats, such as markets in Britain and other countries where the freewheeling spirit that gave Chicago its start is alive and well and functioning without some questionable U.S. regulations. A 1995 London Business School study, for example, found that the cost of U.S. regulation is 57 percent higher than in Britain. Furthermore, the Chicago exchanges find themselves forever fending off proposals for new taxes and restrictions on futures and options.

No one should fool himself into thinking such restrictions would affect only a single, high-flying industry. Consider: While banking employment was declining nationally from 1986 to 1994, it grew 10 percent in Chicago. Thank Chicago's exchanges, such as the Board of Trade, whose huge volumes created the need for nearby banks, outfits from New York, Europe and Asia—72 foreign banks in all—with their high-paying jobs.

The Sun-Times, this year celebrating its 50th anniversary, can admire this kind of longevity, especially when it has meant for this community continuing prosperity and opportunity for so many. Congratulations, CBOT.

Mr. DURBIN. Mr. President, I rise today to pay tribute to the Chicago Board of Trade, the most influential marketplace for futures trading in the world, on the 150th anniversary of its establishment. I am pleased to join my colleague, Senator CAROL MOSELEY-BRAUN, in introducing a resolution commemorating this momentous occasion.

On April 3, 1848, 83 merchants who realized that the grain trade was growing rapidly, came together to form a marketplace for grains and livestock. Thus, the world's largest futures and options trading facility was born, bringing buyers and sellers from all walks of life together under one roof for the first time.

With the birth of the Chicago Board of Trade came a financial industry which has spread around the world over the last 150 years. The Chicago Board of Trade has been a vital part of Chicago since the first railroad, telegraph lines, and the digging of the Illinois and Michigan Canal. The Board has weathered through a Civil War, the great Chicago fire, The Great Depression, World War I and II, and countless other struggles.

The Chicago Board of Trade is a powerful economic engine that generates 150,000 jobs throughout the Chicagoland area and also produces $35 billion in bank deposits each year. Over the years, the Chicago Board of Trade has grown beyond grain and livestock, and has branched out into soybean futures, corn options, and wheat options. Last year, the Chicago Board of Trade set the record for the trading of soybean futures traded. The Chicago Board of Trade also established records for the trading soybean meal, and soybean oil.

Mr. President, it has been a long time since the days when prices were shouted through a cloud of dust on the floor of the Chicago Board of Trade. The Board has relocated several times throughout its 150 years. Currently, the Board is located in downtown Chicago. The base of the building spans an entire city block, and is a Chicago landmark.

Mr. President, I would like to take this opportunity to congratulate the Chicago Board of Trade on 150 years of bringing economic vitality to Chicago, the State of Illinois, and the world.

Mr. McCAIN. I ask unanimous consent that the resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table, and any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

The resolution (S. Res. 229) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 229

Whereas the Chicago Board of Trade, which celebrates in April 1998 the 150th anniversary of its establishment, has been an essential contributor to financial growth in Chicago, Illinois, and our Nation;

Whereas futures markets were developed by finance pioneers in Chicago and today Chicago remains the commercial crossroads of the world;

Whereas the Chicago Board of Trade, the oldest and largest futures and options exchange, continues its tradition of innovation, functioning as a global financial leader;

Whereas the Chicago Board of Trade's 150 years of accomplishments include such major achievements as inventing grain futures, founding the world's premier trade clearing system, launching the first stock options exchange, developing the first interest rate futures, advancing the use of technology with its electronic trading system, and constructing the largest and most technologically advanced trading floor in the world;

Whereas the Chicago Board of Trade and its members have achieved success while adhering to the highest standards of uncompromising integrity; and

Whereas the Chicago Board of Trade will continue as a world-leading financial institution into the next millennium: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Chicago Board of Trade and the city of Chicago, Illinois, on the 150th anniversary of the establishment of the exchange; and

(2) expresses its wishes for continued years of innovation, service, and leadership by the Chicago Board of Trade into the next millennium.

HONORING THE SESQUICENTENNIAL OF WISCONSIN STATEHOOD

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 360, S. Con. Res. 75.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 75) honoring the sesquicentennial of Wisconsin statehood.

The Senate proceeded to consider the concurrent resolution.

Mr. McCAIN. I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

The concurrent resolution (S. Con. Res. 75) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 75

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years;

Whereas Jean Nicolet, who was the first known European to land in what was to become Wisconsin, arrived on the shores of Green Bay in 1634;

Whereas Father Jacques Marquette and Louis Joliet discovered the Mississippi River, one of the principal waterways of North America, at Prairie du Chien on June 17, 1673;

Whereas Charles de Langlade founded at Green Bay the first permanent European settlement in Wisconsin in 1764;

Whereas, before becoming a State, Wisconsin existed under 3 flags, becoming part of the British colonial territory under the Treaty of Paris in 1763, part of the Province of Quebec under the Quebec Act of 1774, and a territory of the United States under the Second Treaty of Paris in 1783;

Whereas on July 3, 1836, the Wisconsin Territory was created from part of the Northwest Territory with Henry Dodge as its first governor and Belmont as its first capital;

Whereas the city of Madison was chosen as the Wisconsin Territory's permanent capital in the fall of 1836 and construction on the Capitol Building began in 1837;

Whereas, pursuant to legislation signed by President James K. Polk, Wisconsin joined the United States as the 30th state on May 29, 1848;

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home;

Whereas the Wisconsin State Motto of "Forward" was adopted in 1851;

Whereas Chester Hazen built Wisconsin's first cheese factory in the town of Ladoga in 1864, laying the groundwork for one of the State's biggest industries;

Whereas Wisconsin established itself as a leader in recognizing the contributions of African Americans by being the only State in the union to openly defy the Fugitive Slave Law;

Whereas the first recognized Flag Day celebration in the United States took place at Stony Hill School in Waubeka, Wisconsin, on June 14, 1885;

Whereas Wisconsin has sent 859,489 of its sons and daughters to serve the United States in the Civil War, the Spanish-American War, World War I, World War II, Korea, Vietnam, the Persian Gulf, and Somalia;

Whereas 26,653 Wisconsinites have lost their lives serving in the Armed Forces of the United States;

Whereas Wisconsin allowed African Americans the right to vote as early as 1866 and adopted a public accommodation law as early as 1895;

Whereas on June 20, 1920, Wisconsin became the first State to adopt the 19th Amendment, granting women the right to vote;

Whereas in 1921 Wisconsin adopted a law establishing equal rights for women;

Whereas Wisconsin celebrated the centennial of its statehood on May 29, 1948;

Whereas many Wisconsinites have served the people of Wisconsin and the people of the United States and have contributed to the common good in a variety of capacities, from inventor to architect, from furniture maker to Cabinet member, from brewer to Nobel Prize winner;

Whereas the State of Wisconsin enjoys a diverse cultural, racial, and ethnic heritage that mirrors that of the United States;

Whereas May 29, 1998, marks the 150th anniversary of Wisconsin statehood; and

Whereas a stamp commemorating Wisconsin's sesquicentennial will be issued by the United States Postal Service on May 29, 1998: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the proud history of Wisconsin statehood; and

(2) encourages all Wisconsinites to reflect on the State's distinguished past and look forward to the State's promising future.

SEC. 2. TRANSMITTAL OF CONCURRENT RESOLUTION.

Congress directs the Secretary of the Senate to transmit an enrolled copy of this concurrent resolution to each member of the Wisconsin Congressional Delegation, the Governor of Wisconsin, the National Archives, the State Historical Society of Wisconsin, and the members of the Wisconsin Sesquicentennial Commission.

NATIONAL PEACE OFFICERS MEMORIAL DAY

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 336, S. Res. 201.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 201) to commemorate and acknowledge the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

The Senate proceeded to consider the resolution.

Mr. McCAIN. I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

The resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 201

Whereas the well-being of all citizens of this country is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens in their capacity as guardians of the peace;

Whereas peace officers are the front line in preserving our childrens' right to receive an education in a crime-free environment that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 159 peace officers lost their lives in the performance of their duty in 1997, and a total of 13,734 men and women have now made that supreme sacrifice;

Whereas every year 1 in 9 officers is assaulted, 1 in 25 is injured, and 1 in 4,400 is killed in the line of duty; and

Whereas, on May 15, 1998, more than 15,000 peace officers are expected to gather in our nation's Capital to join with the families of their recently fallen comrades to honor them and all others before them: Now, therefore, be it

Resolved, That May 15, 1998, is hereby designated as "National Peace Officers Memorial Day" for the purpose of recognizing all peace officers slain in the line of duty. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with the appropriate ceremonies and respect.

ORDERS FOR WEDNESDAY, MAY 13, 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 13th. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of the motion to proceed to S. 1873, the missile defense bill.

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

Mr. McCAIN. I further ask unanimous consent that the time between 9:30 a.m. and 11:30 a.m. be equally divided for debate on the motion to proceed. Further, I ask unanimous consent that following the debate, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to the missile defense bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:39 p.m., adjourned until Wednesday, May 13, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 12, 1998:

DEPARTMENT OF STATE

PAUL L. CEJAS, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELGIUM.

CYNTHIA PERRIN SCHNEIDER, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THE NETHERLANDS.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES T. ROBERTSON, JR., [redacted].

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WALTER S. HOGLE, JR., [redacted].

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN L. WOODWARD, JR., [redacted].

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GREGORY S. MARTIN, [redacted].

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN B. SAMS, JR., [redacted].

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. CHARLES W. MOORE, JR., [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. ROBERT J. NATTER, [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. THOMAS B. FARGO, [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. WALTER F. DORAN, [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. ARTHUR K. CEBROWSKI, [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. DENNIS V. MCGINN, [redacted].

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MICHAEL E. FINLEY, [redacted]
CAPT. GWILYM H. JENKINS, JR., [redacted]
CAPT. JAMES A. JOHNSON, [redacted].