United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *106th* CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, TUESDAY, JUNE 29, 1999 *No. 94*

Senate

The Senate met at 10:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Shimshon Sherer, Congregation Khai Zichron Mordechai, Brooklyn, NY.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Rabbi Shimshon Sherer, offered the following prayer:

Our Father in heaven: We stand before Thee in humble supplication as we yearn for divine inspiration, for guidance, and for wisdom. We turn to Thee in gratitude for this group of exceptional men and women of good faith dedicated to this great Nation and to all its people.

We bless Thee, O God, for a most precious gift that Thou bestowed upon the United States of America, upon the Jewish people, and indeed upon all of mankind, in a person, a man of history who came to be a symbol of visionary leadership and uncompromising integrity. We pay tribute to the life and legacy of the saintly revered rabbi, Rabbi Morris Sherer.

We pray to Thee, Almighty God, that his memory inspire the Members of this august body, the U.S. Senate, to find within their hearts an echo of his nobility of spirit, selfless devotion, and compassion for all in need, to demonstrate for all to see that beneath the outer veneer of our Nation's bureaucracy beats a warm heart in which the anguished cry of the depressed, the deprived, and the disadvantaged strikes a responsive chord.

Give us the understanding, O God, to grasp the true import of the sacred obligation we have, to open our hearts and hands to bring the bounties of life to every man, woman, and child in our midst.

O Father in heaven, bless this distinguished assemblage of people determined to work effectively and tirelessly for the betterment of all the people of this great Nation, that we witness in our time the fulfillment of the vision of the Psalmist, ''They that sow in tears, shall reap in joy,'' so that from all the upheavals which shatter the soul of society today shall emerge a new world of hope, tranquility, and serenity, for the glory of God and all mankind. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore. Senator SPECTER will now lead the Senate in the Pledge of Allegiance.

The Honorable ARLEN SPECTER, a Senator from the State of Pennsylvania, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ROBERTS. Mr. President, today the Senate will be in a period of morning business until 12:30 p.m. with Senator MOYNIHAN, or his designee, in control of the time between 10:30 a.m. and 11, Senator GRAMS, or his designee, in control of the time between 11 o'clock in the morning and 12 noon, and Senator SPECTER, or his designee, in control of the time between 12 noon and 12:30. Following morning business, the Senate will stand in recess until 2:15 p.m. so the weekly party conferences can meet.

When the Senate reconvenes at 2:15, there will be an additional 2 hours of morning business equally divided between the two leaders. The Senate is then expected to resume consideration of the pending and long-suffering agriculture appropriations bill. Therefore, votes are expected to occur.

I thank my colleagues for their attention.

The PRESIDENT pro tempore. The able Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I thank my distinguished colleague, Senator MOYNIHAN, for yielding 2 minutes prior to the time that his special order takes effect.

RABBI MORRIS SHERER

Mr. SPECTER. Mr. President, I have sought this recognition to compliment Rabbi Sherer, who has just delivered the Senate prayer.

We are recognizing the outstanding work of Rabbi Sherer's father, also Rabbi Sherer, who died a little more than a year ago. Present today in the Senate gallery are some 200 representatives of a national convocation to recognize the outstanding work of the departed Rabbi Sherer.

I must say that Rabbi Sherer's comments this morning about freedom of religion and the impact on everyone in America, but with special reference to Jewish Americans, is of great significance to me because both of my parents came from foreign lands to the United States and were pleased and honored to pledge their allegiance to the United States of America.

My father left a shtetl, a small community, Batchkurina, in Ukraine, to come to the United States in 1911 at the age of 18, barely a ruble in his pocket, literally walked across Europe, took steerage in the bottom of a boat to come to America to seek his fortune, as did my mother who came with her parents when she was 5 years old in 1905 from a small town on the Russian-Polish border. They settled in America. They raised their family in America. My father fought in the American Expeditionary Force to help make the

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world safe for democracy and, in his allegiance to his new-found country, rose to the rank of buck private. Next to his family, the greatest honor he had was serving in the U.S. Army.

Freedom of religion is fundamental Americana, and the Rabbi's prayer today brings it home to us. And I wanted to express my own views of thanks for this country, what it has done for my parents and what it has done for my brother, two sisters and me, and my sons and our granddaughters.

I thank the Chair, I thank Senator MOYNIHAN, and yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I believe Senator ASHCROFT would like to speak at this moment.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator for accommodating me from the time reserved for his control.

I am glad for the opportunity to stand in the Senate today to honor Rabbi Morris Sherer, who passed away on May 17 last year. Today, I believe the very best way to pay tribute to Rabbi Sherer's memory is to celebrate his inspiring accomplishments.

When Rabbi Sherer became the executive vice president of Agudath Israel in America in 1941, the organization was but a small group with but a few members. Rabbi Sherer transformed Agudath Israel from the small organization that it was in 1941 to a respected and influential force in the culture and community we call America in both our political and religious life.

Rabbi Sherer's success came primarily from two strong leadership characteristics or character traits for which he was most respected. One was that he was not one just to talk about something. He would do something. He was an activist. Second, he knew getting something done required more than just activism or motivation or inspiration. It required persistence. He could stay with a task until there was an achievement.

One often cited example of Rabbi Sherer's activism occurred almost immediately after he became a part of the leadership of Agudath Israel. During Hitler's reign of terror, when all too many here and around the world remained silent about the unspeakable atrocities committed against the Jews in Eastern Europe, Rabbi Sherer spoke and insisted that action was necessary.

While Rabbi Sherer attempted to get others involved in his efforts, he always understood that he must take the initiative and lead, and whether others would be involved or not was not the criterion for his own involvement. He knew that real leadership required the ability and willingness to stand alone. He knew he could not simply wait for someone else to do what he believed should be done.

With his still tiny organization, he sent shipments of food to Jews suffering under the terrible injustices of Hitler's regime, and he helped many to escape to gain refuge here in the United States of America.

Not only was Rabbi Sherer a man of action, but he was a man of persistence. He followed through. When the war ended, he didn't forget about the brothers and sisters who still remained in the ruins of Europe. Under his leadership, Agudath Israel shipped food and religious articles to Jews in displaced persons camps and he helped those who wanted to emigrate.

Rabbi Sherer's story, as we all know, continues in this same line and his philosophy of activism and persistence guided Agudath Israel in America for decades. He fought on behalf of Jews endangered behind the Iron Curtain, those who were endangered in Syria, Iran, and anywhere in the world where he saw that injustice was an imposition upon the liberties of individuals and discrimination that deprived individuals of their opportunity to reach the potential that God placed within.

He brought this attitude with him as he ascended to the presidency of Agudath Israel of America in 1963 and to the chairmanship of Agudath Israel World Organization in 1980.

In all of these roles, Rabbi Sherer demonstrated the unique talent, unique character that provided him with the capacity to unite people from disparate backgrounds and interests. While this was partially a result of his contagious warm personality and charisma, there was something deeper, too. People knew him as a man of integrity. This was rare ore, precious metal to be mined out of the character of this great leader. Though they might have disagreed adamantly with his views, they had to respect the purity of his position, his sincerity and his honesty.

This loyalty and integrity often placed him at odds with or at other times in alliances with unlikely groups. This, however, was Rabbi Sherer's great charm. This is why he was so highly respected. He was loyal and passionate about ideas and truth, never letting political maneuvering get in the way of his ultimate mission.

I am pleased to be on the Senate floor to honor Rabbi Sherer's memory. He taught us that in the face of injustice we must act; in the face of failure, we must persist.

When the battle is over, he taught us there is still a war to fight: to continue to bind up those who had been injured, those who had been separated, and those who had suffered.

Finally, he taught us that there is a way to achieve success and ultimately respect. It is not by trying to appease all sides but by standing firm in one's convictions and holding fast to one's beliefs.

That is the legacy of Rabbi Moshe Sherer. That is what he passed on to Agudath Israel and to all here today who respect his wondrous accomplishment and his faith.

I am delighted and personally privileged to have the opportunity from this podium, in this body, to extend my condolences again to Rabbi Sherer's wife, children, grandchildren, and great grandchildren, and to recommend his stature, his principle, his integrity, his persistence, and his activism as models to all Americans.

I thank the Senator from New York for according me this time and this privilege.

I yield the floor.

Mr. MOYNIHAN. Mr. President, we thank the Senator from Missouri for his moving, eloquent tribute.

I yield such time as he may require to my eminent friend, the Senator from Connecticut.

Mr. LIEBERMAN. I thank my friend and colleague from New York. I thank Senator LOTT for agreeing to set aside this time this morning to honor the memory of Rabbi Moshe Sherer. I thank Senator MOYNIHAN for providing the dignity that is always his but the intimacy that reflects the relationship he had with Rabbi Moshe Sherer. I thank my friend and college classmate from Missouri who just spoke so impressively about this extraordinary man.

I am honored to have known Rabbi Moshe Sherer, a blessed memory. I met him after I became a Senator and benefited, as anyone did, from the opportunity to be in his presence, from his wisdom, insights—insights not just on matters of faith but on matters of the broader community.

This was a man of extraordinary personal dignity and discipline, of hard work and of very good humor. He was a pleasure to be with.

The life we celebrate today was a most extraordinary and consequential life, based on values that go back thousands of years, motivated by a single overriding towering motivation to honor God's name, to perform acts of Kiddish Hashem, the sanctification of God's name. That is to say, to do good works, to be true to the values that are set down in the Bible, in the Ten Commandments, in the broadly held ethical system that we call the Judeo-Christian tradition.

Rabbi Moshe Sherer did that, magnificently rising to become, as we end this century, clearly one of the great leaders of the Orthodox Jewish community in America in this century, one of the great leaders of any faith-based community in America during this century.

Those who have spoken before me have spoken of the extraordinary record of service and growth that Rabbi Sherer gave. I spoke to him several times about his involvement in 1943 when he was asked to take a position at this organization, Agudath of Israel. He spoke to friends and they told him he would be foolish to even consider it. This was an organization that had little credibility, few members. In fact, it was at a time when even within the American Jewish community there were predictions that the

Orthodox community would not go with much vibrancy into the future. Somebody actually referred to the Orthodox community generally as a ''sickly weed.'' The resilience and feistiness of this man and his commitment to the values that were the foundation of his faith propelled him in the face of those pieces of wise counsel to go forward and prove them wrong. And did he ever do that, devoting the rest of his life to this organization, particularly in the context of the end of the Second World War, and the great suffering that occurred to so many suffering Jews in Europe during the war—watching the growth of this organization as a reaction, a kind of affirmation of faith and life after the temporary victories of death and antifaith, if I can put it that way, and anti-God certainly during the Second World War.

This organization rose out of that experience, and enjoyed the extraordinary, unprecedented liberty that America provided to this community, becoming the great, strong organization it is today. It is as Rabbi Sherer passed away with thousands of members in this country and all over the world in an extraordinary array of religious, social service, and communal activities. It is a remarkable program of study.

I don't know if anyone else has spoken of what is called the ''daf yomi'' program, a page-a-day of Talmud study done under the auspices of Agudath Israel. It takes 7½ years to finish the Talmud—a compilation of Jewish literature attempting to interpret the values and the specifics of the Torah, the Bible. On the last completion of that cycle, which occurred in September of 1997, if I am correct, 70,000 people gathered, filling Madison Square Garden in New York, Chaplain Ogilvie. It reminds me in some sense of the Promise Keepers or groups of other faiths coming together to do some of the work you have done with Reverend Graham, and others—70,000 people, first filling Madison Square Garden, and then in the halls and chambers all over America and all over the world on one night to celebrate what is called the A Siyum, the completion of the 7½ year day-by-day trek through this experience, a remarkable achievement, and a commitment to live by the values that were part of that organization and that experience.

Rabbi Sherer, it has probably been said here—and I will say it briefly—not only built the inner strength of the American Orthodox Jewish community through study, through social service, through communal strength, but was a remarkable ambassador to the broader community of faith-based organizations working with people of other faiths, and then reaching out into the community, and particularly the political community during his time in recent years. He opened an office here in Washington, a kind of government relations office for the good of Israel—working again with other groups to support across religious lines commonly held principles, even when they were controversial.

On the day that Rabbi Sherer was buried and his funeral occurred, there was a remarkable outpouring in New York to pay tribute to him. More than 20,000 people stood outside the synagogue where the service was held. They lined the streets to pay final honor to Rabbi Moshe Sherer. It was heartfelt, it was emotional, and it was also an expression of gratitude to all he had meant to the organization, to them personally, to their children, to the institutions from which they had benefited, and to their sense of freedom and confidence being religious people in the America context. And now, as we are taught the way to continue to honor his memory is to live by the principles that guided his own life, we are taught that when a person dies and leaves this Earth and their soul ascends to heaven that they are in that sense unable to do more to elevate themselves, that it is up to those of us who survive them here on Earth to try to do deeds that are good in their name, if you will, to be of support and strength to them.

I think that is the work that has continued in the organization and in the lives of the individuals and all of us who were touched by Rabbi Moshe Sherer.

I join my colleagues to pay tribute to him, and to those who continue the strong and important work for the good of Israel, and to offer condolences to his wife, to his children, to his grandchildren, and to his great grandchildren.

May God come forth and give them the strength—as I know He will—to carry on the extraordinary good work that characterizes the life and times of a great Jewish American, Rabbi Moshe Sherer.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Connecticut for his beautiful words.

My dear friend and colleague, the Senator from New York, has asked to speak, and I yield him 3 minutes, if we may, of the time that is beginning to run out. Also, the distinguished majority leader has come on the floor.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SCHUMER. Mr. President, I thank my colleague, Senator MOYNIHAN.

I, too, want to join my friends, Senator MOYNIHAN, Senator LIEBERMAN, Senator LOTT, Senator ASHCROFT, and others in honoring the memory—the blessed memory—of Rabbi Moshe Sherer, who is truly one of the great heroes of the Jewish community and of all of America in the second half of the 20th century.

I am proud to have called him a friend as well as a mentor. He would guide me regularly on political and moral events. He is missed by myself, and my wife and my family, as he is by millions of others.

Rabbi Sherer did so many good things. Senator LIEBERMAN spoke about how he gave great strength to the orthodox community which had been through one of the worst periods of history ever inflicted on any people, and they came to America. What Rabbi Sherer did more than anything else was show them that they could live by Torah values, and the values of teaching, as well as by American values—in fact, that the two strengthened each other; that the values we have learned in the Torah, the Bible, and our teachings, the Talmud, which was mentioned by Senator LIEBERMAN, would make people better Americans; and the values that America allowed us to grow in, no matter who you were, or where you came from, if you worked hard, you could achieve something for you and your family, were consonant with Torah values.

What Rabbi Sherer did through the guide of Israel, aside from the way he touched all of our lives, is that he helped my State of New York and our great country grow, because today there are hundreds of thousands—maybe millions—in America who follow Rabbi Sherer and who follow what he taught. They are living the ways that have been lived by our ancestors for thousands of years—the way of Torah, the way of life. But at the same time, they are building this country by the American values consonant with Torah values of hard work and dedication. And as they build and work hard to help themselves and their families, they help America grow; they start companies; they work in other companies; they teach.

So Rabbi Sherer's loss has been a loss for us who know him and knew him and miss him. It has been a loss for the Jewish community in America—one of our greatest leaders who taught us about education and who taught us that living a life of Torah values and being proud Americans is totally consistent. So it is also a great loss for America because America has always depended on and relished in the glory of lives such as that of Rabbi Moshe Sherer.

So I join with my colleagues, my friends in the gallery, in remembering him, remembering his life and his good deeds, and knowing that, as a Jew and as a New Yorker and as an American, I am proud to stand before my colleagues and before all of our country and say words of praise in memory, in blessed memory, of Rabbi Moshe Sherer.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, might I add I am proud of the warm and insightful remarks of my junior colleague. I thank him.

I see the eminent majority leader is on the floor. Through his courtesy, this

time has been made available. I wish him to take whatever time he requires.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. LOTT. Mr. President, I extend my appreciation to the distinguished senior Senator from New York. It is always a pleasure to work with him. I thought it was appropriate we have this time this morning to pay tribute to this great man.

Mr. President. today, along with other Senators from both sides of the aisle, I note the first anniversary of the death of Rabbi Morris Sherer, the longtime president of Agudath Israel of America.

This is a sad memorial, in that the nation has lost his ethical leadership and his commitment to justice and religious liberty. But this should also be a celebratory observance, to honor the memory of a man who, while treasuring the past, always looked forward.

Rabbi Sherer was a living example of President Reagan's favorite saying: there's no limit to what you can accomplish when you don't care who gets the credit for it. But today, we rightly give him credit for a lifetime of good works on behalf of this people, his faith, and his country.

More than a half-century ago, in the worst of times for European Jewry, he put Agudath Israel in the forefront of assisting the persecuted and saving the hunted. And with the defeat of Nazism, his organization pitched in to help refugees and immigrants.

Here at home, he took a small organization that seemed to be on the sidelines of American life and transformed it into an active, weighty, influential factor in the mainstream of national affairs.

He was not reluctant to apply the value of his faith of public policy. Because religious education was at the very core of his community's life, he fought for equitable treatment of students in faith-based schools, whether Christian academies or Orthodox schools.

Because he understood that a culture without values is a culture without a future, he foutht against the moral decline that has brought so much suffering and sorrow to our country in recent decades.

His concern to preserve and strengthen the Jewish religious heritage in American did not prevent him from working with those outside his own community who shared his principles. We need to have more of that in America, not less.

In matters of public policy, it is easy to win applause, but it is even harder to win true respect.

Rabbi Sherer sidestepped the applause and earned the respect that today brings members of the Senate of the United States to pay tribute to his memory.

I know he would be especially pleased by this observance, not because we are here praising him, but because his son, Rabbi Shimshon Sherer, is serving today as our guest Chaplain.

We thank him for that, as we thank the men and women of Agudath Israel for their continuing commitment to defend their faith and advance the humane vision of Rabbi Morris Sherer.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, our time has expired. Might I ask for 1 concluding minute?

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

Mr. MOYNIHAN. I thank the majority leader for his fine, perceptive remarks and for making this occasion possible.

It is a little over a year since the passing of Rabbi Moshe Sherer, one of American Jewry's most distinguished communal leaders. Rabbi Sherer was the president of Agudath Israel of America for over 30 years and served as a reasoned, wise voice whose counsel was widely respected in the Yeshivot of his beloved Brooklyn and the halls of government in lower Manhattan, Albany, Jerusalem, and here in Washington.

I first met Rabbi Sherer in the early days of the Kennedy administration when he came to Washington on behalf of Agudath Israel. I quickly learned to admire his sagacity and rely on his insightful counsel and abiding integrity. For over 35 years he was a treasured mentor and a trusted friend.

Rabbi Sherer's earliest work on behalf of the Jewish community was the grassroots, and largely illegal, organization and transport of food shipments to starving Jews in Nazi-occupied Eastern Europe in 1941. His efforts also produced affidavits for European Jewish refugees that helped them immigrate to the United States.

After the end of World War II, he and Agudath Israel continued to assist European Jews—survivors interned in displaced person camps—with foodstuffs and religious items, and helped facilitate the immigration and resettlement of Jewish refugees on these shores. In ensuring decades, Rabbi Sherer spearheaded Agudath Israel's efforts on behalf of endangered Jews behind the Iron Curtain and in places like Syria and Iran. In 1991, years of clandestine activity on behalf of Soviet Jews culminated in his establishment of an office in Moscow to coordinate Agudath Israel's activities in Russia. Under his leadership, Agudath Israel also played an important role in providing social welfare and educational assistance to Israel Jews, and in advocating for Israel's security needs.

Ignoring the pessimistic predictions about Orthodox Jewry made by sociologists and demographic experts in the 40s and 50s, Rabbi Sherer went on to help engineer a remarkable change in the scope, image and influence of the American Orthodox Jewish world. A staunch advocate of Jewish religious education as a early as the 1960s, he helped establish the principle in numerous federal laws—like the Elementary and Secondary Education Act of 1965—and State laws that, to the full extent constitutionally permissible, children in non-public schools were entitled to governmental benefits and services on an equitable basis with the public school counterparts. In 1972, his efforts on behalf of education led to his being named national chairman of a multi-faith coalition of leaders representing the 5 million non-public school children in the United States.

On the day of his funeral last year I took the Senate floor to declare that:

> World Jewry has lost one of its wisest statesman. America Orthodoxy has lost a primary architect of its remarkable postwar resurgence. All New Yorkers have lost a man of rare spiritual gifts and exceptional creative vision.

Rabbi Sherer passed away only hours before the President of the Senate, Vice President AL GORE, addressed Agudath Israel's 76th anniversary dinner in New York. He spoke for the Senate and for all Americans when he eulogized the Rabbi as ''a remarkable force for the understanding and respect and growth of Orthodox Jewry over the past fifty years,'' whose ''contributions to spreading religious freedom and understanding have been truly indispensable in defending and expanding those same rights for all Americans in all faiths.''

I know I speak for the entire Senate when I express my condolences to his widow Deborah, his loving children Rachel Langer and Elky Goldschmidt, who join us today in the visitor's gallery, and his son Rabbi Shimshon Sherer whose inspiring prayer opened this morning's Senate session.

''There were giants in the Earth in those days,'' the book of Genesis teaches. Rabbi Noshe Sherer was a giant in our midst, whose counsel and wisdom will be missed by all of us who were privileged to enjoy his friendship.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon shall be under the control of the Senator from Minnesota, Mr. GRAMS, or his designee.

The Senator from Minnesota.

TAX RELIEF FOR AMERICAN FAMILIES

Mr. GRAMS. Mr. President, we wanted to take a little time this morning to again talk about what I consider the overtaxation of the average working family in the United States. The tax burden is getting larger and larger every day and every year. In fact, under this administration it has grown by about 50 percent in just the last 6 years. To sum up some of these things we do have a number of other speakers who will come down this morning and join us and lay out some of the facts and figures on the current tax status in the United States.

Next Sunday our Nation will celebrate the Fourth of July. Millions of Americans and their families and

friends will gather to raise the national flag, parade in their hometown, grill in their backyard, or drive to the beach for a relaxing vacation.

The Fourth of July is always a truly great American holiday.

As we observe this special occasion, I rise to remind the American people of why we celebrate the Fourth of July, Independence Day, and to call upon Congress and the President to take immediate action to provide meaningful tax relief for all overtaxed Americans.

This great Nation was born out of a tax revolt. The revolt was not because of Founding Fathers were selfish but because they did not want to be shackled under more government regulations, bureaucracy, taxing powers, and unjust legislation of their homeland.

They did not want to send their hard-earned money to the Parliament in England that furthered their own special interests in order to keep themselves in power.

This tax revolt was about freedom and liberty, about a person being able to own himself, his labor, and the fruits of his labor. This is the simple moral origin of our Nation.

Our Founding Fathers understood well that low taxes and freedom were directly related. They did their best to ensure that the American people continued to enjoy their freedom.

Unfortunately, this freedom that our Founding Fathers treasured so much and that triggered our Nation's independence has been eroded.

Today, Americans are overtaxed. The tax burden on working Americans is more crushing than ever. In 1913, less than 1 percent of all Americans paid income tax. Only 5 percent of Americans paid any income tax as late as 1939, before World War II.

Today, the Federal tax burden is at a historic high. Federal taxes consume nearly 21 percent of national income. A typical American family pays $9,450 in Federal income tax per year.

A median-income family can expect to pay nearly 40 percent of its income in Federal, State, and local taxes—more than it spends on food, clothing, and housing combined.

But our Democratic colleagues and President Clinton do not believe this rapidly growing tax burden is excessive and have preferred new spending to tax cuts.

One of the best indicators of how exhausting the tax burden has become is the annual arrival of Tax Freedom Day, the day on which Americans stop working just to pay their State, Federal, and local taxes and actually begin keeping their earnings for themselves.

This year, Americans had to wait until May 11 before they marked Tax Freedom Day. At 132 days into the year, it's the latest arrival of Tax Freedom Day ever.

As a sign of just how far and fast taxes have escalated, in 1950, Americans marked Tax Freedom Day on April 3.

Cost of Government Day, a day calculated by Americans for Tax Reform, goes further by including taxes, regulations, and total government spending. This year Cost of Government Day arrived on June 22.

The total cost of government in 1999 is estimated at $3.72 trillion, that is up from $3.56 trillion in 1998.

This is a 4.5-percent increase overall, and that is almost double the rate of inflation. The cost of Government regulation alone will cost taxpayers over $1.06 trillion in 1999. Again, our Democratic colleagues and President Clinton do not believe this rapidly growing tax burden is excessive, and they have repeatedly denied tax cuts to Americans.

Let's take a look at another indicator. Over the course of President Clinton's administration, Washington's income has grown faster than our economy and has grown twice as fast than the income of the average American. In fact, Federal taxes have grown by over 54 percent during this administration. That is nearly $4,000 per year more per person. The income tax rates also indicate Americans are overtaxed.

The average tax rate for the 437,036 individual returns filed for 1916 was 2.75 percent. Again, the average tax rate for nearly the half million Americans who filed returns in 1916 was just 2.75 percent of income. Under President Reagan, we had only two income tax rates: 15 percent and 28 percent. But today, there are now five tax rates, and Americans can be taxed as high as 40 percent in Federal taxes.

In the past few years, over 20 million American workers earning between $30,000 to $50,000 have been pushed from the 15-percent income tax bracket to the 28-percent income tax bracket due to the unfair tax systems we have. On top of that, they have to also pay a 15.3-percent payroll tax. Federal taxes alone account for the loss of 43 percent of the income for those middle-income Americans who have worked hard just to try to get ahead.

The President and the Democrats always like to tell middle-income Americans that, of course, they are only out there taxing the rich while they stick their hands deeper and deeper into the pockets of average Americans. They use class warfare as a cover to tax all Americans at a higher and higher rate.

The rapidly growing tax burdens hurt low-income and minimum wage workers as well. They may not pay income tax, but they still have to pay the payroll tax. As low-income and minimum wage workers work harder and earn more, their payroll tax increases, again taking a huge bite into hard-earned dollars that are most needed to keep those families above the poverty line. Once again, our Democratic colleagues and the President do not believe this rapidly growing tax burden is excessive and have repeatedly refused to support any tax cuts.

Let's ask the American people if they are overtaxed and want a tax refund on their overpaid taxes. Let's ask a full-time mom and former schoolteacher, Susie Dutcher, about the overall tax burden. According to her:

Taxes are far and away the biggest portion of our family budget.

Susie would love to put more dollars into their retirement account, would love to buy more books for their three children, or put more money in their college fund or spend more money for other family priorities, but she cannot because much of the fruit of their labor is again taken by the Government.

Ask John Batey of Tennessee about the death tax. John runs a 500-acre family farm that has been part of the Batey family for 192 years. John has spent all of his life on his family farm and, like most other farmers, he plans to be a good steward of the land, save and build his assets, and someday try to leave his farm to his children.

After the death of his father 5 years ago and the death of his mother last June, John began to settle his parents' estate. As he was about to take over the family farm, the IRS sent a death tax bill for a quarter of a million dollars. The land value of the farm increased significantly, but the death tax has never been indexed. John had no choice but to sell some of his assets, dip into their lifelong savings, and even borrow some money to pay Uncle Sam.

The Federal death tax was originally levied to pay for the war in 1916 to help fund the efforts of World War I, and estates under $9 million were not taxed at that time. But it later evolved into a mechanism, of course, with a redistribution of private income.

Just like the Batey family, millions of American farmers and small businessowners are faced with paying high taxes or, in fact, losing their farms and businesses to pay the death tax. Unfortunately, again, my Democratic colleagues insist that a cut in the death tax is a tax cut for the rich, and they can hardly justify a costly tax cut that benefits some of the wealthiest taxpayers.

Ask janitor Joe of Virginia about the capital gains tax. Over the last 30 years, Joe saved every penny of his income he could possibly save after paying Federal, State, and local taxes. He took the risk, and he invested his savings smartly in the market. He was excited as he watched his savings grow into $1/2 million in assets. That excitement soon turned into torment upon retirement when he began to withdraw the funds. The Government took nearly one-third of those hard-earned savings for capital gains taxes.

Or you could ask newly wedded Alicia Jones of my home State of Minnesota about the marriage penalty. Alicia and her husband graduated from college and had just begun working full time 2 years ago. In 1998, Alicia and her husband worked full time in professional careers. They had no children and were renting an apartment and trying to save to buy their first house. They had to pay at least an additional $1,400 under the marriage penalty tax in our Tax Code for simply being married.

As a result, on top of the over $10,000 they already had deducted from their

checks to pay Federal taxes, they had to take an additional $700 out of their limited savings account to pay for Federal taxes, taxes that they would not have had to pay, by the way, if they had not been married.

She wrote and said:

I'm frustrated by this. I'm frustrated for the future. How do we get ahead when each year we have to take money out of our savings to pay more and more for our taxes? I hope that you will remember my concern.

Alicia's story is not uncommon. There are 21 million American families in this same situation. If these individual stories are not convincing, let's take another look at the polls.

A recent Gallup-CNN-USA Today poll shows that over 65 percent of Americans believe taxes are too high. Half of the American population think the tax system itself is not fair. A Fox News poll indicates that 65 percent of Americans believe that no more than 20 percent of their income should go to Federal, State, and local taxes. As I said, about an average of 40 percent today is collected from Americans across the country.

An Associated Press poll also shows that the majority of Americans want to use the non-Social Security surplus that we are hearing so much about this week for tax relief, not for more pet spending programs by this administration.

The list goes on. There are a lot of people around Congress, and especially in the White House, who talk about tax relief, but I believe it is all show.

The message from the American people is loud and clear: We are overtaxed, we want meaningful tax relief, and we want and need tax reform.

I ask my fellow colleagues and the President to ponder a very fundamental question about taxation over this holiday: Should our Government tax working Americans' income when they first earn it? Should the Government be able to tax it again when they save it, tax it again when they spend it, tax it again when they invest it, and tax it yet again when they die?

They talk about redoing taxes for low income people because it takes a larger portion of disposable income. I agree, but there is no excuse to tax others even more to support larger and larger spending plans.

To my fellow Americans, I invite you to think about our country's origin over this Independence Day holiday. Take a closer look at your payroll stubs to see how much in taxes is taken from your income, or just take a few moments to examine the hidden taxes on your holiday spending. You will be shocked to find out how much tax you are actually paying.

Let me give a few examples. If you drive the family car on vacation on the holiday, remember that 45 percent of the cost of your car goes to taxes. Over half of what you pay for a gallon of gasoline ends up going for taxes. Thirty-six percent of the cost of the tires on your car goes to taxes. And if you choose to fly, 40 percent of that cost also will go to the Government.

Staying at a hotel is not cheap either, but did you know about 40 percent of your bill goes to the Government in the form of taxes?

If you decide to stay at home and have a simple barbecue to celebrate Independence Day, the Government will stay there as an uninvited guest, and 43 percent of the cost of beer and 35 percent of the cost of soda will go to taxes. The Government's slice of your pizza is about 38 percent, and taxes account for 72 percent if you want to have a drink. Even 31 percent of what you pay for a loaf of bread is taxed.

I think you get the idea of how much of the price of the average products you will buy over this holiday weekend is going to go to the Government in taxes.

So in closing, I am encouraged by President Clinton's announcement that the budget surplus will grow by an estimated $1 trillion over the next 15 years. This additional budget surplus, I believe, makes tax relief even more necessary and even more feasible.

Even President Clinton is talking about new possible tax relief for the American people this year. I welcome the opportunity to work with the President to try to provide tax relief for all Americans—not to talk about it, not to be all show, but to make sure that some tax reform is passed in tax relief.

Saving Social Security, reducing the national debt, cutting taxes are imperative for our economic security and our economic growth. Our strong economy has offered us a historic opportunity to achieve this three-pronged goal.

Republicans are committed to returning the non-Social Security surplus to overtaxed Americans who are out there working hard and generating it in the first place. We have reserved nearly $800 billion of the non-Social Security money for tax relief in our budget, and we will provide meaningful tax relief for all Americans this year.

Thank you very much, Mr. President.

I now yield the floor to my colleague from Georgia, Senator COVERDELL, for up to 10 minutes.

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

Mr. COVERDELL. Mr. President, first, I compliment the Senator from Minnesota for organizing and bringing this meeting together on the question of tax relief and for the powerful statement he just made in support of giving relief to American workers so they can keep more of what they earn in their checking accounts rather than sending it off to bureaucrats—locally, in the State, and federally.

In the last few days, President Clinton has joined in calling for a strong lockbox to protect Social Security. I am pleased to see this. For the last month, we have been fighting a filibuster from the other side of the aisle on this concept of setting a procedure in place that would make sure Social Security receipts have a new protection device. Hopefully, because the President has now said he supports it, the other side of the aisle will drop their filibuster and we can get on with our proposal to be more protective of Social Security receipts.

Second, the President has said he will now support tax relief. That is important. But tax relief can have a lot of definitions.

Our view of tax relief is that it should be across the board, that everybody should participate, and that the savings which families keep in their checking accounts be used for the decisions those families want to make: Do they need more health insurance? Do they need to pay school tuition? Do they have a leak in the roof? Do they need a new car?

The President's definition of tax relief is that you get it if you do something he wants, for instances if you put a solar panel on your roof or if you buy an electric car, if you can find one. That is behavioral relief. In other words, if you begin to live your life the way we in Washington think you should live it, you will get a break, but we are not going to let you decide what you ought to do.

I would suggest that the tax relief proposal, which is growing in size, ought to be looked at very seriously. I will come to that in just a minute. But let's just talk for a second or two about why tax relief is so important to American families.

First, as was said by the Senator from Minnesota, they are paying the highest taxes they have paid since World War II, which, given the extended periods of general peace, is unconscionable.

This year, American families will have a negative savings rate. That has not happened since the Depression. If you read what several pundits in the country have written, they say it is because American families are greedy. Hogwash. What it is, the Government has been taking more and more of what they earn, and the disposable income, the income they have left to use, is barely enough. In fact, in many cases it is not enough to manage their families so there is nothing left to save, and they are not saving.

That means those families cannot face off an emergency. If somebody loses a job or there is some loss of income, the rent cannot get paid. If there is an unexpected illness, an unexpected educational cost, an emergency, there are no savings in America to deal with that. So you put a whole arena of anxiety across the breadth of the land.

I am not going to overdetail this because of the time we have, but I, Senator TORRICELLI—it is bipartisan, bipartisan in the House, Republican and Democrat with leadership—Senator LOTT, Senator GRAMM of Texas, the chairman of the Banking Committee, are all coauthors of a concept that takes the first tax bracket, which is 15

percent, and increases dramatically the number of people who are in that minimum tax bracket.

So everybody would share equally. But the effect is that about 7 million people would be pushed down into that lowest tax bracket. Then the first $500 of interest that family earns from the savings account would not be taxed. That means about $100 billion over the next 10 years would be saved by those families, and 30 million of those families would have no tax on their savings accounts.

So what we have is a plan that benefits 110 million taxpayers, 30 million of which would be saving tax free, 10 million of which would no longer pay capital gains tax, and 7 million middle-income taxpayers would be returned to the lowest tax bracket.

But we do not tell them what to do with their savings; they can figure that out. It isn't designed to cause them to live in a loft or to use a solar panel or a windmill. It is designed to let them keep more of their income so they can more effectively manage their families and their lives.

Incidentally, this is the only tax plan that has been endorsed by the New York Stock Exchange. It is right on target, because pushing people into the lowest tax bracket is helping them save, and it is simplifying the Tax Code.

I hope that every succeeding year we can take another million-plus taxpayers and push them down into this 15-percent tax bracket. One day we might even get to the point that almost all Americans are there.

So this is a time for tax relief. Americans are paying the highest taxes they have paid since World War II. They have no savings, and therefore they do not run their families as effectively as they could. We all know the results of that. So this is broad public policy that needs the attention of the President and the Congress. It is the right thing to do, and this is the right time to do it.

I yield back to the floor manager.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Senator from Georgia for his remarks this morning. Also, I thank him for all his hard work during this and previous Congresses to make sure that American families will be allowed to keep a little bit more of their hard-earned money, that less of it will come to Washington, and that they will have a little bit more control over how they spend it and what they spend it on. I appreciate it and thank him for all his efforts and work.

I also recognize this morning the Senator from Missouri, Mr. ASHCROFT, who also has been a leader in the fight against higher taxes and is working very hard for tax relief.

I yield 7 minutes to Senator ASHCROFT.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Thank you, Mr. President.

I am delighted to commend the Senator from Georgia for his outstanding remarks. He is right about giving people a chance to spend their own money in the way they choose to spend it.

So much of our so-called tax relief from time to time is given in ways that try to coach people that they should have it the way we want it done. Freedom is the ability to spend one's own resources the way one particularly wants to spend them. So I am delighted with his remarks.

I rise today in support of Congress' plan to provide over $778 billion in tax cuts over the next 10 years. The President has already announced that the budget surplus will be larger than expected. This onbudget surplus is another name for a tax overpayment. Talk about a budget surplus. It means we are collecting more than we need.

Having collected more than we need from the people who worked hard, the least we could do would be to give it back to them. When you go into a business and hand a $10 bill to the clerk for a $7 item, they don't say: Well, we are going to increase your spending level. We are going to throw in four extra pairs of shoelaces and a can of polish, if you are in a shoe store. They say: No, here is your change. This is your money. You have overpaid.

That is where we are. In the days ahead, Congress will be deciding what to do. Are we going to try to find more ways to spend the money the people have earned or are we going to say our faith is in families; we are going to focus the resources of this country where we have our faith, and that is in the private sector and in families? That is what has made America great.

Or are we going to say our real faith is in bureaucracy; we are going to take more of this money and fund bureaucracy?

I think it is time for us to think about funding families, not funding bureaucracies; funding Main Street, not funding Washington, DC. When we have challenges in this country, I think all of us know they aren't going to be solved by government. As terrible as Littleton, CO, was and is, the real challenge is a cultural challenge.

We need strong families with the right values. We don't need stronger government bureaucracies. If bureaucracies could have solved the Littleton situation and many other challenges, we would have expected to have no challenges by now because we have great bureaucracies. We have more bureaucracy in America than ever before, but we have greater problems.

Instead of the high tax load that really almost forces the second parent to be in the workforce, maybe we ought to think about allowing people to keep some of the money they earn so they don't have to have both parents working and competing with the needs children have for the shaping, the nurturing, the developing, the teaching, and the parenting that is so necessary.

This year, the average American will have to work 173 days just to pay for government. This includes the burdens of Federal taxes, State taxes, and local taxes. We pay more in taxes than at any other time in history.

Some people say: Well, there was a year or two in the Second World War. I dispute that. I don't think they are counting local taxes as well. Some people say: What does the Congress have to do with local taxes? Very frankly, a good bit of the load of taxes at the State and local level is a result of Federal mandates, the Federal Government wanting to force things to be done by government and the bureaucracy, not having the courage to charge for it but just saying to the States: You must get this done.

It is sort of similar to going in to order something without paying for it. We have done that at the Federal level. It is a shame, but it has happened.

It is time for us to say that we need to allow some of the individuals who have built this great Nation to enjoy the fruits of their own labors. When we have overcollected, we have taken more than we need. We have a surplus. Let us give the folks the change back instead of trying to force them to buy more bureaucracy, which they didn't want, didn't order, and don't need. They do need the capacity in families.

According to a Congressional Research Service study, the surplus means that the average household will be paying $5,000 more in taxes over the next 10 years than the government needs. Well, let's just let the American people have some of that money back.

I want to go quickly to one of the most important things we can do to correct a serious error of our Tax Code. For a long time, Members of this body have understood that our Tax Code penalizes people for being married. The way the Tax Code is administered, there is what is called a marriage penalty for people who enter the durable, lasting relationship of marriage, which is the place where children learn and where society and the social order, our culture, renews itself—in durable, lasting, committed marriages. They get taxed more heavily, very frequently, than if they were not married. That is called the marriage penalty.

I may not be one for lots of little nuances in the Tax Code, but it is time for us to take this massive prejudice out of the Tax Code that charges people elevated rates because they are doing the thing government most needs. If government is to promote safety and the stability of the community so people can reach the potential that God has placed within them—and that is what I think government is for—the family does that more effectively and in concert with government better than anybody else. If anything, marriage ought to be the subject of a subsidy, not the pernicious recipient of a penalty that punishes people for being married.

I know KAY BAILEY HUTCHISON, the Senator from Texas, has focused for

years on this idea. I have been one who has stood up to say that we ought to focus on this idea. If we have an opportunity to let people keep some of what they earn, let us stop punishing people for the persistent, durable commitment of dedicated marriage that is fundamental to the success of this society in the next century. That would be a tremendous first step.

We all know that we are paying more in taxes than ever before. We have watched, as the tax burden has gone up, families struggle to meet their responsibilities, moms and dads trying to juggle how they can accommodate their schedules and still raise a family. Finally, the second parent goes into the workforce to make ends meet because government demands so substantially.

Let us give the American family the kind of tax relief that allows families to make America great again and to make their own decisions. It is with that in mind that I think one of the tremendous opportunities we have is the opportunity to abolish the marriage penalty in the tax law.

I urge my colleagues, as we consider our responsibilities, to relieve American marriages of this pernicious penalty which punishes people for doing that which we all need.

I thank the Senator from Minnesota and the Presiding Officer.

Mr. GRAMS. I thank the Senator from Missouri for those words and, again, thank him for all his efforts on tax relief.

I now recognize the Senator from Alabama, Mr. SESSIONS, who also wanted to talk about it, for up to 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I express my appreciation for the excellent remarks delivered by the Senator from Missouri. He and the Senator from Minnesota have been champions of lowering the burden of government on American people since they have been in this body. They are known for that. They have given time and effort and passion to it. I really was inspired by the remarks of the Senator from Missouri. I appreciate them very much.

We are in a time of surplus. We have time to make some decisions about what we are going to do with that surplus. The President's own Office of Management and Budget midyear review now indicates that we will have, over 10 years, a $1 trillion surplus outside of Social Security available to us.

I suggest we have to consider allowing working Americans to keep more of what they earn. That is clearly a policy that will nurture freedom. The more money we take from individuals, the more we take from families, the more we shift it to a burdensome bureaucracy in Washington, the more we diminish their freedom, their power vis-a-vis the government. The government is strengthened. The individual and family is weakened. It is just that simple. The power to tax is the power to destroy. A tax diminishes freedom. It penalizes certain behavior, and it encourages other behavior.

I think we have to be honest with ourselves. This great economy has done some wonderful things for America. We are also finding that people are moving up in the tax brackets, higher and higher tax brackets, meaning they are paying a higher percentage of their income to the government each year. And the sad fact is that the total percentage of the gross domestic product; that is, of all goods and services produced in America, is increasing. According to the Federal Government's own statistics, in 1992, when this administration took office, before the big tax increase, we were sending 17.6 percent of the gross domestic product to the Government. It will reach 20.7 this year or next year—a steady increase.

To say that tax decreases are going to destroy the Government and somehow result in a massive reduction in funds to the Government is silly. The year before last we rolled back one-third of the 1993 huge tax increase that the administration pushed for. We rolled that back and included within it a $500 per child tax credit. I know the Senator from Wyoming, the Presiding Officer, was a supporter of that, and the Senator from Minnesota, was a big supporter of that $500 per child tax credit. I made it one of my highest priorities and worked extremely hard to see that that became a reality.

They say: Well, you can't afford a tax cut. If you have a tax cut, we will increase our deficit. That has not happened. In fact, we are continuing to see surpluses accrue.

But what I want to ask the American people to do is think about this: A family with three children making $35,000 a year, or $45,000 a year, will now receive a tax credit—not a tax deduction but a $500 reduction in the amount of money they have to pay in taxes to the Government for each of those children—$1,500. They will be getting those refunds this spring. Many have already received those refunds—$1,500 for a family. That is $120 per month tax free for a family to use for things.

If there is somebody struggling today, as the Senator from Missouri noted, it is working families. It is expensive. They will have $120 a month to buy shoes with, or maybe a new set of tires for the car, or maybe money so the child can go on a school trip that they would like for them to go on but are wondering how they are going to pay for it. They will get it every month, because this Congress said, no, we are not going to keep taking this money from the families; we are going to allow you to keep it and use it as you see fit.

Who cares more about children than a mother who cares about her children? Who can best decide what they need than the family?

It is a myth that if you do not vote for more and more and bigger programs, you love your children less. That is an incorrect statement. It really offends me, because what we are doing is taking that money from families who love their children and who know their children's names. Nobody in Washington knows my children's names or the names of children in Alabama. They can't possibly utilize resources as effectively as the people who love them and who are raising them.

I really believe that was a nice step forward. But it was just one step. I am proud that we accomplished that. It took some effort. It looked as if it wasn't going to happen, until finally the American people understood what was being talked about. They realized that it was in fact possible to achieve it, and the people started speaking. The Congress—some of those who objected—got the message, and the President got the message. He signed that bill. So we are looking at a continual possibility of a surplus in the future.

I am concerned that we are showing an unhealthy increase in the amount taken by Government. I think it is time to send some of that back to our people. We can make reform of Social Security, we can secure Medicare, and I am absolutely strongly committed to the Social Security lockbox—to setting aside our Social Security surplus so we don't spend it, and making sure it is there to allow us to strengthen and improve Social Security.

That is the first step. If we spend the Social Security surplus by new and bigger programs—there is always some new program that somebody has—we are not going to have it to save Social Security.

Likewise, we have an opportunity with a non-Social Security surplus—this $1 trillion, this $1,000 billion, that will be ours in the next decade—to make a decision: Are we going to allow the Government to grow and become more and more a dominating force in our lives, or are we going to encourage families and freedom and prosperity?

Just for example, I support and am working very hard on a program I call ''The Class Act.'' Most States—42 States now—have a plan called a prepaid college tuition plan where you can buy into college tuition, invest your money into it as your children grow, so much a month, how you choose, and when your child gets to the age to go to college, it can be paid for.

We found that the Federal Government taxes all the interest that accrues on that money. The Federal Government is taxing and penalizing families who are doing the right thing by saving for their children's college education at the same time that we are providing tax breaks, interest rate breaks, and interest deferred payments to people who borrow for college. As a result, we have found that borrowing in the last decade has tripled—three times what it was in the previous decade. And savings are down.

Good government policy calls on us and demands of us that we encourage

the highest and best qualities in people. Taxing and penalizing people who save, and at the same time subsidizing people who borrow, which we need to do—people need to be helped in borrowing to go to college; we are not eliminating any of those programs—is wrongheaded. It is not encouraging our highest and best instinct as a people.

We are different from the rest of the world. This was never a government-dominated country. It has never been run by a king. It has never been run by a totalitarian Communist dictator. It is made up of millions of independent, free Americans who respect themselves and their communities and care about themselves and their communities.

We don't believe the Government ought to do everything for us. People are prepared in this country, as a part of our very character as a people, to take care of themselves whenever they can. But if the Government continues to take more of their wealth and take more of the money they earn every month, making it more and more difficult for them to meet their responsibilities, then they tend to look to Government to fund them.

That is not a good trend for us. This is basic. This represents a basic divide in this Senate and right down the hall in the Congress between people whose visions differ about the nature of our country.

I say let's celebrate our character of individualism, personal responsibility, personal integrity, good financial management, and frugality. Let's encourage savings and not tax people's money who save.

I think it is time for us as a nation to think about this. We dare not get into a big spending program. We do not dare start taxing and spending again. We have an opportunity for a historic time for America. I am proud to join with the Senator from Minnesota in promoting it.

Mr. GRAMS. Mr. President, I thank the Senator very much. I appreciate the words and all of the efforts of the Senator from Alabama. He is talking about the President announcing that a tax cut is possible. He is agreeing with us that tax cuts are important.

I think we have to be very careful because I think it would be a bad deal for the American people if we got a little bit of a tax cut but it came at the cost of huge increases in spending. We don't want that type of a tradeoff. We want to make sure that tax relief means tax relief and not just some token tax relief while we increase spending over in the other side.

I recognize for up to 5 minutes this morning the Senator from Kansas, Mr. BROWNBACK, and I also want to compliment him for all of his hard work and efforts in the area of taxes.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Thank you very much, Mr. President. I thank our distinguished colleague from Minnesota for all his work in this field.

As long as I have been in this body—I have not been in it that long; I am in my third year—I have known that Senator GRAMS has been really working on the issue of tax cuts. He has pushed forward. He has prodded people on it. He has done a beautiful job of getting us to the point of people saying let's have a tax cut, a serious tax cut, not one where we just issue a bunch of press releases and the press releases cost more than the tax cut but a real tax cut that stimulates the economy and helps people.

I am delighted the President is now apparently willing to work with the Congress in order to provide the American people with the tax cut they need and deserve. Part of the reason the President is now willing to consider a tax cut is the strength of the American economy, which is precisely one of the reasons we should consider a tax cut at this time. We are at this point of a budget surplus because of some fiscal discipline in Washington but mostly because of the strength of our economy. We need to keep that economy going and growing strong. That is the key to having budget surpluses in the future—a strong economy. We can help with tax cuts.

The bottom line, as has been mentioned before, is that growth works. When we have growth, we have more resources to pay down the debt, to do the programs needed for the American public, and now to cut taxes.

If we are going to continue to experience a growing economy, we need to take steps to enhance and sustain our current record of economic expansion in order to pave the way for the next century. We need another ''American century.'' Providing the American people with broad-based progrowth tax relief is one of the ways to help achieve it.

In America there is an emerging class of investors who are more aware of what tax policy means for individuals and for the ability of our economy to perform. This class of investors is citizens who have been able to take part in the American dream through 401(k) programs and expanded IRAs that have been offered as part of a retirement package or encouraged through our Tax Code. They are not wealthy—- not yet anyway—but they are increasingly concerned about our Tax Code and what it means to them.

We need to work with the family farmers, cab drivers, construction workers, and small businessmen to allow them to participate in this free market system and have it continue its expansion. They know the best thing Congress can do in order to spur growth is to cut taxes.

There are a variety of options for cutting America's taxes. We can use a budget surplus after accounting for Social Security. We need the Social Security surplus for Social Security, and we need to lock it down, lock it out—create a lockbox for it.

With the budget surplus over and above Social Security, we could widen the 15-percent tax bracket in order to help ''flatten'' the tax structure and provide the American people with tax relief. An expansion of the 15-percent tax bracket has another desirous effect of alleviating the impact of the marriage penalty. Currently, nearly 21 million families are forced to carry an average of $1,400 more a year in taxes simply for being married. We must bring this institutionalized discrimination against the family to an end. Now is the time to do that.

We could also take steps to encourage savings and investment by cutting the capital gains tax rate, which could stimulate the economy and give back further revenues to the Federal Government. Americans need a higher rate of national savings to continue to grow into the next century. Cutting capital gains tax rates will help. We can look at the possibility of further reductions in the death tax area. I think we need to do this, particularly for small businesses and family farmers who frequently spend a lot of time reorganizing their business, creating trusts and other corporations to get around paying death taxes that would have the impact of killing their business, or of killing their farm, and not allowing them to pass it on to the next generation. We need to do those things.

I congratulate the Senator from Minnesota for his work on this tax-cutting agenda and getting the President to agree that we can and should do a tax cut. For the President to say he isn't opposed to a tax cut is a positive step. Now it is time for the President to deal with the Congress in providing real tax relief to the American public. It stimulates the economy, it keeps us growing, and it supports the American public.

I yield the floor.

Mr. GRAMS. Mr. President, I thank the Senator from Kansas for his efforts in discussing the importance of continued work in reducing the tax burden for average Americans.

The bottom line is that we are overtaxed today. The average family today spends about 40 percent of everything they make on taxes. Compare that to 1916 when the taxes began; it was less than a 3-percent tax burden on those paying taxes at that time, which was only about 5 percent of the American people. Today over 40 percent of a family's income goes into taxes.

When we talk about tax relief, we are talking about giving back money that has been overcharged—in other words, the excess money, the surplus. We are not talking about cutting any Government spending. We are not talking about reducing even the size and scope of the Government under these plans. That we need to do. If we were going to actually cut taxes, we would be giving back the surplus and then looking for ways to reduce the amount of money the Federal Government spends.

A couple of brief facts on the tax burden and how it has grown. Under the Clinton administration, individual income tax relief for income tax receipts

has far outstripped our economic output. The tax collections have more than doubled this country's gross domestic product growth in the last 6 years. It is almost double what personal income growth has been. In other words, Washington spending is growing twice as fast as the growth in the entire economy and twice as fast as a person's personal income. I think that is what we are talking about today.

We all need to pay taxes. We need to support Government. There are many good things the Government does. We need to review the excessive spending and Washington's belief that it can do everything for everybody.

In a bipartisan effort and mood, I yield the reminder of my time to the Senator from South Carolina to sneak in some remarks this morning.

I yield the remainder of my time to the Senator.

Mr. HOLLINGS. I thank my distinguished colleague.

Mr. President, so the distinguished Senator from Pennsylvania has time for the independent counsel, I ask unanimous consent to extend his time from 12:05 to 12:35 so his half hour can be preserved.

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

Mr. SPECTER. I thank the Senator.

Mr. HOLLINGS. I thank both of my colleagues on the other side of the aisle.

I awoke with a shock when I saw we had $1 trillion more money to spend. I go right back to 1995, just 4 years ago, when I said I will jump off the Capitol dome if this budget is balanced by the year 2002. I said to myself, it looks as if I am going to have to jump off the dome, because they found another $1 trillion. We just have surpluses everywhere.

I felt that way until I picked up the President's document—the budget of the U.S. Government that they gave us today, hot off the press. Turn to page 42 and Members will see the actual deficit in 1998 at the end of September was $5,478.7 trillion.

The distinguished Presiding Officer, who is a certified public accountant, knows how to add and subtract. For the 5 years, on page 42, the total gross Federal debt goes to $6,298 trillion. The Federal debt by the year 2002 that I was worried about has already increased some $400 billion. By the year 2004, it has increased from the 1999 deficit $551.1 billion.

The debt is going up half a trillion, and everybody is talking surplus. That is totally dismaying to this particular Senator. It is a shabby game and a fraud that we play on the American public. The only entity to keep us honest is the free press. They join in the fraud. They had a debate some years ago, between Mr. Walter Lippmann and John Dewey. This is back before the war. Lippmann's contention was that the way to really build and strengthen a democracy is to get the best of minds in the various disciplines—whether it is in medicine or whether it is in law or whether it is in finance or whether it is foreign policy—get the best of the best minds around a table, determine the needs of the country, and give it to the Congressmen and Senators and let them enact it into law.

John Dewey countered that. He said: No, the better way is to give the American people the truth, and the American people, in a consummate way, through their Representatives in the Congress, the House and Senate, would reflect those truths, and we would have a strong democracy. That is the way since Jefferson's time, when he said:

> [. . . as between] a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.

That was because he was depending, over many years—now over the 200 years we have had—on that media expounding and telling us the truth.

The truth is, there is nothing in the lockbox that everybody is talking about. We have been spending it—$857 billion that we owe Social Security this very minute. So there is nothing in the lockbox. You can see from this document, when they say, pay down the public debt, there is no such thing as paying down any kind of special debt. You either have a debt that increases or a debt that decreases and comes into balance. They play that shabby game called ''paying down.'' The President even said, as quoted in the New York Times this morning, that he was going to tear up the credit card.

What they do is transfer the debt from the general indebtedness of Government, namely for defense and spending and everything else, foreign policy and otherwise, and transfer it over to Social Security, over to the military retirees, civilian retirement, over to Medicare, because there is a surplus. So they transfer that debt into these trust funds and say that is paying down the debt. It is like having a Visa and a MasterCard and you pay off your Visa card with the MasterCard. You are still the Government. If you are still the individual, you have your individual debt; if you are still the Government, you have the Government debt.

One more word and I will yield with gratitude to my distinguished friend from Pennsylvania. Just turn to page 43, the next page. You can see the 15-year; they have the debt held by the Government, accounts held at the end of the period, which has to be added up with the debt held by the public at the end of the period, and you will see the debt goes up to $7.587 trillion. The debt goes up almost $2 trillion over that 15 years.

Fortuitously, back 4 years ago I was saying that when President Reagan came to town we had an annual budget deficit from year to year and President Reagan said: I am going to balance it the first year. Then he said: Whoops, this is worse than I ever thought; I'll do it in 3 years. Then, with Gramm–Rudman-Hollings, we did it in 5 years. I said, before long we are going up to 10 or 15 years. And sure enough, this morning they have gone up with all kinds of estimates of revenues.

Really, the way to play, if you want to play this game, is let's have a 25-year budget. We will have enough money for everything. Send the money to the U.N., double the amounts to the United Nations, double the tax cut. Let's double all these things, give it all to investment accounts, health care, whatever you want. Let's have a 25-year budget and really go to spending up here.

It is a wonderful charade. It is a lord-awful fraud. It is only up to the media to cut out this nonsense about surplus when we are spending, this year, $100 billion more than we are taking in. It shows from the President's own figures we will continue to spend more than we take in, increasing the debt, which brings us to the $350 to $365 billion interest costs on the national debt. Before long, I am going to put in a tax allocated to really getting rid of that debt, whereby we will give a $3.5-trillion tax cut, namely, get rid of that interest cost over the 10-year period. That is the kind of tax cut the Senator from South Carolina would like.

I thank my distinguished colleague from Pennsylvania.

The PRESIDING OFFICER. Under the previous order and agreement, the time until the recess shall be under the control of the Senator from Pennsylvania.

The Senator from Pennsylvania.

INDEPENDENT COUNSEL REFORM ACT OF 1999

Mr. SPECTER. Mr. President, I seek recognition today to join my colleagues Senators LEVIN, LIEBERMAN, and COLLINS in introducing the Independent Counsel Reform Act of 1999. Our bill would accomplish two important goals. First, it would reauthorize the institution of the independent counsel for another 5 years. Second, our bill would make significant changes to the existing independent counsel statute to correct a number of problems which have become clear to all of us during the course of the past few years.

Tomorrow, the independent counsel statute will sunset. The law is dying because there appears to be a consensus that it created more problems than it solved. Many of us have forgotten the very serious problems and conflicts that led us to pass the statute in the first place. Any problems with the law can be fixed, and our bill addresses the issues that have caused the most serious complaints. But it would be a serious error to eliminate the institution of the independent counsel.

Many years have passed since President Nixon's infamous Saturday Night Massacre. Yet it is important that we remember this episode because it is such a powerful reminder of why we

passed the independent counsel statute and why the statute is still needed today.

Before there was an independent counsel, the Attorney General appointed special prosecutors under his control to conduct investigations of Presidents and other high ranking officials. After the Watergate break-in, Attorney General Elliot Richardson appointed Archibald Cox to serve as the Watergate Special Prosecutor. When President Nixon decided that Cox's investigation was getting too close to the truth, he sought to have Cox fired. The President was legally entitled to fire Cox, of course, since Cox was a Justice Department employee like any other. When Attorney General Elliot Richardson refused to fire Cox, Richardson was fired. When Deputy Attorney General William Ruckelshaus refused to fire Cox, Ruckelshaus was also fired. Finally, Solicitor General Robert Bork agreed to fire Cox.

After Archibald Cox was fired, the White House announced that the office of the Watergate special prosecutor was to be closed and the President's chief of staff sent the FBI to surround Cox's offices and seize the records he had compiled. Henry Ruth, an old friend of mine who was working at the time as Archibald Cox's top deputy, described the following scene in his testimony before the Governmental Affairs Committee on March 3 of this year:

> In anticipation of adverse action, we had secured copies of key documents in secret locations around Washington, D.C. and even removed some key items from the office that Saturday night hidden in underwear and other unlikely locations. We did not know whether the military would raid our homes looking for documents. Unanimously, the staff of the Watergate prosecutor's office just refused to leave or to change anything we were doing unless someone physically removed us. And if an unprecedented 450,000 telegrams of spontaneous protest had not descended upon Washington, D.C. in the few days after that Saturday night, no one really knows if President Nixon would have succeeded in aborting the investigation. In other words, we do not feel that the Department of Justice was an adequate instrument for investigating the President and other high officials of government.

Eventually, as a result of these telegrams and enormous public pressure, Leon Jaworski was appointed as a special prosecutor and the Watergate investigation was continued. But this positive outcome was far from guaranteed. As Mr. Ruth reminded the committee, ''it is impossible to describe how thin a thread existed at that time, and for three weeks, for the continuation of what was going on.''

It was this dark episode, perhaps more than any other, which convinced the nation that the individual investigating the President must be truly independent of the President. This is a lesson we should have to learn only once. While recent independent counsels have made some mistakes, none of these mistakes are on the scale of a Saturday Night Massacre. With this history as our guide, let us move to fix the statute, not eliminate it.

Senators LEVIN, LIEBERMAN, COLLINS and I have all attended 5 very comprehensive hearings before the Senate Governmental Affairs Committee from February to April of this year. During these hearings, we heard from former independent counsels, former targets of independent counsels, judges on the special division of the court which appoints independent counsels, Independent Counsel Kenneth Starr and Attorney General Reno. The four of us have also met repeatedly to discuss what is wrong with the current law and how to fix it. The bill we introduce today incorporates many of the suggestions made during these hearings and corrects provisions in the bill which lead to the most serious complaints.

First of all, we all agreed that too many independent counsels have been appointed for matters which simply do not warrant this high level of review. For example, I believe that Attorney General Reno made a mistake when she asked for appointment of an independent counsel to investigate Secretary of Labor Alexis Herman. In Secretary Herman's case, there was really insufficient corroboration to justify the allegations made against her. To address this issue, we have raised the evidentiary standard which must be met before the Attorney General is required to appoint an independent counsel. The statute currently requires that an independent counsel be appointed when there are ''reasonable grounds to believe that further investigation is warranted.'' Our bill provides that an independent counsel must be appointed only when there are ''substantial grounds to believe that further investigation is warranted.'' This change will give an Attorney General the discretion to decide that evidence she receives is not sufficiently strong to justify an independent counsel investigation.

As a further step to control the number of independent counsel investigations, our legislation limits the number of ''covered persons'' under the statute to the President, Vice President, members of the President's Cabinet, and the President's chief of staff. Accordingly, it would no longer be possible to appoint an independent counsel to investigate lower officials and staff whom an Attorney General could properly investigate on his or her own.

The four of us also agreed that it is a mistake to give an independent counsel jurisdiction over more than one investigation. For instance, Kenneth Starr started as the independent counsel for Whitewater. Attorney General Reno later expanded his jurisdiction to cover Travelgate, Filegate, the death of Vince Foster, and, or course, Monica Lewinsky. Unfortunately, the Attorney General's repeated expansion of Mr. Starr's jurisdiction created the mistaken impression that Mr. Starr was on a personal crusade against President Clinton, opening new lines of inquiry when prior ones failed to bear fruit. After Attorney General Reno expanded Mr. Starr's jurisdiction to include Monica Lewinsky, I publicly commented that this was a mistake, not because Kenneth Starr was not competent to handle the investigation, but because I was afraid that the public would see this as yet further proof that Starr was on a vendetta. I'm afraid this is exactly what came to pass.

Our bill would eliminate this problem by deleting the provision which allows the Attorney General to expand the jurisdiction of an independent counsel beyond his or her original mandate. Our bill further provides that the independent counsel can investigate only topics in his original jurisdiction or those ''directly related'' thereto.

The four of us also agreed that some independent counsel investigations drag on too long. Lawrence Walsh's Iran/Contra investigation lasted 6 years. Kenneth Starr's investigation of President Clinton has been going on for almost 5 years. Investigations of this length are really an anomaly in our criminal justice system. Federal grand juries are empaneled for a period of 18 months. As district attorney of Philadelphia, I had a series of grand juries on complex topics such as municipal corruption, police corruption and drugs all of which lasted 18 months. If you can't find certain facts in 18 months, I think the odds are pretty good that you will never find them.

Our bill sets a 2-year time limit for independent counsel investigations. Since there are some who would try to take advantage of this time limit and ''run out the clock'' on an investigation, our bill also empowers the special division of the court to extend this original 2-year period for as long as necessary to make up for dilatory tactics. Our bill also provides that the special division can extend the original time period for good cause. Finally, the bill requires the Federal courts to conduct an expedited review of all matters relating to an investigation and a prosecution by an independent counsel.

Another complaint about the Starr investigation was that his report to Congress was a partisan document making an argument for impeachment rather than providing an impartial recitation of evidence. While I believe that Mr. Starr was merely doing his job when he submitted this report, I do agree that requiring such a report inserts an independent counsel into a process—impeachment—which should be left entirely to Congress. Accordingly, our bill deletes the requirement that the independent counsel submit a report to Congress of any substantial and credible information that may constitute grounds for an impeachment.

While Kenneth Starr was blamed for many things that were not his fault, I do believe he made a mistake when he decided to continue his private law practice while he was serving as an independent counsel. The job of being an independent counsel is a privilege and an enormous responsibility—it deserves someone's full time attention.

Accordingly, our bill requires that an independent counsel serve on a full-time basis for the duration of his or her investigation.

It appears that a majority of our colleagues believe that it is better to let independent counsel statute die and return to the old days when special prosecutors appointed and controlled by the Attorney General will investigate the President and his Cabinet. I am confident, however, that after the dust settles and tempers abate, our colleagues will realize that the independent counsel statute provides a better way to handle investigations of the President and his cabinet than any of the alternatives.

We must all remember that the independent counsel statute was passed to address a serious problem inherent in our system of government—the potential for abuse and conflicts of interest when the Attorney General investigates the President and other high-level executive branch officials. After all, it is the President who appoints the Attorney General and is the Attorney General's boss. Often the Attorney General and the President are close friends. Accordingly, there is an inherent conflict of interest in having the Attorney General control an investigation of the President or the President's closest associates. Even if an Attorney General were capable of conducting an impartial investigation, the appearance of a conflict of interest is serious enough to discredit the Attorney General's findings, especially a finding of innocence.

The independent counsel statute is the only way to address this inherent conflict of interest. As memories of the Saturday Night Massacre have been supplanted by memories of Kenneth Starr, the pendulum of public opinion has swung too far against the statute. I am confident that as soon as the Attorney General begins to investigate his or her colleagues in the White House, the pendulum will swing back in the opposite direction. When this occurs, I believe that our colleagues will see that our approach is the best approach—to fix the problems in the statute, not abandon it.

To reiterate, the existing independent counsel statute is set to expire by sunset provisions tomorrow, June 30. There have been a series of five extensive hearings held in the Governmental Affairs Committee chaired by our distinguished colleague, Senator THOMPSON. During the course of those hearings, attended by all four of the cosponsors of this legislation, we have heard extensive testimony. The four of us have met on a number of occasions to craft the legislation which we are introducing today.

Our fundamental conclusion is that the Attorney General, acting through the Department of Justice, has an irreconcilable conflict of interest when it comes to investigating top officials of the administration. This is a judgment which we come to from our various points of view. My own perspective is molded significantly by my experience as district attorney of Philadelphia, knowing in detail the work of a prosecuting attorney, and the backdrop of the independent counsel statute was the ''Saturday Night Massacre,'' where President Nixon was under investigation and fired two Attorneys General until he found one who would fire the special prosecutor, Archibald Cox.

What is not recollected, but was testified to at our hearings by Henry Ruth, later the special prosecutor succeeding Leon Jaworski, was that at a critical moment, when President Nixon decided to eliminate the special prosecutor, the President's Chief of Staff sent the FBI to surround the office of the special prosecutor and to seize the special prosecutor's papers. As Henry Ruth outlined it, those in the office took key documents hidden under their clothing, not knowing what would happen next. It was only the public outrage, and some 450,000 telegrams which descended on Washington, which led President Nixon to change his position.

But the importance of independence in the prosecutor's office cannot be overly emphasized. We have seen experiences with independent counsels, two to be specific, that by Judge Walsh, former Judge Walsh, who investigated President Reagan's administration in Iran-contra, and Judge Starr, former Judge Starr, who investigated President Clinton, where those two investigations have drawn the wrath on both sides of the political aisle. There does appear to be a consensus at the moment that there ought not be a renewal of the independent counsel statute. I personally believe, and Senators LIEBERMAN, LEVIN, and COLLINS concur, that this is a fundamental mistake. So we have worked from the mistakes of the past to craft a reform bill, and we have targeted the errors.

Sooner or later a crisis will arise in Washington. It happens all the time. The crisis will be about the need to investigate the President or the Vice President or some ranking official.

The question will present itself about the inherent conflict of interest of the Attorney General, and this statute will be available to deal with the problem.

We have dealt with the mistakes of Walsh-Starr investigations by limiting the subjects. Only the President, Vice President, Attorney General, and Cabinet members will be subject to investigation. There will not be an expansion of jurisdiction unless directly related to the central charge, which would eliminate the Monica Lewinsky investigation.

The independent counsel would have to be full time. I know from my days as district attorney it was impossible to do the job full time, but that ought to be a minimal requirement. We have imposed a time limit of some 2 years to be extended for cause, or to be extended automatically for delaying tactics, or by priority given by appellate courts on any legal issues raised. The independent counsel would have to submit an annual budget.

My colleagues are on the floor awaiting recognition. I inquire of the Chair how much of the 30 minutes has elapsed.

The PRESIDING OFFICER. Five minutes 40 seconds.

Mr. SPECTER. We reserve the remainder of the time, and in accordance with our procedure of alternating between the parties, Senator LEVIN has been on the floor but has found it necessary to absent himself for a moment. I yield to Senator LIEBERMAN.

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

Mr. LIEBERMAN. I thank the Chair and thank my friend and colleague from Pennsylvania.

Mr. President, I am very pleased to be joining today with my friends and colleagues, Senators SPECTER, LEVIN, and COLLINS, in introducing the Independent Counsel Reform Act of 1999. With this bill, we hope to convince our colleagues, disillusioned perhaps by the conduct of particular investigations, that the Independent Counsel statute serves an essential purpose, and has served us well over the past twenty years. We want to convince our colleagues that our legislation will preserve the essential ideals that motivated the enactment of this statute in the years after Watergate, that no person is above the law, and that our highest government officials must be subject to our laws in the same way as any other person. If they are guilty, they must be held accountable. If they are not, they must be cleared. The American people are more likely to trust the findings of an Independent Counsel's investigation and conclusions. Officials who are wrongly accused will receive vindication that is far more credible to the public than when it comes from the Department of Justice. As a result, the public's confidence in its government is enhanced by the Independent Counsel statute.

We have drafted new provisions that will curb the excesses we have seen in a few recent investigations. These changes are substantial. The Committee on Governmental Affairs held five hearings on the Independent Counsel statute. We heard from numerous witnesses who had served as Independent Counsel, and as Attorney General, from former prosecutors and from defense attorneys. Many witnesses supported the statute, even defense attorneys who had represented targets in Independent Counsel investigations. Both witnesses who opposed the statute outright, and those who advocated keeping it in some form, suggested a number of improvements to the statute. We carefully considered those recommendations before we sat down to draft a bill that retains the essential features of the old law while reducing its scope, limiting the powers of the Independent Counsel, and bringing greater transparency into the process.

As a result of our bill, there will be far fewer Independent Counsel appointed, they will be appointed only to investigate the highest government officials, and their actions will be constrained by the same sorts of guidelines and practical restraints that govern regular federal prosecutors.

For example, officials covered by the statute will be limited to the President, the Vice President, the President's Chief of Staff, and Cabinet members. This is a major reduction in the number of officials currently covered by the Independent Counsel statute. We can trust the Department of Justice to investigate the mid-level officials listed in previous versions of the statute. If any other investigation raises a conflict of interest, the Attorney General retains the authority to appoint her own Special Counsel. The purpose of our bill is to reserve the extraordinary mechanism of a court-appointed Independent Counsel for those rare cases involving allegations against our highest Executive Branch officials.

In another change that will reduce the number of Independent Counsel appointed, the threshold for seeking the appointment of an Independent Counsel will be raised, so that a greater amount of evidence to back up the allegation will be required. The Attorney General will also be entitled for the first time to issue subpoenas for evidence and convene grand juries during the preliminary investigation, and would be given more time to conduct the preliminary investigation. This change responds to concerns that, in the past, the Attorney General's hands have been tied during the preliminary investigation stage. With our bill, the Department of Justice will be able to conduct a more substantial preliminary investigation.

Each Independent Counsel will have to devote his full time to the position for the duration of his tenure. This will prevent the appearance of conflicts that may arise when an Independent Counsel continues with his private legal practice, and it will expedite investigations as well. The Independent Counsel will also be expected to conform his conduct to the written guidelines and established policies of the Department of Justice. The prior version of that requirement contained a broad loophole, which has been eliminated.

There have been many complaints about runaway prosecutors, who continue their investigations longer than is necessary or appropriate. Our bill will impose a time limit of two years on investigations by Independent Counsel. The Special Division of the Court of Appeals will be able to grant extensions of time, however, for good cause and to compensate for dilatory tactics by opposing counsel. Imposing a flexible time limit allows Independent Counsel the time they genuinely need to complete their investigations, and deters adverse counsel from using the time limit strategically to escape justice. But the time limit will also encourage future Independent Counsel to bring their investigations to an expeditious conclusion, and not chase down every imaginable lead.

Our bill makes another important change that will prevent expansion of investigations into unrelated areas. Until now the statute has allowed the Attorney General to request an expansion of an Independent Counsel's prosecutorial jurisdiction into unrelated areas. This happened several times with Judge Starr's investigation, and I believe those expansions contributed to a perception that the prosecutor was pursuing the man and not the crime. An Independent Counsel must not exist to pursue every possible lead against his target until he finds some taint of criminality. His function, our bill makes clear, is to investigate that subject matter given him in his original grant of prosecutorial jurisdiction.

We also considered how we might impose greater budgetary restraints on Independent Counsel. Some have spoken of the need for a strict budget cap, but this idea strikes me as impractical, if not unworkable. It's just impossible to know in advance what crimes a prosecutor will uncover, how far his investigation will have to go to get to the truth, how expensive a trial and any appeals will be. Instead, we are bringing greater budgetary transparency to the process by directing Independent Counsel to produce an estimated budget for each year, and by allowing the General Accounting Office to comment on that budget. At the moment not enough is known about how Independent Counsel spend their money, and this greater transparency will provide more incentive for Counsel to budget responsibly.

A final change that we all readily agreed to was to eliminate entirely the requirement that an Independent Counsel refer evidence of impeachable offenses to the House of Representatives. The impeachment power is one of Congress's essential Constitutional functions, and no part of that role should be delegated by statute to a prosecutor.

This bill should be thought of as a work in progress. We hope to gather input from other Members and from outside experts, and to have committee hearings, and we intend to be flexible about incorporating suggestions. Some of the provisions contained in the bill may raise constitutional concerns, which need to be fully explored. For example, giving the Special Division of the Court of Appeals new authority to decide whether an Independent Counsel has violated Department of Justice guidelines may violate the doctrine of Separation of Powers. Other provisions expanding the Court's role may also have to be reformulated. I hope that all interested parties will be able to work together on amendments as harmoniously as the four of us did in drafting the original legislation.

The occasion of our introducing this legislation is tomorrow's expiration of the current Independent Counsel statute. Many have dismissed any efforts to revive the Independent Counsel as wrong and futile. No doubt it will be an uphill struggle, and I do not expect peoples' minds to be changed overnight. But I do believe that over time several factors will work to change peoples' minds.

First, I feel confident that we can convince our colleagues that this legislation is a better product than previous versions of the statute, and addresses the specific concerns raised by the law's opponents. Those who have predicted the death of the Independent Counsel statute had not seen our legislation. I will work tirelessly, with the bill's other co-sponsors, to convince our colleagues to give this issue a fresh look.

Secondly, several controversial Independent Counsel investigations have clearly soured some people on the law. This is understandable, but it is regrettable, as I do not believe these investigations revealed any flaws in the Independent Counsel statute that cannot be fixed. The passions raised by Judge Starr's investigation of the President, in particular, must be allowed to subside, just as it took some time for the passions inspired by the Iran-Contra investigation to subside before the Independent Counsel statute could be re-authorized in 1994.

Finally, as these passions subside I believe Members of Congress will gradually be reminded that the Independent Counsel statute embodies certain principles fundamental to our democracy. The alternative to an Independent Counsel statute is a system in which the Attorney General must decide how to handle substantive allegations against colleagues in the Cabinet, or against the President. Often the President and the Attorney General are long-time friends and political allies. The Attorney General will not be trusted by some to ensure that an unbiased investigation will be conducted. In other cases, many will question the thoroughness of an investigation directed from inside the Department. In a time of great public cynicism about government, the Independent Counsel statute guarantees that even the President and his highest officials will have to answer for their criminal malfeasance. In that sense, this statute upholds the rule of law and will help stem the rising tide of cynicism and distrust toward our government. The American people support the Independent Counsel statute because it embodies the bedrock American principle that no person is above the law.

Mr. President, I am very pleased to be joining today Senator SPECTER, Senator LEVIN and Senator COLLINS in introducing the Independent Counsel Reform Act of 1999. It has been a great pleasure working with these three colleagues across party lines in what were, first, long hearings in the Governmental Affairs Committee on which we all serve, and then some very good

collegial discussions about how to preserve the principles involved in the Independent Counsel Act while responding to what we have learned, particularly in its recent existence and implementation. We have achieved a good balance.

The point to stress—and my friend and colleague from Pennsylvania has just done it—is this is all about the rule of law which is at the heart of what the American experience is about, that no one is above the law. There is no monarchy, there is no autocracy. Everyone is supposed to be governed by the same law.

The question is, When the highest officials of our Government, the most powerful people in this land are suspected of criminal wrongdoing, is it appropriate to have those suspicions investigated by the people who are suspected themselves or by those whom they have appointed? Does that guarantee a thorough and independent investigation, and does it guarantee or at least encourage the kinds of broad-based public acceptance of the credibility of that investigation that is critical to the trust and respect that we hope the American people will have for their Government?

The four of us have answered that what is required is a counsel who is not just special, as others would provide, including the current Attorney General, but one that is genuinely independent, not appointed by the Attorney General, and not able to be fired, dismissed by the Attorney General.

My research has indicated that from the last century right through the Nixon administration, from President Ulysses Grant to President Richard Nixon, there were actually six special counsel appointed to investigate possible criminal behavior by high officials of the Government, and three of those were dismissed by the administration they served, presumably because they began to act in a way that unsettled that administration.

That is the principle of the rule of law, trust in Government, which we tried to embody in this proposal with the changes that Senator SPECTER has mentioned. We have added a presumption of a limited term, a higher threshold for the appointment of an independent counsel, a smaller number of people to be subject to this statute—the President, Vice President, Attorney General, Members of the Cabinet and the Chief of Staff.

The prevailing consensus in this body and the other body is that we should not renew this statute and it will, of course, expire tomorrow. Many have dismissed the efforts we are making now as either wrong or futile. No doubt it will be an uphill struggle, but I am convinced it is the right struggle, and we can convince our colleagues of the justness of our cause.

I will say something else, Mr. President. There will be an independent counsel statute in the future. We are either going to adopt it at a time when we are not in crisis, when somebody high up in our Government is suspected of criminal wrongdoing—and that is our hope, that we do not adopt it in the spirit of crisis, or we will adopt it at that time when someone is suspected of criminal wrongdoing and Members of this body and the other body will demand there not be a special counsel appointed by the Attorney General but an independent counsel.

I plead with my colleagues, as the law is allowed to expire tomorrow and as, hopefully, we have a cooling off period, to take a look at our proposal, to try to separate ourselves from the controversies surrounding Judge Starr's time as independent counsel and that of other recent independent counsel, and focus on the principle of the rule of law, that nobody is above the law in America, and to come to agree with us that the best way to preserve those principles is by readopting an Independent Counsel Act, one that is substantially reformed.

I thank my colleagues, and I yield the floor.

Mr. SPECTER. Mr. President, I inquire how much time has elapsed.

The PRESIDING OFFICER. Eleven and a half minutes has elapsed. Under the previous order, the Senator has control of all time until 12:35 p.m.

Mr. SPECTER. I thank the Chair. I yield to the distinguished Senator from Michigan, Mr. LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my good friend from Pennsylvania, and I commend him and Senators COLLINS and LIEBERMAN for their effort in putting together a bill which we believe represents lessons learned but also represents the feeling that we need to have an independent counsel law, that sooner or later it will again appear that this country needs a way in which to independently investigate allegations of serious wrongdoing against high-level officials.

The independent counsel law expires tomorrow. It was enacted in 1978 to establish a nonpartisan process for investigating allegations of criminal conduct by top executive branch officials. The key purpose of the law is to retain public confidence in criminal investigations when the Government investigates its highest officials. The goal is to treat top Federal officials no better and equally important, no worse than a private citizen, and at the end of the investigation, when the judgment is rendered, be it a statement of guilt or innocence, to have the public accept that judgment as a fair and impartial one.

Over the years, there have been many successful investigations by independent counsels, most of which resulted in no indictments or prosecutions but resolved outstanding allegations without partisanship or favor. There have been 20 independent counsel investigations in 20 years. Ten of those were closed without indictment; one was closed because of the death of the covered person. Excluding the top five most expensive investigations, the average cost of an independent counsel investigation was under $1 million. And for all but a handful of the cases investigated by independent counsel, the results of the investigations have had the public's confidence.

While some say the lesson of Watergate was that the previous system worked, I would refer our colleagues to the testimony of Henry Ruth, who was in charge of the Watergate special prosecution force during the Saturday Night Massacre. Referring to the possibility that the coverup by President Nixon could succeed, Mr. Ruth said, ''It is impossible to describe how thin a thread existed at that time.''

But the independent counsel law, while working most of the time, has also been abused by a few overzealous prosecutors. These prosecutors have made it apparent that before we reauthorize an independent counsel law, it would need to be dramatically revised to prevent a recurrence of the abuses that we have seen. The bill we are introducing today represents the lessons learned, while saving the essential elements of the independent counsel law to preserve public confidence in the prosecution of our top Government officials.

Our bill would, among other things, change the law in the following ways.

First, it would preclude an independent counsel from broadening an investigation to matters not within the original grant of jurisdiction.

Second, it would enforce the requirement that independent counsel follow the established policies of the Department of Justice by giving affected persons the opportunity to challenge questionable independent counsel actions not in line with those policies.

Third, it would eliminate the requirement for an independent counsel to submit an impeachment report to the House of Representatives.

Fourth, it would prohibit persons with an apparent or real conflict of interest from serving as independent counsel.

And, fifth, it would establish a presumptive 2-year term for an independent counsel's investigation.

Those are just five of the many major changes that would be made in the independent counsel law.

A handful of independent counsels have exceeded the intent of the independent counsel law and have taken the law to places that U.S. Attorneys would not go when investigating private citizens.

Independent Counsel Donald Smaltz took 4 years and spent $20 million investigating allegations of graft in the Agriculture Department. Yet his 2-month trial of former Secretary Mike Espy ended in an acquittal on all 30 counts of corruption. Shortly thereafter, the Supreme Court threw out Smaltz' conviction of Sun-Diamond Growers of California, concluding that

Smaltz and a Federal district court had stretched the law to punish behavior that is not a crime.

The independent counsel for Samuel Pierce, Secretary of Housing and Urban Development under President Reagan, was in existence for almost 10 years, and that included almost 4 years after the independent counsel publicly announced he had closed the case with respect to Mr. Pierce.

Whitewater independent counsel Kenneth Starr has singlehandedly done more to undermine public confidence in the independent counsel law than anybody else. Well over half the American people think that Kenneth Starr is partisan and do not trust him to be fair. The editorials expressing concern about Mr. Starr's investigation and judgment are voluminous.

Mr. President, I ask unanimous consent that six of those editorials be printed in the RECORD.

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

[From the Hill, July 8, 1998]

WHITHER KENNETH STARR?

Whitewater Independent Counselor Kenneth Starr continues to disappoint his friends and delight his enemies in his long-running investigation of President Clinton.

In a week in which Linda Tripp twice testified before one of the three grand juries Starr convened during his four-year, $40 million investigation, he was slapped down by a federal judge who ruled that he exceeded his authority in prosecuting former Associate Attorney General Webster Hubbell.

In a stinging 35-page opinion, U.S. District Judge James Robertson threw out the tax evasion indictment of Hubbell, his wife, his accountant and his tax lawyer, declaring that Starr had gone on ''the quintessential fishing expedition'' in subpoenaing some 13,000 pages of records from Hubbell after granting him immunity and then using them to build his case against Hubbell.

Starr's behavior toward Hubbell and the late Vince Foster was clearly indefensible. He showed a flagrant disregard for the Constitution by trying to create an exception from the lawyer-client privilege in the Foster case, but he went even further by ignoring Hubbell's constitutional right against self-incrimination when he improperly used information he got from Hubbell under a grant of immunity.

The ruling was the latest in a series of legal and public relations setbacks for Starr. Even as he defended himself against charges by media watchdog Steven Brill that he improperly leaked information about the Monica Lewinsky investigation to reporters, Starr was rebuffed by the U.S. Supreme Court, which rejected his claim that Vincent Foster's right to the lawyer-client privilege ended with his death.

Starr also was put on the defensive by news reports that Tripp asked Lewinsky leading questions about her relationship with President Clinton as she was secretly tape recording the former White House intern. Tripp denied the reports in her grand jury testimony, according to her lawyer.

But Starr seems undeterred by his latest problems. He immediately announced he will appeal the Hubbell decision, even though it is almost certain to further delay the conclusion of his investigation, even as some Republicans hoped he would deliver an interim report to Congress before they hit the campaign trail this fall. Starr's spokesman said Sunday he won't submit an interim report, but will take as long as he needs to determine if there is ''substantial and credible information'' that crimes have been committed.

Meanwhile, Starr's investigation continues to expand—he now employs approximately 60 people, including 28 attorneys, not counting FBI agents working for him, and recently added 7,400 square feet of office space and opened a new office in Alexandria, Va.

Starr's ultra-marathon probe still has a long way to go,be he should keep in mind the original intent of the independent counsel law, which was to assure a fair and impartial investigation of high government officials. His recent actions indicate that he's forgotten, or lost sight of, the fundamental fact that our criminal justice systems works well only when it ears the respect and confidence of the American people.

[From the New York Times, Feb. 25, 1998]

KEN STARR'S MISJUDGMENTS

It has long been apparent that Ken Starr has a tin ear for political appearances and public relations, but his decision to subpoena a White House aide, Sidney Blumenthal, undermines important legal and constitutional principles. On the tactical level, this move by the Independent Counsel is bone stupid. As a matter of principle, it is an attack on press freedom and the unrestricted flow of information that is unwarranted by the facts and beyond his mandate as a prosecutor.

This latest blunder fits a pattern of chronic clumsiness and periodic insensitivity to Mr. Starr's public responsibilities. His attempt to slough off his public duty and flee to Pepperdine University was dismaying. His political ties and refusal to give up private legal clients led us, in times past, to call for his removal. In four years he has failed to develop sensitivity to his obligations as custodian of an inquiry of national import. Apparently his staff contains no one who can talk him out of bad ideas.

This time he has failed in his obligation to the law itself. The effort to collect the name of every journalist who talked with a White House communications specialist amounts to a perverse use of the prosecutorial mandate to learn what the Nixon White House attempted to determine through wire-taps. Like any newspaper, we have an obvious selfish interest in the confidentiality of the reporting process. But you do not have to be a journalist to see that Mr. Starr has committed an ignorant assault on one of the most distinctive and essential elements of American democracy.

Mr. Starr created this mess by following a bad example. Two weeks ago the White House started its own demagogic search for leaks in an effort to divert attention from the question whether President Clinton and his associates had committed perjury or suborned others to commit it. Mr. Starr may also be miffed by reports that the White House has turned its trademark tool of personal attack on his prosecutorial staff. But he does not need to follow that pernicious example. He is armed with something more honorable and powerful in the mandate of the Attorney General and the majesty of the law.

But civic health demands that Mr. Starr get on with the investigation he is authorized to conduct and bring it to a speedy conclusion. The public interest does not lie in Mr. Blumenthal's phone records. It lies in getting, as promptly as possible, the testimony of Monica Lewinsky, Vernon Jordan, Bruce Lindsey, Mr. Clinton and others whose testimony bears directly on the issue of false swearing.

In a tightly reasoned article in the National Journal, Stuart Taylor Jr. defended Mr. Starr's investigative procedures, including calling Ms. Lewinsky's mother before the grand jury, but called for him to resign in favor of someone with less political baggage. We are not at that point, because of the amount of time that would be lost. If at all possible, the nation needs to have this business driven to a conclusion without the delay that a switch in leadership would entail. Every time Mr. Starr goes off on one of these tangents or misreads the law he fritters away support from those who believe in the importance of this inquiry but bridle at his loco-weed judgments.

[From the Wall Street Journal, June 25, 1998]

A PROSECUTOR WITHOUT PUBLIC TRUST

(By Albert R. Hunt)

When Independent Counsel Kenneth Starr continued to represent tobacco companies and spoke to the law school run by televangelist Pat Robertson—two of President Clinton's arch enemies—his supporters insisted he wasn't a partisan. He just lacked political judgment.

When he announced he was going to leave early and accept a deanship at Pepperdine University, partially funded by right-wing Clinton-hater Richard Mellon Scaife, the Starr chorus claimed he wasn't insensitive. He lacked political judgment.

Or when he acknowledged in a lengthy, on-the-record interview with publisher Steven Brill that his office, in essence, had leaked to the press during the Clinton investigation, again Mr. Starr's supporters insisted he wasn't part of the right-wing conspiracy. Again, he just lacked political judgment.

Let's accept the word of Mr. Starr's legal, political and journalistic allies. He's not a right-wing partisan out to destroy the president. He is an inexperienced prosecutor who lacks political judgment. This is the man deciding whether to bring a controversial case in a political setting against the President of the United States.

No matter how this sordid episode unfolds in the ensuring months. Mr. Starr already has failed miserably in the central role of a special prosecutor; to engender public confidence that he is fair, impartial and independent.

This week's Wall Street Journal/NBC News poll shows that Americans think that he is none of the above. People are sick of his investigation, don't believe that what he is investigating is serious enough to even consider impeachment and hold Mr. Starr, far more than the president, responsible for the four year, $40 million inquiry.

Most devastating for Mr. Starr is that nearly three-quarters of the respondents have little confidence that the report the independent counsel is expected to send to Congress will be fair and impartial; even a majority of Republicans feel that way.

Mr. Starr still holds some prosecutorial cards. Say he makes a few headline indictments and assume his report to Congress seems compelling. If this is so persuasive it turns around one-third of the doubters—an ambitious achievement—the country would still be split, making it difficult to consider impeachment.

''In every instance in which the public is asked to select between Bill Clinton and Kenneth Starr, the public consistently lines up on the president's side,'' note Peter Hart and Robert Teeter, who conducted the survey.

This is not a new problem for the independent counsel. But just as he's rounding into what may be the final turn, his public credibility is lower than ever. This reflects, a few detached prosecutors suggest, his inexperience as a prosecutor, a second rate staff

and an obsession to topple the president which causes him to overreach.

Mr. Starr's supporters—many of whom are obsessively hostile to the president—say a prosecutor can't be driven by polls. A decision on whether to subpoena or indict someone should be made on the legal merits and not on whether it will curry favor with the public.

But if any prosecutor lacks public support, that fatally undermines his or her task; in a democracy if people don't believe justice is being served, the system, by definition, isn't working.

In fact, prosecutors who go after crooked politicians, mobsters or businessmen tend to be very popular with the public. From Thomas Dewey to Rudy Guiliani, such prosecutions have been promising stepping stones to higher office. Occasionally a prosecutor over-reaches and stumbles; New Orleans District Attorney Jim Garrison in the Kennedy assassination and more recently Los Angeles DA Ira Reiner after a flawed prosecution of alleged child abuse. Such blunders are rare.

The Starr camp replies that independent counsels have never been so criticized by opponents and potential targets. That will come as news to Iran-Contra Independent Counsel Lawrence Walsh.

In 1992, Senate GOP Leader Bob Dole repeatedly charged that Mr. Walsh was ''completely out of control,'' Earlier, Rep. Henry Hyde complained the Walsh investigation was of ''essentially minor violations.'' Terry Eastland, a former top Justice Department official under Ronald Reagan, charged that the Walsh inquiry had been a ''waste of money,'' having spent more than $18.5 million of taxpayer funds. President Bush complained it ''has been investigated over and over again. . . . It's been going on for years.''

The notion that Mr. Starr has been a naive, defenseless target was undercut by Mr. Brill's controversial article last week, in which the independent counsel acknowledged that his deputy, Jackie Bennett, spends more than a little time with the press. That's not a surprise. One can disagree with some of Mr. Brill's sweeping conclusions about the independent counsel and the press and still have contempt for Mr. Starr's pious hypocrisy for pretending earlier that he was above the dirty business of leaking.

Ironically, what infuriates many conservatives is that Mr. Clinton is getting away without paying any price. That's simply not the case. Based on polls, and especially on anecdotal evidence from outside the Beltway, many—probably most—Americans think the president had a sexual relationship with Monica Lewinsky and lied about it.

They don't want him tarred and feathered or thrown out of office for these indiscretions—a typical response is that most people lie about sex—but it's affected their view of him. His high job approval ratings reflect the terrific economy. Bill Clinton today is a much discredited president with virtually no moral authority. The latest example is the tobacco bill, where he was simply unable to rally public and congressional support.

A few weeks ago a delightful retired couple in Carmel Valley, Calif., Earl and Miriam Selby, talked about how for the first time in 30 years of marriage they were arguing about politics. Earl Selby, a former newspaperman and magazine writer, who proudly notes he cast his first vote for FDR's third term in 1940, is ''outraged at how Clinton has lowered respect for the presidency.'' Miriam, a former magazine writer, is equally ''outraged at Starr's tactics and prosecutorial abuse.''

There is no need for an argument, Selbys. You both are right.

[From the New York Times, June 22, 1998]

POLITICS BY OTHER MEANS

(By Anthony Lewis)

Kenneth Starr likes to say that he is going ''by the book'' in his investigation of President Clinton and Monica Lewinsky. The relevant book is the Justice Department's Rules of Conduct, published in the Code of Federal Regulations.

Rule 77.5 says that a Government lawyer ''may not communicate'' with a party ''who the attorney for the government knows is represented by an attorney concerning the subject matter of the representation without the consent of the lawyer representing such a party.''

On Jan. 16 Mr. Starr's office arranged to have Linda Tripp meet Monica Lewinsky at the Ritz-Carlton Hotel in Pentagon City. Suddenly Mr. Starr's agents descended on Ms. Lewinsky. They questioned her for many hours.

Ms. Lewinsky was represented by Francis D. Carter, who was negotiating for her with Paula Jones' lawyers. Mr. Starr did not ask Mr. Carter's consent to speak with his client, or even inform him.

Violation of that rule was not a light matter. The Independent Counsel Act requires such a counsel to follow Justice Department regulations unless that would undermine the purpose of the act—which respecting the right to a lawyer plainly would not—and makes failure to obey the rules ''good cause'' for the Attorney General to remove the counsel.

Mr. Starr has also violated, wholesale, the rules against prosecutors talking to the press about pending investigations. If anyone doubted that, it has now been made unanswerably clear by Steven Brill's meticulous marshaling of the evidence in the first issue of Brill's Content.

In his angry reply to the article, Mr. Starr never denied saying to Mr. Brill: ''I have talked with reporters on background on some occasions, but Jackie [Bennett Jr., his deputy] has been the primary person involved in that. He has spent much of his time talking to individual reporters.''

Mr. Brill said that the Starr and Bennett talks with the press violated Rule 6e of the Federal Rules of Criminal Procedure, which forbid disclosure of grand-jury information. Mr. Starr argued in reply that Rule 6e did not apply because he and his staff disclosed not grand-jury testimony but information obtained elsewhere and comments on it.

Whatever the merits of the legal argument about Rule 6e, didn't the Starr leaks violate ethical rules and Justice Department regulations? When Mr. Brill asked that question, Mr. Starr replied that they would be violations except when he was ''countering misinformation'' about his office. ''We have a duty to promote confidence in the work of this office.''

What a breathtaking assertion. It means that whenever anyone disagrees with him, Mr. Starr has a right to break the rules and become an unnamed source for some journalist ready to convey his version of the story. In politics, that is called spinning.

Mr. Starr's assertion that his leaks are only to counter misinformation was also false. On the day the Lewinsky story broke, Jan. 21, Mr. Starr told Mr. Brill, Jackie Bennett spent ''much of the day briefing the press.'' That was before there was any ''misinformation'' to answer.

Mr. Starr's veracity is in question on another matter. The Brill article says Michael Isikoff of Newsweek told Mr. Brill that Jackie Bennett asked him to hold up writing about Monica Lewinsky in January because ''they were going to try to get Lewinsky to wire herself and get [Vernon] Jordan and maybe even the President on tape obstructing justice.''

Mr. Starr said his office had ''never asked Ms. Lewinsky to agree to wire herself for a conversion with Mr. Jordan or the President.'' But it was not only Mr. Isikoff who said that happened. Ms. Lewinsky's lawyers said in February, in Time magazine, that the prosecutors ''wanted her wired . . . to record telephone calls with the President of the U.S., Vernon Jordan and others''—and made her consent a condition of being given immunity from prosecution.

We all know that prosecutors leak. But Kenneth Starr has been so sanctimonious, so insistent that he never leaks.

Far from going ''by the book,'' he has in many ways abused his extraordinary power. Most Americans perceive that. Others are so critical of President Clinton that they overlook Mr. Starr's abuses. They need reminding that however tempting the target of a prosecutor, the end does not justify abusive means.

[From the Los Angeles Times, Feb. 26, 1998]

STARR STEPS OUT OF BOUNDS

Special counsel Kenneth W. Starr plans today to bring a White House advisor and his records before a grand jury to try to find out what he said to reporters about the Monica Lewinsky affair. The basis for this extraordinary assault on privacy is Starr's suspicion that Clinton administration aides have been spreading ''misinformation'' about personnel in the special counsel's office. As Starr sees it, that could represent an effort to ''intimidate prosecutors and investigators, impede the work of the grand jury, or otherwise obstruct justice.'' All of these are federal crimes.

The subpoena that Starr has issued for White House aide Sidney Blumenthal and his records appears to be allowable under the special counsel's broad powers. At the same time Starr is clearly treading on highly problematical ground with his suggestion that any White House campaign to try to discredit him or his investigators may represent an illegal effort to influence or interfere with the work of prosecutors or grand jurors.

Starr has spent a lot of time in Washington, enough to grasp the difference between engaging in hardball politics and committing a felony. And he has been a lawyer long enough to understand that constitutionally protected comment about the special counsel's office does not constitute a conspiratorial attempt to subvert justice.

The truth is that in the Lewinsky investigation both the independent counsel and the White House have been playing the game of media manipulation to the hilt, using leaks, planted stories, spin control and anything else—some of it pretty nasty stuff indeed—to try to shape public opinion.

What set Starr off were stories about judicial criticism or penalties levied against two of his prosecutors because of their professional conduct years ago. What the two did is a matter of public record. But Starr says many other allegations about personnel involved in his investigation are deliberate falsehoods, and so he has dubiously raised the felonious specter of attempted intimidation.

But intimidation can cut two ways. Surely hauling a White House political adviser and his log of press contacts before a grand jury can be seen as a sly attempt to keep Clinton loyalists from talking with the media, denying the public information it has a right to hear and evaluate for itself. That is not within Starr's mandate.

The special counsel was not hired to act as a censor. His investigation has often been accused of ranging wide afield. This time it has stumbled right off the map.

[From the Detroit Free Press, Feb. 26, 1998]

STARR'S WAR

Whatever else Kenneth Starr may accomplish, he's becoming the best brief for the abolition of the special prosecutor's office that anybody could ever imagine. He is exercising power without wisdom, power without restraint. His latest wave of subpoenas is an attempt to use the grand jury process to punish his critics, an outrageous misuse of prosecutorial gunpowder.

What does Mr. Starr's current onslaught have to do with Whitewater? What does it have to do even with Monica Lewinsky? Mr. Starr is angry that someone at the White House has dredged up old newspaper stories that suggest he's got a couple of pit bulls on his staff, one of whom was once cited for overzealousness in a previous job as a prosecutor. So faxing old New York Daily News stories around, apparently, has just become a federal crime

Mr. Starr is out to bring down the president, and he seems not to care if he brings down the integrity of the justice system with him. The president's defenders, meanwhile, are whipping up the press to investigate the investigators, blasting Mr. Starr for leaks from his own staff and in general tipping over garbage cans in the hope that the clangor will distract attention from the potential obstruction of justice charge that hangs over the president.

This is unseemly behavior by both sides, but the root of it is the unchecked power given to Mr. Starr, Virtually no one has the ability to jerk his leash; the attorney general can remove him only for flagrant violation of the law. He's the only person or institution in the U.S. government that operates without checks and balances.

Come 1999, when the statute is up for renewal, Republicans who are hugely enjoying the spectacle of a Democratic president at bay ought to recall how they felt about Lawrence Walsh, and how they'll feel when some future prosecutor recklessly targets another GOP occupant of the White House.

For now, for a moment, assume the worst is true about Bill Clinton (although Mr. Starr has spend nearly 31/2 years and $26 million and come up dry)—sexual indiscretion, something funny about a failed land deal in Arkansas. Then ask who's doing the worse damage to fairness, justice, the conduct of government and the democratic process—the president or his pursuer? We rest our case.

Mr. LEVIN. A few of the headlines read: ''A Prosecutor Without Public Trust,'' ''Ken Starr's Misjudgments,'' and ''Starr Steps Out of Bounds.'' Robert Morgenthau, in fact, the District Attorney for Manhattan, and one of the most respected prosecutors in the country, is quoted as saying that Mr. Starr violated ''every rule in the book.''

Some argue that the statute should be scrapped. I cannot agree, provided that we can prevent the abuses we have experienced in the past. We need a mechanism to address credible allegations of serious criminal wrongdoing by top executive branch officials. We have made improvements in the statute each of the three times it has been reauthorized over the past 20 years. We have required independent counsel to comply with established Justice Department policies and procedures; we have added standards of conduct for independent counsel; and we have added a whole new host of cost controls, including requiring new independent counsel to comply with the expenditure policies of the Justice Department with respect to salary levels, use of Government office space and travel.

But we obviously have failed to foreclose opportunities for major excesses and clear abuses by independent counsel. Unless we can amend the law sufficiently to stop the excesses and abuses in the future—and I think we can do that—then the law should lapse. We need a law but only if the law ensures that individuals who conduct these investigations are highly qualified, nonpartisan attorneys with good judgment and common sense who are bound in by appropriate limits.

The list of lessons learned over the last few years is long. We have tried to incorporate them into the bill we are introducing today.

The first issues concern the appointment of the independent counsel. There was a high degree of dissatisfaction and concern with the choice of Kenneth Starr as independent counsel in the Whitewater matter. The investigation was already well underway with Special Counsel Bob Fiske who had been appointed by Attorney General Reno. Mr. Fiske was a well-respected, veteran prosecutor who had also been a lifelong Republican. To remove any doubt about whether he could be appointed under the reauthorized independent counsel law as well, Congress had specifically authorized the special division of the court to reappoint him. But the three judge special division took it upon itself to terminate Mr. Fiske and replace him with Mr. Starr. Many of us challenged the court's decision at the time, arguing that Mr. Starr was a highly partisan person who could not bring the necessary appearance of independence to the job. At the time of his appointment he was linked to the Paula Jones case, having argued publicly against the President's position on immunity from civil suit. It turns out he had also conferred numerous times with attorneys for Paula Jones. He had served as the Finance Co-Chairman of the Congressional campaign of a Republican in Alexandria, Virginia. At the time of Mr. Starr's appointment I wrote to the Special Division and urged them to reconsider their decision. ''The issue with respect to Mr. Starr,'' I said, ''. . . is that he lacks the necessary appearance of independence essential for public confidence in the process.'' Our concerns have proven to be true over time, to the point that Mr. Starr is perceived by the public as a partisan prosecutor.

Our bill would make some very important changes in the current process in this regard. First, the special division of three judges who make independent counsel appointments under current law are appointed by the Chief Justice of the Supreme Court, and the court picks an independent counsel from a list of candidates developed by the special division from various recommendations over time. Our bill would require that the judges who serve on the special division court be picked by lottery from a pool of all of the federal appellate court judges. The Special Division would then be required to develop a list of qualified candidates to serve as independent counsels from a list of five candidates from each federal circuit selected by the chief judge of each circuit. Our bill would explicitly prohibit an independent counsel candidate from having an actual or apparent conflict of interest, and it would encourage the appointment of an individual with prosecutorial experience.

Mr. Starr was not a prosecutor. In making a number of critically important judgment calls, Mr. Starr demonstrated a lack of understanding of the discipline a prosecutor needs in order to exercise the tremendous discretion and power of the office with fairness and justice. The bill would seek to remedy this by requiring the individual appointed as independent counsel to have prosecutorial experience ''to the extent practicable.''

Many people expressed concern over the large and lucrative private practice Mr. Starr continued to have as independent counsel. We will never know if the investigation into the President could have been concluded much more expeditiously had Mr. Starr set aside his private practice from the inception of his appointment, but it's a reasonable possibility at least that it could have been. Independent counsel appointments are supposed to receive the highest priority and the public benefits from a timely resolution of the allegations. Our bill would require an independent counsel to devote full time to the investigation to bring it to a prompt conclusion, because we think doing so has important benefits to the public interest.

Another area has to do with the scope of jurisdiction. This has been an area of great concern to some of us. That relates particularly to Mr. Starr's investigation, because he was originally appointed to investigate the Madison Guarantee Savings and Loan matter as it possibly related to President Clinton. But he ended up prosecuting a multitude of other matters. At one point his office even interviewed Arkansas State troopers about President Clinton's relationship with a number of different women when he was Governor. Moreover, Mr. Starr had his jurisdiction expanded to include Travelgate, Filegate, and the Monica Lewinsky matter. With each expansion, he looked more and more like a prosecutor pursuing a person instead of a prosecutor pursuing a crime.

In the end he became Javert to President Clinton's Jean Valjean. Our bill limits the scope of the original grant of jurisdiction to only those matters that are ''directly'' related to an independent counsel's original jurisdiction, and eliminates the provision allowing an expansion of jurisdiction. Such matters would be investigated by the Department of Justice or, if appropriate,

a new independent counsel could be appointed. Only in this way can we prevent an independent counsel from becoming a permanent prosecutor of the President or any other covered official.

Experience has also taught us that some of these independent counsel investigations develop huge staffs over time—far beyond those that would be available in an ordinary investigation. At one point, it was alleged that the Starr investigation was one of the top three investigations in terms of numbers of FBI agents in the country—ranking right up there with the Unibomber and the World Trade Center bombing. Our bill would limit the number of detailees from the FBI and the Department of Justice to a number reasonably related to the number of staff the Justice Department or FBI normally assigns to a similar case.

One of my greatest concerns in the past five years has been the failure of Mr. Starr to comply with both the spirit and, I believe, the letter of the law with respect to the requirement that an independent counsel follow established Department of Justice policies. I have made several floor statements identifying the particular instances in which I believe Mr. Starr has exceeded Justice Department policies, so I will not elaborate here. The current law requires an independent counsel to follow established Justice Department policies except to the extent to do so would undermine the purposes of the independent counsel law. That exception, which was intended to be a very narrow exception, has been used by Mr. Starr to justify a laundry list of questionable actions. The bill we are introducing today would eliminate that exception and provide that the only policy an independent counsel would be allowed to ignore would be that part of a policy or guideline that requires approval by a top Justice Department official. The bill provides that even in that situation, the independent counsel should consult with a top Justice Department official; he or she just isn't required to get that official's approval.

The bill also creates a remedy for the situation where a target or witness in an independent counsel investigation believes the independent counsel is not complying with established Justice Department procedures. Currently, Justice Department policies are not enforceable in court, and several individuals who attempted to enforce compliance by Mr. Starr were turned away by the court. This bill would give such an individual an explicit right to first obtain an opinion by the Attorney General as to whether an independent counsel was complying with a specific Department of Justice policy, and if the Attorney General determines that the independent counsel is not, the bill allows the person to seek enforcement from the special court.

Mr. Starr took the unusual step in his investigation to hire an outside ethics attorney. The bill requires an independent counsel to use as his or her ethics adviser the person already housed in the Department of Justice who is familiar with the ethical rules and regulations of a Justice Department Attorney—the designated agency ethics official or DAEO. This will help to keep the office of the independent counsel in tune with the ethical requirements of other investigative offices, giving greater assurance that Justice Department policies with respect to ethics issues will be followed.

Great concern has developed over the cost of these independent counsel investigations. Mr. Smaltz spent some $20 million to have a 30 count indictment rejected by a jury. Mr. Starr is likely to be the most expensive independent counsel ever—topping $50 million when all is said and done. These figures are shocking. The bill would address this problem by requiring an independent counsel to establish a budget with consultation of the Attorney General and the General Accounting Office to review the budget and submit a written analysis to Congress. We have tried with every reauthorization of this statute to obtain cost controls over the operations of the independent counsels. We've made some progress, but obviously more needs to be done. The bill also sets a two year presumptive limit on the work of an independent counsel and requires the independent counsel to affirmatively seek an extension for one year from the special court. By requiring an independent counsel to establish a budget and presumptively limiting the term of an independent counsel to two years, I believe we will impose a useful and meaningful cost control on these offices.

A final concern that many of us have had with the independent counsel law is the provision regarding the referral of information to the House of Representatives regarding possible impeachable offenses. Mr. Starr's report to the House was not only shockingly and unnecessarily graphic, it was a brief for impeachment, far beyond the role envisioned by the independent counsel law. Mr. Starr's report also violated the fairness expected by the American people by presenting information on possible impeachable offenses in a biased and prejudicial manner. Under the Constitution, the House has sole responsibility to decide whether or not the President should be impeached. The independent counsel did not have a statutory responsibility to argue for impeachment. His responsibility was to forward ''information'' to the Congress that ''may constitute grounds for an impeachment.'' Our bill would eliminate the provision with respect to impeachment, removing any obligation on the part of an independent counsel to take any initiative in this which is reserved exclusively to the House of Representatives by the Constitution.

Finally, it is clear, obviously, that the independent counsel law is going to expire tomorrow. We are going to have the cooling off period that former Senator Howard Baker prescribed during our Governmental Affairs Committee hearings. I hope that after a reasonable cooling off period we will turn our attention to reestablishing a reasonable and fair procedure for the investigation of criminal allegations of our top officials and that the legislation we consider at that time contain the necessary protections against abuses of power. The bill we are introducing today is our best effort at drafting such legislation.

I yield the floor.

Mr. SPECTER. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 7 minutes 48 seconds.

Mr. SPECTER. That is about a quarter of the time.

I yield to my distinguish colleague from Maine, Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to be a coauthor of the Independent Counsel Reform Act of 1999. At the outset, let me express my deep appreciation to Senators SPECTER, LIEBERMAN, and LEVIN for the bipartisan spirit in which they approached the task of drafting this important legislation. Legislation of this complexity, which must balance innumerable competing but important interests, is never easy to achieve. This is particularly true when the legislation—as is the case in this bill—touches on political nerves that are still raw and fresh.

We have worked very hard to achieve legislation that I believe truly serves the public interest while correcting the significant flaws in the current law.

Supporting the reauthorization of the Independent Counsel Act is not likely to win this bipartisan group much applause from the Clinton administration or congressional partisans on either side of the aisle. Many of our colleagues say let it die. However, I caution my colleagues against short memories. We should not forget what prompted passage of this legislation more than two decades ago and its reauthorization three times since then.

The Congress that passed the independent counsel law after Watergate wanted to assure the public that there were institutional guarantees that would never again allow the political leadership of the Justice Department to obstruct a criminal investigation of the President and the highest Government officials in the land. Their concern was not abstract or based on conjecture. The Justice Department, indeed, the Attorney General himself was implicated in the coverup of criminal acts by the incumbent administration.

Do we think it couldn't happen again? Clearly, unfortunately, it could.

The fact is, there will always be cases in which the Attorney General has an

actual or an apparent conflict of interest. The Attorney General simply cannot credibly conduct an extensive investigation and make prosecutorial decisions involving his or her boss, the President, the Vice President, or colleagues in the Cabinet. We must have an institutional mechanism that assures the public that allegations of serious criminal conduct by high level officials will be thoroughly investigated and, if necessary, prosecuted.

Only by resorting to a prosecutor beyond the actual and perceived control of the administration can the public be assured that impartial justice extends to the most influential and powerful leaders of our land. Moreover, the independent counsel law fosters public confidence in the decision not to prosecute high level Government officials. A Government official who has been investigated but cleared by an independent counsel can justifiably and with credibility reclaim his or her public reputation. Political opponents cannot reasonably claim that the official escapes scrutiny and punishment by pulling political strings at the Justice Department.

We should keep in mind that the majority of the independent counsel over the past two decades have conducted prompt and cost-effective investigations that resulted in decisions not to prosecute or indict the official accused of the criminal wrongdoing. Can there be any doubt that the political credibility of these decisions was enhanced significantly because the prosecutor had no political or financial connections to the target or other members of the administration? If we return these important decisions to the Justice Department, I fear we will encourage public skepticism of decisions not to prosecute. There will always be a cloud of suspicion tainting the decision.

The need for the independent counsel mechanism is as evident today as it was back in 1978, when the law was first enacted. We have learned much from our experience with the law. It is flawed. It needs significant reform. That is just what the legislation we are introducing today would do.

Though I strongly believe we should reauthorize the Independent Counsel Act, I am mindful of its many shortcomings. I participated in an excellent series of hearings chaired by my colleague from Tennessee, Senator THOMPSON, and virtually every witness agreed that the law must be changed.

The legislation we are introducing today takes significant steps to rein in the length and the cost of independent counsel investigations. It limits all independent counsel investigations to a maximum of 2 years and only allows the investigation to proceed for additional 1-year periods upon a special showing to the court. It requires independent counsel to serve full time and to submit annual budgets to the General Accounting Office.

We substantially limit the number of covered officials under the act, limiting coverage to only the President, the Vice President, the Cabinet, and the President's chief of staff. By limiting the coverage of the law, we have reserved the extraordinary remedy of an independent counsel for those high-level officials who will always, by virtue of their position, pose a conflict of interest to the Justice Department.

We make many other changes. We heighten the threshold for the appointment of an independent counsel, and we make clear that an independent counsel must follow the prosecutorial guidelines of the Department of Justice.

We also abolish the requirement for independent counsel to report impeachable conduct to the House of Representatives. We have come up with a bill that would preserve this important mechanism while correcting the serious flaws in the current act.

Let me conclude by again recognizing the efforts of my distinguished colleagues and applaud them for their leadership on this important issue. My hope is that the rest of our colleagues will take advantage of this opportunity to remedy the weaknesses in the independent counsel law before the next unfortunate and inevitable crisis occurs and the public is left doubting whether it can have confidence that the laws of this country will be enforced impartially, without regard to rank or privilege.

I thank the Chair.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. Fifteen seconds.

Mr. SPECTER. I thank my distinguished colleagues, Senator COLLINS, Senator LEVIN, and Senator LIEBERMAN, for their fine presentations.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the independent counsel statute, a section-by-section summary of the Independent Counsel Reform Act of 1999, and the text of the bill.

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

S. 1297

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 ''Independent Counsel Reform Act of 1999''.

SEC. 2. INDEPENDENT COUNSEL STATUTE.

Chapter 40 of title 28, United States Code, is amended to read as follows:

''CHAPTER 40—INDEPENDENT COUNSEL

''§ 591. Applicability of provisions of this chapter

''(a) PRELIMINARY INVESTIGATION WITH RESPECT TO CERTAIN COVERED PERSONS.—The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

''(b) PERSONS TO WHOM SUBSECTION (a) APPLIES.—The persons referred to in subsection (a) are—

''(1) the President and Vice President;

''(2) any individual serving in a position listed in section 5312 of title 5; and

''(3) the Chief of Staff to the President.

''(c) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR PRELIMINARY INVESTIGATION.—

''(1) FACTORS TO BE CONSIDERED.—In determining under subsection (a) or section 592(c)(2) whether grounds to investigate exist, the Attorney General shall consider only—

''(A) the specificity of the information received; and

''(B) the credibility of the source of the information.

''(2) TIME PERIOD FOR MAKING DETERMINATION.—The Attorney General shall determine whether grounds to investigate exist not later than 30 days after the information is first received. If within that 30-day period the Attorney General determines that the information is not specific or is not from a credible source, then the Attorney General shall close the matter. If within that 30-day period the Attorney General determines that the information is specific and from a credible source, the Attorney General shall, upon making that determination, commence a preliminary investigation with respect to that information. If the Attorney General is unable to determine, within that 30-day period, whether the information is specific and from a credible source, the Attorney General shall, at the end of that 30-day period, commence a preliminary investigation with respect to that information.

''(d) RECUSAL OF ATTORNEY GENERAL.—

''(1) WHEN RECUSAL IS REQUIRED.—

''(A) INVOLVING THE ATTORNEY GENERAL.—If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

''(B) PERSONAL OR FINANCIAL RELATIONSHIP.—If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

''(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to information received under this chapter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this

determination with any notification or application submitted to the division of the court under this chapter with respect to that information.

"§ 592. Preliminary investigation and application for appointment of an independent counsel

''(a) CONDUCT OF PRELIMINARY INVESTIGATION.—

''(1) IN GENERAL.—A preliminary investigation conducted under this chapter shall be of those matters as the Attorney General considers appropriate in order to make a determination, under subsection (b) or (c), with respect to each potential violation, or allegation of a violation, of criminal law. The Attorney General shall make that determination not later than 120 days after the preliminary investigation is commenced, except that, in the case of a preliminary investigation commenced after a congressional request under subsection (g), the Attorney General shall make that determination not later than 120 days after the request is received. The Attorney General shall promptly notify the division of the court specified in section 593(a) of the commencement of that preliminary investigation and the date of commencement.

''(2) LIMITED AUTHORITY OF ATTORNEY GENERAL.—

''(A) IN GENERAL.—In conducting preliminary investigations under this chapter, the Attorney General shall have no authority to plea bargain or grant immunity. The Attorney General shall have the authority to convene grand juries and issue subpoenas.

''(B) NOT TO BE BASED OF DETERMINATIONS.—The Attorney General shall not base a determination under this chapter—

''(i) that information with respect to a violation of criminal law by a person is not specific and from a credible source upon a determination that that person lacked the state of mind required for the violation of criminal law; or

''(ii) that there are no substantial grounds to believe that further investigation is warranted, upon a determination that that person lacked the state of mind required for the criminal violation involved, unless there is a preponderance of the evidence that the person lacked that state of mind.

''(3) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.—The Attorney General may apply to the division of the court for a single extension, for a period of not more than 90 days, of the 120-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant that extension.

''(b) DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.—

''(1) NOTIFICATION OF DIVISION OF THE COURT.—If the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are no substantial grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court, and the division of the court shall have no power to appoint an independent counsel with respect to the matters involved.

''(2) FORM OF NOTIFICATION.—Notification under paragraph (1) shall contain a summary of the information received and a summary of the results of the preliminary investigation.

''(c) DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.—

''(1) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.—The Attorney General shall apply to the division of the court for the appointment of an independent counsel if—

''(A) the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are substantial grounds to believe that further investigation is warranted; or

''(B) the 120-day period referred to in subsection (a)(1), and any extension granted under subsection (a)(3), have elapsed and the Attorney General has not filed a notification with the division of the court under subsection (b)(1).

In determining under this chapter whether there are substantial grounds to believe that further investigation is warranted, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the conduct of criminal investigations.

''(2) RECEIPT OF ADDITIONAL INFORMATION.—If, after submitting a notification under subsection (b)(1), the Attorney General receives additional information sufficient to constitute grounds to investigate the matters to which that notification related, the Attorney General shall—

''(A) conduct such additional preliminary investigation as the Attorney General considers appropriate for a period of not more than 120 days after the date on which that additional information is received; and

''(B) otherwise comply with the provisions of this section with respect to that additional preliminary investigation to the same extent as any other preliminary investigation under this section.

''(d) CONTENTS OF APPLICATION.—Any application for the appointment of an independent counsel under this chapter shall contain sufficient information to assist the division of the court in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction so that the independent counsel has adequate authority to fully investigate and prosecute the subject matter and all matters directly related to that subject matter.

''(e) DISCLOSURE OF INFORMATION.—Except as otherwise provided in this chapter or as is deemed necessary for law enforcement purposes, no officer or employee of the Department of Justice or an office of independent counsel may, without leave of the division of the court, disclose to any individual outside the Department of Justice or that office any notification, application, or any other document, materials, or memorandum supplied to the division of the court under this chapter. Nothing in this chapter shall be construed as authorizing the withholding of information from the Congress.

''(f) LIMITATION ON JUDICIAL REVIEW.—The Attorney General's determination under this chapter to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

''(g) CONGRESSIONAL REQUEST.—

''(1) BY JUDICIARY COMMITTEE OR MEMBERS THEREOF.—The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all nonmajority party members of either such committee, may request in writing that the Attorney General apply for the appointment of an independent counsel.

''(2) REPORT BY ATTORNEY GENERAL PURSUANT TO REQUEST.—Not later than 30 days after the receipt of a request under paragraph (1), the Attorney General shall submit, to the committee making the request, or to the committee on which the persons making the request serve, a report on whether the Attorney General has begun or will begin a preliminary investigation under this chapter of the matters with respect to which the request is made, in accordance with section 591(a). The report shall set forth the reasons for the Attorney General's decision regarding the preliminary investigation as it relates to each of the matters with respect to which the congressional request is made. If there is such a preliminary investigation, the report shall include the date on which the preliminary investigation began or will begin.

''(3) SUBMISSION OF INFORMATION IN RESPONSE TO CONGRESSIONAL REQUEST.—At the same time as any notification, application, or any other document, material, or memorandum is supplied to the division of the court pursuant to this section with respect to a preliminary investigation of any matter with respect to which a request is made under paragraph (1), that notification, application, or other document, material, or memorandum shall be supplied to the committee making the request, or to the committee on which the persons making the request serve. If no application for the appointment of an independent counsel is made to the division of the court under this section pursuant to such a preliminary investigation, the Attorney General shall submit a report to that committee stating the reasons why the application was not made, addressing each matter with respect to which the congressional request was made.

''(4) DISCLOSURE OF INFORMATION.—Any report, notification, application, or other document, material, or memorandum supplied to a committee under this subsection shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of that report, notification, application, document, material, or memorandum as will not in the committee's judgment prejudice the rights of any individual.

"§ 593. Duties of the division of the court

''(a) REFERENCE TO DIVISION OF THE COURT.—The division of the court to which this chapter refers is the division established under section 49 of this title.

''(b) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.—

''(1) AUTHORITY.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and define the independent counsel's prosecutorial jurisdiction. The appointment shall be made from a list of candidates comprised of 5 individuals recommended by the chief judge of each Federal circuit and forwarded by January 15 of each year to the division of the court.

''(2) QUALIFICATIONS OF INDEPENDENT COUNSEL.—The division of the court shall appoint as independent counsel an individual who—

''(A) has appropriate experience, including, to the extent practicable, prosecutorial experience and who has no actual or apparent personal, financial, or political conflict of interest;

''(B) will conduct the investigation on a full-time basis and in a prompt, responsible, and cost-effective manner; and

''(C) does not hold any office of profit or trust under the United States.

''(3) SCOPE OF PROSECUTORIAL JURISDICTION.—

''(A) IN GENERAL.—In defining the independent counsel's prosecutorial jurisdiction under this chapter, the division of the court shall assure that the independent counsel has adequate authority to fully investigate and prosecute—

''(i) the subject matter with respect to which the Attorney General has requested the appointment of the independent counsel; and

''(ii) all matters that are directly related to the independent counsel's prosecutorial jurisdiction and the proper investigation and prosecution of the subject matter of such jurisdiction.

''(B) DIRECTLY RELATED.—In this paragraph, the term 'directly related matters' includes Federal crimes, other than those classified as Class B or C misdemeanors or infractions, that impede the investigation and prosecution, such as perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses.

''(4) DISCLOSURE OF IDENTITY AND PROSECUTORIAL JURISDICTION.—An independent counsel's identity and prosecutorial jurisdiction may not be made public except upon the request of the Attorney General or upon a determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of that independent counsel would be in the best interests of justice. In any event, the identity and prosecutorial jurisdiction of the independent counsel shall be made public when any indictment is returned, or any criminal information is filed, pursuant to the independent counsel's investigation.

''(c) RETURN FOR FURTHER EXPLANATION.—Upon receipt of a notification under section 592 from the Attorney General that there are no substantial grounds to believe that further investigation is warranted with respect to information received under this chapter, the division of the court shall have no authority to overrule this determination but may return the matter to the Attorney General for further explanation of the reasons for that determination.

''(d) VACANCIES.—If a vacancy in office arises by reason of the resignation, death, or removal of an independent counsel, the division of the court shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death, or removal caused the vacancy, except that in the case of a vacancy arising by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of the removal is completed.

''(e) ATTORNEYS' FEES.—

''(1) AWARD OF FEES.—Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, if no indictment is brought against that individual pursuant to the investigation, award reimbursement for those reasonable attorneys' fees incurred by the individual during the investigation which would not have been incurred but for the requirements of this chapter. The division of the court shall notify the independent counsel who conducted the investigation and the Attorney General of any request for attorneys' fees under this subsection.

''(2) EVALUATION OF FEES.—The division of the court shall direct the independent counsel and the Attorney General to file a written evaluation of any request for attorneys' fees under this subsection, addressing—

''(A) the sufficiency of the documentation;

''(B) the need or justification for the underlying item;

''(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

''(D) the reasonableness of the amount of money requested.

''(f) DISCLOSURE OF INFORMATION.—The division of the court may, subject to section 594(h)(2), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of the court under this chapter.

''(g) AMICUS CURIAE BRIEFS.—When presented with significant legal issues, the division of the court may disclose sufficient information about the issues to permit the filing of timely amicus curiae briefs.

''§ 594. Authority and duties of an independent counsel

''(a) AUTHORITIES.—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in that independent counsel's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

''(1) conducting proceedings before grand juries and other investigations;

''(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that the independent counsel considers necessary;

''(3) appealing any decision of a court in any case or proceeding in which the independent counsel participates in an official capacity;

''(4) reviewing all documentary evidence available from any source;

''(5) determining whether to contest the assertion of any testimonial privilege;

''(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

''(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

''(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

''(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States; and

''(10) consulting with the United States attorney for the district in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

''(b) COMPENSATION.—

''(1) IN GENERAL.—An independent counsel appointed under this chapter shall receive compensation at the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

''(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter I of chapter 57 of title 5, United States Code, including travel, per diem, and subsistence expenses in accordance with section 5703 of title 5.

''(3) TRAVEL TO PRIMARY OFFICE.—

''(A) IN GENERAL.—After 1 year of service under this chapter, an independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel, per diem, or subsistence expenses under subchapter I of chapter 57 of title 5, United States Code, for the purpose of commuting to or from the city in which the primary office of the independent counsel or person is located. The 1-year period may be extended for successive 6-month periods if the independent counsel and the division of the court certify that the payment is in the public interest to carry out the purposes of this chapter.

''(B) RELEVANT FACTORS.—In making any certification under this paragraph with respect to travel and subsistence expenses of an independent counsel or person appointed under subsection (c), that employee shall consider, among other relevant factors—

''(i) the cost to the Government of reimbursing those travel and subsistence expenses;

''(ii) the period of time for which the independent counsel anticipates that the activities of the independent counsel or person, as the case may be, will continue;

''(iii) the personal and financial burdens on the independent counsel or person, as the case may be, of relocating so that the travel and subsistence expenses would not be incurred; and

''(iv) the burdens associated with appointing a new independent counsel, or appointing another person under subsection (c), to replace the individual involved who is unable or unwilling to so relocate.

''(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of independent counsel, an independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level ES–4 of the Senior Executive Service Schedule under section 5382 of title 5, as adjusted for the District of Columbia under section 5304 of that title regardless of the locality in which an employee is employed.

''(d) ASSISTANCE OF DEPARTMENT OF JUSTICE.—

''(1) IN CARRYING OUT FUNCTIONS.—An independent counsel may request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within that independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform that independent counsel's duties. At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel to the extent the number of staff so detailed is reasonably related to the number of staff ordinarily assigned by the Department to conduct an investigation of similar size and complexity.

''(2) PAYMENT OF AND REPORTS ON EXPENDITURES OF INDEPENDENT COUNSEL.—The Department of Justice shall pay all costs relating to the establishment and operation of any office of independent counsel. The Attorney General shall submit to the Congress, not later than 30 days after the end of each fiscal year, a report on amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsel. Each such report shall include a statement of all payments made for activities of independent counsel but may not reveal the

identity or prosecutorial jurisdiction of any independent counsel which has not been disclosed under section 593(b)(4).

''(e) REFERRAL OF DIRECTLY RELATED MATTERS TO AN INDEPENDENT COUNSEL.—An independent counsel may ask the Attorney General or the division of the court to refer to the independent counsel only such matters that are directly related to the independent counsel's prosecutorial jurisdiction, and the Attorney General or the division of the court, as the case may be, may refer such matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept that referral only if the matter directly relates to the independent counsel's prosecutorial jurisdiction. If the Attorney General refers any matter to the independent counsel pursuant to the independent counsel's request, or if the independent counsel accepts a referral made by the Attorney General on the Attorney General's own initiative, the independent counsel shall so notify the division of the court.

''(f) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—

''(1) IN GENERAL.—An independent counsel shall comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws except when that policy requires the specific approval of the Attorney General or another Department of Justice official. If a policy requires the approval of the Attorney General or other Department of Justice official, an independent counsel is encouraged to consult with the Attorney General or other official. To identify and understand these policies and policies under subsection (l)(1)(B), the independent counsel shall consult with the Department of Justice.

''(2) NATIONAL SECURITY.—An independent counsel shall comply with guidelines and procedures used by the Department in the handling and use of classified material.

''(3) RELIEF FROM A VIOLATION OF POLICIES.—

''(A) IN GENERAL.—A person who is a target, witness, or defendant in, or otherwise directly affected by, an investigation by an independent counsel and who has reason to believe that the independent counsel is violating a written policy of the Department of Justice material to the independent counsel's investigation, may ask the Attorney General to determine whether the independent counsel has violated that policy. The Attorney General shall respond in writing within 30 days.

''(B) RELIEF.—If the Attorney General determines that the independent counsel has violated a written policy of the Department of Justice material to the investigation by the independent counsel pursuant to subparagraph (A), the Attorney General may ask the division of the court to order the independent counsel to comply with that policy, and the division of the court may order appropriate relief.

''(g) DISMISSAL OF MATTERS.—The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution, if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

''(h) REPORTS BY INDEPENDENT COUNSEL.—

''(1) REQUIRED REPORTS.—An independent counsel shall—

''(A) file with the division of the court, with respect to the 6-month period beginning on the date of his or her appointment, and with respect to each 6-month period thereafter until the office of that independent counsel terminates, a report which identifies and explains major expenses, and summarizes all other expenses, incurred by that office during the 6-month period with respect to which the report is filed, and estimates future expenses of that office; and

''(B) before the termination of the independent counsel's office under section 596(b), file a final report with the division of the court, setting forth only the following:

''(i) the jurisdiction of the independent counsel's investigation;

''(ii) a list of indictments brought by the independent counsel and the disposition of each indictment, including any verdicts, pleas, convictions, pardons, and sentences; and

''(iii) a summary of the expenses of the independent counsel's office.

''(2) DISCLOSURE OF INFORMATION IN REPORTS.—The division of the court may release to the Congress, the public, or any appropriate person, those portions of a report made under this subsection as the division of the court considers appropriate. The division of the court shall make those orders as are appropriate to protect the rights of any individual named in that report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a final report filed under paragraph (1)(B) available to any individual named in that report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that the individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to the final report.

''(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public, and the Public Printer shall place the cost of the required number to the debit of the independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.

''(i) INDEPENDENCE FROM DEPARTMENT OF JUSTICE.—Each independent counsel appointed under this chapter, and the persons appointed by that independent counsel under subsection (c), are employees of the Department of Justice for purposes of sections 202 through 209 of title 18.

''(j) STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL, PERSONS SERVING IN THE OFFICE OF AN INDEPENDENT COUNSEL, AND THEIR LAW FIRMS.—

''(1) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.—

''(A) INDEPENDENT COUNSEL.—During the period in which an independent counsel is serving under this chapter—

''(i) that independent counsel shall have no other paid employment; and

''(ii) any person associated with a firm with which that independent counsel is associated may not represent in any matter any person involved in any investigation or prosecution under this chapter.

''(B) OTHER PERSONS.—During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel, that person may not represent in any matter any person involved in any investigation or prosecution under this chapter.

''(2) POST EMPLOYMENT RESTRICTIONS ON INDEPENDENT COUNSEL AND APPOINTEES.—Each independent counsel and each person appointed by that independent counsel under subsection (c) may not—

''(A) for 3 years following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter if that individual was the subject of an investigation or prosecution under this chapter that was conducted by that independent counsel; or

''(B) for 1 year following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter involving any investigation or prosecution under this chapter.

''(3) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS OF INDEPENDENT COUNSEL.—Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of the service of that independent counsel under this chapter may not, for 1 year following that termination, represent any person in any matter involving any investigation or prosecution under this chapter.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'firm' means a law firm whether organized as a partnership or corporation; and

''(B) a person is 'associated' with a firm if that person is an officer, director, partner, or other member or employee of that firm.

''(5) ENFORCEMENT.—The Attorney General and the Director of the Office of Government Ethics have authority to enforce compliance with this subsection. The designated agency ethics official for the Department of Justice shall be the ethics adviser for the independent counsel and employees of the independent counsel.

''(k) CUSTODY OF RECORDS OF AN INDEPENDENT COUNSEL.—

''(1) TRANSFER OF RECORDS.—Upon termination of the office of an independent counsel, that independent counsel shall transfer to the Archivist of the United States all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to rule 6(e) of the Federal Rules of Criminal Procedure as grand jury materials and which of these records have been classified as national security information. Any records which were compiled by an independent counsel and, upon termination of the independent counsel's office, were stored with the division of the court or elsewhere before the enactment of the Independent Counsel Reauthorization Act of 1987, shall also be transferred to the Archivist of the United States by the division of the court or the person in possession of those records.

''(2) MAINTENANCE, USE, AND DISPOSAL OF RECORDS.—Records transferred to the Archivist under this chapter shall be maintained, used, and disposed of in accordance with chapters 21, 29, and 33 of title 44.

''(3) ACCESS TO RECORDS.—

''(A) IN GENERAL.—Subject to paragraph (4), access to the records transferred to the Archivist under this chapter shall be governed by section 552 of title 5.

''(B) ACCESS BY DEPARTMENT OF JUSTICE.—The Archivist shall, upon written application by the Attorney General, disclose any such records to the Department of Justice for purposes of an ongoing law enforcement investigation or court proceeding, except that, in the case of grand jury materials, those records shall be so disclosed only by order of the court of jurisdiction under rule 6(e) of the Federal Rules of Criminal Procedure.

''(C) EXCEPTION.—Notwithstanding any restriction on access imposed by law, the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to the records transferred to the Archivist under this chapter.

''(4) RECORDS PROVIDED BY CONGRESS.—Records of an investigation conducted by a committee of the House of Representatives or the Senate which are provided to an independent counsel to assist in an investigation or prosecution conducted by that independent counsel—

''(A) shall be maintained as a separate body of records within the records of the independent counsel; and

''(B) shall, after the records have been transferred to the Archivist under this chapter, be made available, except as provided in paragraph (3) (B) and (C), in accordance with the rules governing release of the records of the House of Congress that provided the records to the independent counsel.

Subparagraph (B) shall not apply to those records which have been surrendered pursuant to grand jury or court proceedings.

''(l) COST AND ADMINISTRATIVE SUPPORT.—

''(1) COST CONTROLS.—

''(A) IN GENERAL.—An independent counsel shall—

''(i) conduct all activities with due regard for expense;

''(ii) authorize only reasonable and lawful expenditures; and

''(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

''(B) LIABILITY FOR INVALID CERTIFICATION.—An employee making a certification under subparagraph (A)(iii) shall be liable for an invalid certification to the same extent as a certifying official certifying a voucher is liable under section 3528 of title 31.

''(C) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds.

''(2) BUDGET.—The independent counsel, after consulting with the Attorney General, shall, within 90 days of appointment, submit a budget for the first year of the investigation and, on the anniversary of the appointment, for each year thereafter to the Attorney General and the General Accounting Office. The General Accounting Office shall review the budget and submit a written appraisal of the budget to the independent counsel and the Committees on Governmental Affairs and Appropriations of the Senate and the Committees on the Judiciary and Appropriations of the House of Representatives.

''(3) ADMINISTRATIVE SUPPORT.—The Director of the Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

''(4) OFFICE SPACE.—The Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall promptly provide appropriate office space for each independent counsel. The office space shall be within a Federal building unless the Administrator of General Services determines that other arrangements would cost less. Until the office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.

''(m) EXPEDITED JUDICIAL CONSIDERATION AND REVIEW.—It shall be the duty of the courts of the United States to advance on the docket and to expedite to the greatest extent possible the disposition of matters relating to an investigation and prosecution by an independent counsel under this chapter consistent with the purposes of this chapter.

''§ 595. Congressional oversight

''(a) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.—

''(1) CONGRESSIONAL OVERSIGHT.—The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any independent counsel appointed under this chapter, and the independent counsel shall have the duty to cooperate with the exercise of that oversight jurisdiction.

''(2) REPORTS TO CONGRESS.—An independent counsel appointed under this chapter shall submit to the Congress annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. The report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made.

''(b) OVERSIGHT OF CONDUCT OF ATTORNEY GENERAL.—Within 15 days after receiving an inquiry about a particular case under this chapter, which is a matter of public knowledge, from a committee of the Congress with jurisdiction over this chapter, the Attorney General shall provide the following information to that committee with respect to the case:

''(1) When the information about the case was received.

''(2) Whether a preliminary investigation is being conducted, and if so, the date it began.

''(3) Whether an application for the appointment of an independent counsel or a notification that further investigation is not warranted has been filed with the division of the court, and if so, the date of that filing.

''§ 596. Removal of an independent counsel; termination of office

''(a) REMOVAL; REPORT ON REMOVAL.—

''(1) GROUNDS FOR REMOVAL.—

''(A) IN GENERAL.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability), or any other condition that impairs the performance of that independent counsel's duties.

''(B) GOOD CAUSE.—In this paragraph, the term 'good cause' includes—

''(i) a knowing and material failure to comply with written Department of Justice policies relevant to the conduct of a criminal investigation; and

''(ii) an actual personal, financial, or political conflict of interest.

''(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for the removal. The committees shall make available to the public that report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of the report in accordance with section 594(h)(2).

''(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action. The independent counsel may be reinstated or granted other appropriate relief by order of the court.

''(b) TERMINATION OF OFFICE.—

''(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

''(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of the independent counsel or accepted by the independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete those investigations and prosecutions; and

''(B) the independent counsel files a final report in compliance with section 594(h)(1)(B).

''(2) TERMINATION BY DIVISION OF THE COURT.—The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of the independent counsel or accepted by the independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete those investigations and prosecutions. At the time of that termination, the independent counsel shall file the final report required by section 594(h)(1)(B). If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel.

''(3) TERMINATION AFTER 2 YEARS.—

''(A) GENERAL RULE.—Except as provided in subparagraph (B), the term of an independent counsel shall terminate at the expiration of 2 years after the date of appointment of the independent counsel and any matters under investigation by the independent counsel shall be transferred to the Attorney General.

''(B) EXCEPTIONS.—

''(i) GOOD CAUSE.—An independent counsel may petition the division of the court to extend the investigation of the independent counsel for up to 1 year for good cause. The division of the court shall determine whether the grant of such an extension is warranted and determine the length of each extension.

''(ii) DILATORY TACTICS.—If the investigation of an independent counsel was delayed by dilatory tactics by persons that could provide evidence that would significantly assist the investigation, an independent counsel may petition the division of the court to extend the investigation of the independent counsel for an additional period of time equal to the amount of time lost by the dilatory tactics. If the division of the court finds that dilatory tactics did delay the investigation, the division of the court shall extend the investigation for a period equal to the delay.

''(c) AUDITS.—

''(1) IN GENERAL.—On or before June 30 of each year, an independent counsel shall prepare a statement of expenditures for the 6 months that ended on the immediately preceding March 31. On or before December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures on or before the date that is 90 days after the date on which the office is terminated.

''(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall—

''(A) conduct a financial review of a mid-year statement and a financial audit of a year-end statement and statement on termination; and

''(B) report the results to the Committee on the Judiciary, Committee on Governmental Affairs, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Government Reform, and Committee on Appropriations of the House of Representatives not later than 90 days following the submission of each statement.

''§ 597. Relationship with Department of Justice

''(a) SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding that matter, except to the extent required by section 594(d)(1), and except insofar as the independent counsel agrees in writing that the investigation or proceedings may be continued by the Department of Justice.

''(b) PRESENTATION AS AMICUS CURIAE PERMITTED.—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

''§ 598. Severability

''If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by that invalidation.

''§ 599. Termination of effect of chapter

''This chapter shall cease to be effective 5 years after the date of enactment of the Independent Counsel Reform Act of 1999, except that this chapter shall continue in effect with respect to then pending matters before an independent counsel that in the judgment of that counsel require the continuation until that independent counsel determines those matters have been completed.''.

SEC. 3. ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT INDEPENDENT COUNSELS.

Section 49 of title 28, United States Code, is amended to reads as follows:

''§ 49. Assignment of judges to division to appoint independent counsels

''(a) IN GENERAL.—Beginning with the 3-year period commencing on the date of the enactment of the Independent Counsel Reform Act of 1999, 3 judges shall be assigned for each successive 3-year period to a division of the United States Court of Appeals for the District of Columbia to be the division of the court for the purpose of appointing independent counsels. The Clerk of the United States Court of Appeals for the District of Columbia Circuit shall serve as the clerk of the division of the court and shall provide such services as are needed by the division of the court.

''(b) OTHER JUDICIAL ASSIGNMENTS.—Except as provided in subsection (e), assignment to the division of the court shall not be a bar to other judicial assignments during the term of the division of the court.

''(c) DESIGNATION AND ASSIGNMENT.—The Chief Justice of the United States shall designate and assign by a lottery of all circuit court judges, 3 circuit court judges 1 of whom shall be a judge of the United States Court of Appeals for the District of Columbia, to the division of the court. Not more than 1 judge may be named to the division of the court from a particular court.

''(d) VACANCY.—Any vacancy in the division of the court shall be filled only for the remainder of the 3-year period in which that vacancy occurs and in the same manner as initial assignments to the division of the court were made.

''(e) RECUSAL.—Except as otherwise provided in chapter 40 of this title, no member of the division of the court who participated in a function conferred on the division of the court under chapter 40 of this title involving an independent counsel shall be eligible to participate in any judicial proceeding concerning a matter that—

''(1) involves that independent counsel while the independent counsel is serving in that office; or

''(2) involves the exercise of the independent counsel's official duties, regardless of whether the independent counsel is still serving in that office.''.

SUMMARY OF INDEPENDENT COUNSEL STATUTE

1. Limits applicability of the statute to the President, Vice President, members of the Cabinet, and the President's Chief of Staff.

2. Eliminates the provision which allowed the AG to begin a preliminary investigation and appoint an IC with regard to any individual when she believed that investigating this person may result in a personal, financial or political conflict of interest.

3. Eliminates the provision which allowed the AG to begin a preliminary investigation and appoint an IC to investigate a Member of Congress.

4. Grants the AG the power to convene a grand jury and issue subpoenas during the preliminary investigation.

5. Increases the length of the preliminary investigation from 90 to 120 days and increases the length of the extension from 60 to 90 days (to allow more time given the AG's new powers and the higher standard for appointing an IC).

6. Lowers the standard for not appointing an IC due to the suspect's lack of mens rea from ''clear and convincing evidence'' that he/she lacked the requisite state of mind to a ''preponderance of evidence'' that he/she lacked the requisite state of mind.

7. Changes the standard necessary for appointing an IC from ''reasonable grounds to believe that further investigation is warranted'' to ''substantial grounds to believe that further investigation is warranted.''

8. Requires that the IC be selected from a list of candidates comprised of 5 individuals recommended by the chief judge of each Federal circuit.

9. Provides that an IC shall have ''appropriate experience including, to the extent practicable, prosecutorial experience.''

10. Provides that an IC shall have ''no actual or apparent personal, financial or political conflict of interest.''

11. Requires that the IC conduct the investigation on a full-time basis.

12. Eliminates the provision which allows the AG to expand the jurisdiction of an independent counsel beyond his/her original mandate (such as the additions of Filegate, Travelgate, etc. to Starr's original Whitewater mandate).

13. Provides that the IC can investigate only topics in his original jurisdiction or those ''directly related'' thereto.

14. Provides that DOJ employees can be detailed to the IC in a number which is ''reasonably related to the number of staff ordinarily assigned by the Department to conduct an investigation of similar size and complexity.''

15. Eliminates the provision which provided that the IC need not comply with written or established DOJ policies ''to the extent doing so would be inconsistent with the purposes'' of the statute.

16. Provides a mechanism for aggrieved parties to appeal directly to the AG when they believe that the IC has failed to observe written DOJ policies or guidelines. If the AG determined that the IC has in fact violated the guidelines in a manner that has caused a cognizable harm to the complaining party, the AG may file a motion with the Division of the Court seeking appropriate injunctive or declaratory relief.

17. Limits the IC's final report to one which sets forth only a list of indictments brought by the IC, the outcomes of each indictment, and a summary of expenses.

18. Provides that the IC shall submit an annual budget to the AG and the GAO. The GAO shall review the budget and submit a written appraisal of the budget to the IC and the House and Senate Governmental Affairs Committee and Appropriations Committee.

19. Provides for expedited review of all matters relating to an investigation and a prosecution by an IC.

20. Deletes the requirement of a report to Congress of any substantial and credible information that may constitute grounds for an impeachment.

21. Defines the ''good cause'' for which an AG can remove an IC as a physical or mental disability, a knowing, willful and material failure to comply with relevant, written Department of Justice guidelines, and a personal, financial or political conflict of interest.

22. Provides a 2 year time limit for IC investigation. Empowers the Special Division of the Court to extend this period for additional one year periods for good cause, and to extend this period to make up for dilatory tactics.

23. Provides that the judges of the Special Division of the Court shall be chosen through a lottery of circuit judges (instead of the current system where the Chief Justice chooses them). Extends period of service on the Special Division from 2 to 3 years.

INDEPENDENT COUNSEL REFORM ACT OF 1999—SECTION-BY-SECTION SUMMARY

Sec. 1: Short Title: ''Independent Counsel Reform Act of 1999''.

Sec. 2: Independent Counsel Statute

United States Code Chapter 40, title 28 is replaced by this Act.

§ 591. Applicability of provisions of this chapter

The Attorney General shall conduct a preliminary investigation whenever there is specific and credible evidence that a covered person may have violated Federal criminal law. Covered persons include the President, the Vice President, the President's cabinet, and the Chief of Staff.

The Attorney General shall determine the need for a preliminary investigation based

only on the specificity of the information and the credibility of the source. The Attorney General shall determine whether grounds to investigate exist within 30 days of receiving the information.

Before making any other determinations, the Attorney General shall determine if recusal is necessary and submit this determination in writing to the special court.

§ 592. Preliminary investigation and application for appointment of an independent counsel

The Attorney General shall make a determination regarding the appointment of an independent counsel within 120 days after the preliminary investigation is commenced. The special court shall be notified of the commencement of that preliminary investigation.

During the preliminary investigation, the Attorney General shall have no authority to plea bargain or grant immunity, but will possess the authority to convene grand juries and issue subpoenas.

The Attorney General shall not base a determination to decline the appointment of an independent counsel upon the state of mind of the target unless there is a preponderance of evidence that the target lacked the requisite criminal intent.

At the expiration of the 120 day period, the Attorney General may apply to the special court for a single extension of not more than 90 days.

If the Attorney General determines that there are no substantial grounds to believe that further investigation is warranted, the Attorney General shall notify the special court. Notification shall consist of a summary of the information received and the results of the preliminary investigation.

The Attorney General shall apply to the special court for the appointment of an independent counsel if the Attorney General determines there are substantial grounds to believe that further investigation is warranted or the 120 day period granted for preliminary investigation has elapsed without proper notification to the special court.

In making this determination, the Attorney General shall comply with the written and established policies of the Department of Justice.

If the Attorney General receives additional information after notifying the special court of a decision not to seek an independent counsel, the Attorney General shall conduct an additional preliminary investigation for a period of no more than 120 days.

The Attorney General's determination on the appointment of an independent counsel shall not be reviewable by any court.

Congress may request in writing that the Attorney General apply for the appointment of an independent counsel. No later than 30 days after a congressional request, the Attorney General must report on the status of the preliminary investigation or the reasons for not investigating.

If the preliminary investigation is initiated in response to a congressional request, any communication to the special court shall be supplied to the persons requesting the investigation. If no application for the appointment of an independent counsel is made, the Attorney General shall submit a report explaining the decision.

§ 593. Duties of the division of the court

Upon receipt of an application, the special court shall appoint an appropriate independent counsel and define the independent counsel's prosecutorial jurisdiction. The appointment shall be made from the list of candidates comprised of five individuals recommended annually by the chief judge of each federal circuit.

An independent counsel shall have appropriate experience, including prosecutorial experience if practical. An independent counsel shall have no actual or apparent conflict of interest and shall conduct the investigation on a full-time basis and shall not hold any office of profit or trust under the United States.

The independent counsel shall have the authority to fully investigate and prosecute the subject matter of the appointment and all matters directly related to the prosecutorial jurisdiction and the proper investigation of the subject matter. ''Directly related'' includes federal crimes, other than certain misdemeanors, that impede the investigation such as perjury and obstruction of justice.

The identity and prosecutorial jurisdiction of the independent counsel shall not be made public until any indictment is returned or criminal information is filed unless the Attorney General requests such public disclosure or the special court determines it is in the best interest of justice.

The special court shall have no authority to overrule the determination of the Attorney General not to investigate further.

If a vacancy in office arises, the special court shall appoint another independent counsel to complete the work. If the vacancy arises by reason of removal, the appointment shall be of a temporary nature until any judicial review of the removal is completed.

If no indictment is brought against the subject of the investigation, the special court may award the subject reasonable attorneys' fees. The independent counsel and the Attorney General shall determine if the fees requested are reasonable.

§ 594. Authority and duties of an independent counsel

The independent counsel shall have full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice except that the Attorney General shall exercise control over matters that specifically require the Attorney General's personal attention under section 2516 of title 18. These include the following: Conducting proceedings before grand juries; engaging in any litigation considered necessary; appealing any decision of a court in which the independent counsel participates officially; reviewing all documentary evidence; determination of an assertion of testimonial privilege; receiving necessary national security clearances; application for a grant of immunity to witnesses, or for warrants, subpoenas or other court orders; exercising the authority of the Attorney General for the purposes of section 6003, 6004 and 6005 of title 18, and section 6103 of the Internal Revenue Code of 1986; inspecting, obtaining or using any tax return; initiating and conducting prosecutions in any court, framing and signing indictments, filing informations and handling all aspects of any case in the name of the United States; and consulting with the United States Attorney for the appropriate district.

Travel expenses shall be compensated. After one year of service, commuting costs shall not be reimbursed unless the special court certifies that it is in the public interest. Relevant factors include cost of reimbursement, time period of office, burden of relocation and burden of appointing a different independent counsel.

An independent counsel may request assistance from the Department of Justice, which shall be provided within reason. The costs relating to the establishment and operation of any office of independent counsel shall be paid through the Department of Justice and reported to the Congress within 30 days of the end of the fiscal year.

The Attorney General or the special court may refer ''directly related'' matters to the independent counsel, who can also request that such matters be referred.

An independent counsel shall comply with the written and established policies of the Department of Justice, except when such policies require the approval of the Department of Justice. The independent counsel shall comply with all guidelines dealing with classified material.

A person who is a target, witness or defendant or otherwise directly affected by the investigation, who has reason to believe that the independent counsel is violating a written Department of Justice policy that is material to the investigation, may ask the Attorney General to investigate whether there has been a violation. The Attorney General shall respond in writing within 30 days. If the Attorney General determines that there has been a violation of written policy material to the investigation, the Attorney General may ask the special court to order appropriate relief.

The independent counsel may dismiss matters within his or her prosecutorial jurisdiction if it is consistent with Department of Justice policy.

The independent counsel shall report to the special court every 6 months and before termination of the office. The 6-month period report shall include explanations of expenses, and estimates of future expenses. The termination report shall include summaries of expenses and disposition of legal actions taken.

The special court may release appropriate sections of the reports if it is appropriate to protect the rights of any individual named in the report. At the request of an independent counsel, past reports may be printed and made available to the public.

The independent counsel may have no other paid employment and any person with an associated firm may not represent anyone under investigation by the independent counsel. Appointees may not represent anyone under investigation. The independent counsel and appointees may not represent a subject of the investigation for three years. Those parties and an associated law firm are banned for one year from representing any person in any matter involving this chapter.

The independent counsel shall conduct all activities with due regard for expenses and authorize only reasonable and lawful expenditures. An appointee making an invalid certification will be held liable. An independent counsel shall comply with the established expenditure policies of the Department of Justice.

The independent counsel shall within 90 days of appointment submit a budget for the first year, and thereafter on an annual basis. This budget shall be submitted to the Attorney General and the General Accounting Office (''GAO''). The GAO shall review the annual budget and submit a written appraisal to Congress.

It shall be the duty of the courts of the United States to expedite matters relating to an investigation and prosecution by an independent counsel.

§ 595. Congressional oversight

The appropriate committees of Congress shall have oversight jurisdiction. The independent counsel shall submit annually a report on the activities of the independent counsel omitting confidential matters, but sufficient to justify the expenditures.

Within 15 days of a request from an appropriate congressional committee, the Attorney General shall provide the following: when the information regarding the case was received, the starting date of the preliminary investigation, and whether an application for an independent counsel or notification of no further investigation has been filed.

§596. Removal of an independent counsel; termination of office

An independent counsel may only be removed from office by the Attorney General for ''good cause,'' physical or mental disability, or any other condition that impairs the performance of the independent counsel's duties. Good cause include a knowing and material failure to comply with the written policies of the Department of Justice, or an actual conflict of interest

Upon removal of an independent counsel, the Attorney General shall submit a report to the special court and the appropriate congressional committees specifying the facts found and the ultimate grounds for the removal. This report shall be made public with necessary protections for the rights of any named individual.

The independent counsel may request judicial review of his or her removal. Remedies may include reinstatement or other appropriate relief.

The independent counsel shall notify the Attorney General when the matters within the prosecutorial jurisdiction have been completed, or completed to the point that it would be appropriate for the Department of Justice to complete those investigations. The independent counsel shall file the final report. The special court may terminate an office of the independent counsel on the same grounds within two years of appointment and thereafter on an annual basis.

The term of an independent counsel shall terminate after two years except for good cause or dilatory tactics. The special court shall review all requests for extensions and may grant an extension for additional one year periods.

By June 30th and December 31st of each year, the independent counsel shall prepare a statement of expenditures covering the previous 6 months. The Comptroller General shall conduct a financial review of the statements and submit the results to the appropriate congressional committees.

§597. Relationship with the Department of Justice

Whenever a matter is within the prosecutorial jurisdiction of the independent counsel, the Department of Justice shall suspend all investigation, except if the independent counsel agrees in writing that the matter may be continued by the Department of Justice.

Nothing in this chapter shall prevent either the Attorney General or the Solicitor General from presenting an amicus curiae brief on matters involving the jurisdiction of the independent counsel.

§598. Severability

If any provision of this chapter is held invalid, the remainder of this chapter not similarly situated shall not be affected by that invalidation.

§599. Termination of effect of chapter

This chapter shall sunset five years after the date of enactment.

Sec. 3: Assignment of Judges to Division to Appoint Independent Counsels

Section 49 of title 28, United States Code, is amended to read as follows:

§49. Assignment of judges to division to appoint independent counsel

Three judges shall be assigned for a period of three years to a division of the United States Court of Appeals for the District of Columbia to be the special court for the purpose of appointing independent counsels. This shall not be a bar to other judicial assignments. Assignment shall be by lottery. Vacancies shall be filled by lottery only for the remainder of the assignment. These judges shall not be eligible to participate in any judicial proceeding concerning a matter that involves the independent counsel while the independent counsel is in office, or a matter involving the exercise of the independent counsel's official duties.

Mr. SPECTER. Mr. President, I ask unanimous consent for 2 additional minutes.

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

Mr. SPECTER. Mr. President, I have sought recognition for 2 additional minutes to comment about an amendment which I will seek to add when this statute is considered. It is one where I am proceeding by myself. That is a provision to have a mandamus action to compel the Attorney General to appoint an independent counsel where there is an abuse of discretion. It is my view that independent counsel should have been appointed on campaign finance reform, as recommended by FBI Director Louis Freeh and special counsel Charles LaBella.

I will ask consent that at the conclusion of the remarks which I am now making, there be included a draft complaint which I had prepared to compel the appointment of independent counsel.

This draft complaint was never filed because at each stage where it appeared warranted to pursue mandamus, the Attorney General would take some action on extension of investigation, and then it became interwoven with the impeachment proceedings so the time was never quite right. There was a complex issue on standing, although at one time we almost had an agreement by the chairman of the House Judiciary Committee and the chairman of the Senate Judiciary Committee to have their sponsorship, perhaps if not all of the Republicans in each committee, a majority of the Republicans, which would have provided standing for a report and, by analogy, perhaps, standing for such a lawsuit.

I do believe that when independent counsel is again considered and this statute sponsored by the four of us will be ready, willing, and able to proceed, the issue of a mandamus action ought to be considered.

I ask unanimous consent that the text of this draft complaint be printed in the RECORD to preserve the factual allegations for later reference on the general principle of the need for a mandamus provision.

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

[United States District Court for the District of Columbia, Civil Action No.]

PLAINTIFFS *vs.* THE HONORABLE JANET RENO, ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, DEFENDANT.

COMPLAINT

Plaintiffs, by counsel, complain as follows:

COME NOW Plaintiffs, and for cause of action against Defendant, allege as follows:

JURISDICTION

1. This court has jurisdiction by reason of (1) 28 U.S.C. section 1361, which confers jurisdiction over any action in the nature of mandamus to compel an officer or employee of the United States, or any agency thereof, to perform a duty owed to the plaintiff; (2) 5 U.S.C. section 702, which confers jurisdiction over any action to compel an agency of the United States to perform a duty which has been unreasonably withheld; and (3) by reason of its general Federal Question jurisdiction under 28 U.S.C. section 1331.

THE PARTIES AND STATUTORY BACKGROUND

2. This is an action to compel the Attorney General of the United States of America to comply with statutory provisions set forth in the Independent Counsel Statute, 28 U.S.C. sections 591–599 (hereinafter ''The Act'').

3. [Plaintiffs comprise a majority of the Republican members of the House and Senate Judiciary Committees.] Section 592(g) of the Act provides that a majority of the majority party members of the House or Senate Judiciary Committee shall have the authority to request that the Attorney General apply for appointment of an independent counsel.

4. Defendant is the Attorney General of the United States and is charged with the duty of carrying out the provisions of the Act by reason of the requirements set forth in 28 U.S.C. sections 591–595.

5. Section 591 of the Act provides that the Attorney General ''shall'' conduct a preliminary investigation whenever the Attorney General receives specific and credible information which is ''sufficient to constitute grounds to investigate'' whether a covered person under the Act ''may have violated'' any Federal criminal law. Such covered persons include the President and the Vice President.

6. Section 592(c) of the Act provides that the Attorney General ''shall'' apply to the special division of the circuit court for appointment of an independent counsel if the Attorney General determines, after reviewing specific and credible evidence, that there are ''reasonable grounds to believe that further investigation is warranted.''

FACTUAL BACKGROUND

7. The following factual background sets forth specific and credible information sufficient to require the Attorney General to apply for appointment of an independent counsel under the provisions of the Act cited above. This information has been organized as follows:

I. National Security Information Withheld from the President. The Attorney General found that there was sufficient evidence of illegal activity by the President to justify withholding certain national security information from him. Since the evidence was sufficiently compelling to justify such an extreme denial of presidential prerogative, the same evidence is sufficiently specific and credible so as to warrant appointment of independent counsel.

II. Criminal Violations. The Attorney General has ignored specific and credible evidence of at least two violations that warrant appointment of an independent counsel to investigate the President and/or the Vice President:

A. *Coordination between the President and the DNC.* There is specific and credible evidence that President Clinton engaged in illegal coordination of expenditures by the DNC on its television advertising campaign.

B. *Conspiracy to Violate and Evade the Campaign Finance Laws.* There is specific and credible evidence that the President, Vice President, and other high-ranking officials acted in concert to violate the Federal Election Campaign Act.

III. The Failure of the Department of Justice's Investigation and Estoppel of the Attorney General.

A. *Failure of the Department of Justice's Campaign Finance Investigation.* After over one year of investigation, the Justice Department's campaign finance task force has suffered a series of embarrassments and can point to little visible achievement. If a credible investigation is to take place, it must be done by an independent counsel.

B. *Estoppel of the Attorney General.* Attorney General Reno has stated before Congress that there is an inherent conflict whenever senior Executive Branch officials are to be investigated by the Justice Department and its appointed head, the Attorney General. Furthermore, Attorney General Reno has, until the present, complied with the view she expressed before Congress by appointing independent counsels to investigate Executive Branch officials on four separate occasions. Given the Attorney General's statements and pattern of behavior, and Congress' detrimental reliance thereon, Attorney General Reno is estopped from refusing to appoint an independent counsel in the instant case.

I. NATIONAL SECURITY INFORMATION WITHHELD FROM THE PRESIDENT AND SECRETARY OF STATE

8. The Federal Election Campaign Act provides that ''it shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value . . . in connection with an election to any political office. . . .'' 2 U.S.C. 441e(a). A ''foreign national'' is defined as someone who is not a citizen of the United States and who is not lawfully admitted for permanent residence in the United States. 2 U.S.C. 441e(b).

9. *National Security Information Withheld from the President.* On June 3, 1996, the F.B.I. briefed two members of the White House National Security Council (the ''N.S.C.'') on intelligence of Chinese Government efforts to buy influence in the United States government through political contributions. Also in June, the F.B.I. provided individual, classified briefings to 6 members of Congress, warning them that they may have been targeted by the Chinese Government to be the recipients of illegal campaign contributions.

10. President Clinton was not informed of the F.B.I. briefing to the N.S.C. and became aware of it only after reading a February, 1997 report in the Washington Post. After learning about the June briefing, President Clinton explained on March 10, 1997, that the two N.S.C. officials had not reported the F.B.I. briefing to their superiors because the F.B.I. agents involved, ''asked that they [the N.S.C. officials] not share the briefing, and they honored the request.'' Also on March 10, White House Press Secretary Michael McCurry stated that the two N.S.C. officials who received the briefing were ''adamant in recalling specifically that they were urged by [by the FBI] not to disseminate the information outside the briefing room.''

11. President Clinton further stated on March 10 that such national security information should not have been withheld from him. The President stated, ''I should have known. No, I did not know. If I had known, I would have asked the N.S.C. and the chief of staff to look at the evidence and make whatever recommendations were appropriate.''

12. *National Security Information Withheld from the Secretary of State.* On February 18, 1997 White House Counsel Charles Ruff wrote to Deputy Attorney General Jamie Gorelick asking for information about the possible involvement of Chinese officials and citizens in a purported plan to make illegal contributions to American political campaigns. He sought this information in order to brief Secretary of State Madeline Albright, who was preparing to make an official visit to China in late February. Mr. Ruff's letter stressed that he did not want information that might interfere with ''any criminal investigation.''

13. The New York Times reported (March 25, 1997) that F.B.I. and Justice Department officials prepared a thorough response to Mr. Ruff's letter but, at the request of F.B.I. Director Freeh, this response was never sent. As a result, Secretary of State Albright was denied critical information at a time when she was embarking upon a diplomatic mission to Beijing.

14. In response to this decision to withhold this information from the Secretary of State, President Clinton stated on March 26, 1997 that, ''I think everyone understands that there are significant national security issues at stake here and that the White House, the National Security Council, and the Secretary of State, as well as the President, need to know when the national security issues are brought into play.''

15. On April 30, 1997, Attorney General Janet Reno appeared before the Senate Judiciary Committee for an oversight hearing. At this hearing, Senator Arlen Specter questioned the Attorney General about these reports that the FBI and the Justice Department had withheld national security information from President Clinton and the Secretary of State because the President is a subject in a criminal investigation. In response, Attorney General Reno acknowledged that Director Freeh had told National Security Advisor Sandy Berger that ''he [Freeh] would not go into certain matters because of the ongoing criminal investigation.''

16. In an op-ed piece published in the Washington Post on May 22, 1997, Senator Arlen Specter noted the inconsistency in Attorney General Reno's position: ''Since the facts of the underlying investigation are sufficiently serious in the judgement of the Attorney General to deny the president 'significant national security' data, how can they possibly be insufficiently 'credible' and 'specific' to justify not appointing independent counsel?''

II. CRIMINAL VIOLATIONS

17. There is specific and credible evidence that the President and Vice President have committed criminal violations of the Federal Election Campaign Act (''FECA''). The Attorney General has therefore violated the letter and the spirit of the Independent Counsel Statute by failing to appoint an independent counsel to investigate these allegations.

A. Illegal Coordination of Expenditures of DNC Money by President Clinton

18. There is specific and credible evidence that President Clinton committed a criminal violation of FECA by personally drafting, editing, and planning a series of television advertisements paid for by Democratic National Committee soft money.

19. ''Hard money'' is money which is raised pursuant to the caps, restrictions, and reporting requirements of FECA. Hard money can be spent in connection with a specific campaign for Federal office. ''Soft money'' is money that is not governed by the restriction of FECA and can therefore be raised in unlimited amounts. Soft money cannot be spent in connection with specific campaigns for Federal office and must be used for general party building activities.

20. As one of the conditions for receiving $61.8 million in Federal funding for their 1996 general election campaign, President Clinton and Vice President Gore signed a letter to the Federal Election Commission in which they pledged that in exchange for the Federal funding they would not spend any additional money on their campaign.

21. After signing the pledge, President Clinton actively participated in raising funds for the DNC beyond these limits. According to Federal Election Commission records, the President helped raise $27 million in hard and soft money for the DNC through the White House coffees, and an additional $6 million in hard and soft money for the DNC from overnight guests in the Lincoln Bedroom.

22. President Clinton also actively participated in spending DNC money through close coordination with the DNC of the expenditures made on a major television advertising campaign.

23. Former White House Chief of Staff Leon Panetta, appearing on the March 9, 1997 edition of NBC's ''Meet the Press,'' acknowledged that President Clinton helped direct the expenditure of approximately $35 million in DNC soft money on television campaign commercials.

24. Former Presidential advisor Richard Morris, in his book Behind the Oval Office (p. 144), describes his first-hand knowledge of the coordination which took place between President Clinton and the DNC: ''[T]he President became the day-to-day operational director of our TV-ad campaign. He worked over every script, watched each ad, ordered changes in every visual presentation, and decided which ads would run when and where. He was as involved as any of his media consultants were. The ads became not the slick creations of admen but the work of the president himself. . . . Every line of every ad came under his informed, critical, and often meddlesome gaze. Every ad was his ad.''

25. Section 441a(a)(7)(B)(I) of FECA states that: ''Expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.'' By this standard, all of the money spent by the Democratic National Committee (''DNC'') on express advocacy commercials, as defined under FECA, that were designed, edited and/or purchased in consultation and co-ordination with the Clinton campaign and the President personally were contributions to the Clinton campaign under FECA. The President knowingly violated FECA by (1) coordinating the contributions by the DNC and (2) accepting and expending contributions in violation of his commitment to limit expenditures to the public financing.

26. Violations of FECA are criminal violations when they are done ''knowingly and willfully'' and involve contributions or expenditures aggregating $2,000 or more. 2 U.S.C. 437g(d)(1)(A).

27. The Federal Election Commission has defined express advocacy ads as: ''Communications using phrases such as 'vote for President,' 'reelect your Congressman,' 'Smith for Congress,' or language which, when taken as a whole and with limited reference to external events, can have no other reasonable meaning that to urge the election or defeat of a clearly identified federal candidate.'' 11 CFR 100.22.

28. On April 30, 1997, Attorney General Janet Reno appeared before the Senate Judiciary Committee for an oversight hearing. At this hearing, Senators Arlen Specter and Fred Thompson questioned the Attorney General about the coordination between the DNC and the President. The Attorney General acknowledged that coordination between President Clinton and the DNC ''was presumed at the time by the FEC.'' The Attorney General further stated that ''it would be the content'' which controlled whether or not the law was violated, thereby acknowledging that such coordination would be illegal if the advertisements so produced were advocacy ads.

29. Senator Specter then asked Attorney General Reno the following question:

Attorney General Reno . . . I ask you if this advertisement . . . can be anything other than express advocacy. . . . It reads as follows:

'Head Start, student loans, toxic cleanup, extra police, anti-drug programs—Dole-Gingrich wanted them cut. Now, they're safe, protected in the 1996 budget because the president stood firm. Dole-Gingrich—deadlock, gridlock, shutdowns. The president's plan—finish the job, balance the budget, reform welfare, cut taxes, protect Medicare. President Clinton gets it done. Meet our challenge, protect our values.'

Can that possibly be language taken as a whole which does anything other than urge the election expressly of President Clinton?

30. In response to this question, the following exchange took place between Attorney General Reno and Senator Specter:

RENO: Based on the processes that have been established by the Department of Justice, the MOU with the elections commission, this is a situation in which we would not find specific and credible evidence that a crime had been committed that would justify triggering the statute.

SPECTER: Well, Attorney General Reno, that is conclusory. A critical step along the way is your legal judgment as to whether that is express advocacy.

RENO: At this point, the career lawyers who have worked on this issue, who are familiar with the election law, I have met with them. We have discussed it, and they do not believe that it could support a prosecution.

SPECTER: Are you familiar with these ads, Attorney General Reno?

RENO: I have not seen the ads. I have read what could be called the transcripts of the ads.

SPECTER: Well, can you say—listen, I don't have to make a point that you're the attorney general. You have career lawyers. Have you gone over these ads with them specifically to ask them?

RENO: I have specifically gone over the ads. I have read the ads and have discussed the ads and discussed what is involved.

SPECTER: And have your career lawyers told you that the ad I just read to you is not express advocacy?

RENO: What they have told me is that based on their understanding of the law, their structure of the election law, that we could not sustain a prosecution.

SPECTER: Well, I understand your conclusion. But my question to you is a lot more specific than that: Have you gone over that ad with your career prosecutors, and they told you that was issue advocacy . . .

RENO: No, I have not.

SPECTER: Well, Attorney General Reno, I would like to submit these to you, and I would like you to give us your judgment as to whether they are express advocacy or not—your judgment on them. . . . And this is not a judgment for the Federal Election Commission alone. This is jurisdiction for the attorney general of the Department of Justice, because the Federal Election Commission statute has criminal penalties.

31. Senator Arlen Specter wrote to Attorney General Reno on May 1, 1997 requesting a legal judgment as to whether the ads in question constitute express advocacy. A true and correct copy of the May 1, 1997 letter is attached as Exhibit . All of the contents of the attached letter are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint. Senator Specter included in his letter the following texts of the DNC advertisements:

'American values. Do our duty to our parents. President Clinton protects Medicare. The Dole/Gingrich budget tried to cut Medicare $270 billion. Protect families. President Clinton cut taxes for millions of working families. The Dole/Gingrich budget tried to raise taxes on eight million of them. Opportunity. President Clinton proposed tax breaks for tuition. The Dole/Gingrich budget tried to slash college scholarships. Only President Clinton's plan meets our challenges, protects our values.

'60,000 felons and fugitives tried to buy handguns—but couldn't—because President Clinton passed the Brady Bill—five-day waits, background checks. But Dole and Gingrich voted no. One hundred thousand new police—because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal 'em. Strengthen school anti-drug programs. President Clinton did it. Dole and Gingrich? No again. Their old ways don't work. President Clinton's plan. The new way. meeting our challenges, protecting our values.

'America's values. Head Start. Student loans. Toxic cleanup. Extra police. Protected the budget agreement; the president stood firm. Dole, Gingrich's latest plan includes tax hikes on working families. Up to 18 million children face health care cuts. Medicare slashed $167 billion. Then Dole resigns, leaving behind gridlock he and Gingrich created. The president's plan: Politics must wait. Balance the budget, reform welfare, protect our values.

'Head Start. Student Loans. Toxic Cleanup. Extra police. Anti-drug programs. Dole, Gingrich wanted them cut. Now they're safe. Protected in the '96 budget—because the president stood firm. Dole, Gingrich? Deadlock. Gridlock. Shutdowns. The president's plan? Finish the job, balance the budget. Reform welfare. Cut taxes. Protect Medicare. President Clinton says get it done. Meet our challenges. Protect our values.

'The President says give every kid a chance for college with a tax cut that gives $1,500 a year for two years, making most community colleges free, all colleges more affordable . . . And for adults, a chance to learn, find a better job. The president's tuition tax cut plan.

'Protecting families. For million of working families, President Clinton cut taxes. The Dole-Gingrich budget tried to raise taxes on eight million. The Dole-Gingrich budget would have slashed Medicare $270 billion. Cut college scholarships. The president defended our values. Protect Medicare. And now, a tax cut of $1,500 a year for the first two years of college. Most community colleges free. Help adults go back to school. The president's plan protects our values.'

32. By letter dated June 19, 1997, Attorney General Reno refused to respond to Senator Specter's request and instead referred the request to the Federal Election Commission (''FEC''). A true and correct copy of the June 19, 1997 letter is attached as Exhibit . All of the contents of the attached letter are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint. By letter dated June 26, 1997, the FEC responded that it would not respond to Senator Specter's inquiry because the letter was not in the form of a formal complaint to the Commission. A true and correct copy of the June 26, 1997 letter is attached as Exhibit . All of the contents of the attached letter are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

33. The President conceded that these DNC ads were advocacy advertisements intended to further his candidacy in remarks he made at a December 7, 1995 DNC luncheon at the Hay Adams Hotel in Washington. The President said the following in remarks which were captured on videotape: ''Now we have come way back. . . . But one of the reasons has been . . . we have been running these ads, about a million dollars a week. . . . So I cannot overstate to you the impact that these paid ads have had in the areas where they've run. Now we're doing better in the whole country. . . . [I]n areas where we've shown these ads we are basically doing ten to fifteen points better than in areas where we are not showing them. . . . And then we realized that we could run these ads through the Democratic Party which meant that we could raise money in twenty and fifty and hundred thousand dollar lots, and we didn't have to do it all in thousand dollars and run down—you know—what I can spend which is limited by law.

34. The facts outlined above constitute sufficient specific and credible evidence to make a prima facie case that the President committed criminal violations of FECA through the knowing and wilful coordination of the expenditure of DNC soft money. The Attorney General has therefore violated the letter and the spirit of the Indpendent Counsel statute by failing to appoint an independent counsel to investigate these allegations.

B. Conspiracy to Violate and Evade the Campaign Finance Laws.

35. 18 U.S.C. 371 provides that a conspiracy to commit an offense against the United States is a criminal offense punishable by up to 5 years in prison. Participation in a conspiracy to violate the Federal campaign finance laws is therefore a criminal violation.

36. After the Democrats lost control of both houses of Congress in the 1994 elections, President Clinton and his associates realized that in order to win reelection in 1996, the Clinton campaign would need to raise large sums of money. President Clinton's former senior advisor, George Stephanopoulos, wrote in Newsweek (March 10, 1997) that President Clinton's reelection would ''take cash, tons of it, and everybody from the President on down knew it. So money became a near obsession at the highest levels. We pulled out all the stops: overnights at the White House, coffees, intimate dinners at Washington hotels, you name it.''

37. As the events detailed below reveal, ''pulling out all of the stops'' included ignoring the Federal election law. Accordingly, the White House plan to aggressively pursue campaign contributions was, in practice, a conspiracy to evade and violate the Federal election laws.

38. The acts detailed below were all acts in furtherance of this conspiracy. There is specific and credible evidence that President and Vice President participated in this conspiracy by trading access to the President, Vice President and other Executive Branch officials for political contributions, trading access to the White House for political contributions, engaging in fundraising activities from Federal property, granting public office for political contributions, and soliciting campaign contributions from illegal sources.

Use of the White House for Fundraising—The May 1 Coffee

39. President Clinton personally engaged in fundraising activities from the executive offices of the White House. On April 29, 1997, the Democratic National Committee (''DNC'') sent a memorandum to President Clinton which identified five individuals invited to attend a May 1 coffee at the White House. The following personal note is typed at the top of the memo, ''Mr. President. . . the five attendees of this coffee are $100,000 contributors to the DNC.'' In addition, there is a notation on the first page of the memo which reads, ''President has seen, 5/1/96.'' A true and correct copy of the April

29, 1997 memorandum is attached hereto as Exhibit . All of the contents of the attached memorandum are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

40. On May 1, 1996, President Clinton held a coffee in the Oval Office which was attended by the five individuals listed in the DNC memo. Federal Election Commission (''FEC'') filings show that within one week of the coffee, four of the five attendees (Peter Mathias, Samuel Rothberg, Barrie Wigmore, and Robert Menschel) had contributed $100,000 each to the DNC. A true and correct copy of a printout from the FEC database of contributors is attached hereto as Exhibit . All of the contents of the attached printout are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

Use of the White House for Fundraising—Overnights in the Lincoln Bedroom

41. President Clinton used the opportunity to spend the night at the White House as a tool to raise funds from large contributors. The overnights in question were arranged by the Democratic National Committee, not the President, and thus do not fall into the category of the President using his residence to entertain friends.

42. White House records indicate that between 1993 and 1996, 178 individuals who were not personal friends of the President or First Family spent the night at the White House. These 178 individuals contributed a total of over $5 million to the DNC during the '96 election cycle. A true and correct copy of the list of 178 overnight guests provided by the White House to the Senate Governmental Affairs Committee is attached hereto as Exhibit . All of the contents of the attached list are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint

43. The Senate Governmental Affairs Committee obtained a list of the dates on which 51 of these 178 individuals spent the night in the White House. Of these 51 individuals, 49 contributed a total of over $4 million to the DNC during the 1996 election cycle. Furthermore, of these 38 families represented by these 51 individuals, 37 families, or 98%, contributed to the DNC during the 1996 election cycle. 21 of the 38 families, or over 50% percent, contributed a total of $900,000 to the DNC within one month of their stay at the White House. A true and correct copy of this list of 51 overnight guests is attached hereto as Exhibit . All of the contents of the attached list are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

The Solicitation of R. Warren Meddoff

44. Appearing before the Senate Governmental Affairs Committee on September 19, 1997, Mr. Warren Meddoff testified to the facts set forth in paragraphs 35, 36 and 37 below.

45. At a fund-raising dinner on October 22, 1996 at the Biltmore Hotel in Coral Gables, Florida, Mr. Meddoff handed one of his business cards to President Clinton with the following message written on the back of the card, ''I have an associate that it interested in donating $5 million to your campaign.''

46. After reading this message, the President stopped to speak with Mr. Meddoff and stated that someone from his staff would contact him. Two days later, on October 24, the President's Deputy Chief of Staff, Mr. Harold Ickes, called Mr. Meddoff and left a message on his answering machine. On October 26, Mr. Ickes called Mr. Meddoff again, this time from Air Force One, and discussed the possibility that an associate of Mr. Meddoff would contribute as much as $55 million to the DNC over the course of the year.

47. On October 29 or 30, Mr. Ickes called Mr. Meddoff again and asked for an immediate contribution of $1.5 million within 24 hours. On the next morning, Mr. Ickes sent Mr. Meddoff a fax with detailed instructions on where to send the money. Mr. Ickes later called Mr. Meddoff and requested that he shred the fax.

Mr. Roger Tamraz's Contributions

48. Appearing before the Senate Governmental Affairs Committee on September 18, 1997, Mr. Roger Tamraz testified that he gave a total of $300,000 in contributions to the DNC and state Democratic parties during the 1996 campaign. On March 28, 1996, at Mr. Tamraz's request, the DNC's Richard Sullivan drafted a memorandum to Mr. Tamraz listing the Democratic entities to which Mr. Tamraz had contributed and the amounts he had contributed to each entity as of that date. A true and correct copy of the March 28, 1996 memorandum is attached hereto as Exhibit . All of the contents of the attached memorandum are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint

49. In his September 18 testimony, Mr. Tamraz stated that ''the only reason'' he contributed this money was to gain access to the President and senior government officials. Mr. Tamraz was promoting a plan to build an oil pipeline from the Caspian Sea region of Central Asia to the Mediterranean and was hoping to receive assistance from the Federal government.

50. Mr. Tamraz further testified that, following this donation, Mr. Tamraz was invited to six social functions at the White House. At one of these events, he spoke to President Clinton briefly about the proposed pipeline. Asked whether or not he got his ''money's worth'' for the $300,000 he gave, Mr. Tamraz replied, ''I think next time I'll give $600,000.''

51. Appearing before the Senate Governmental Affairs Committee on September 17, 1997, Ms. Sheila Heslin, a former official with President Clinton's National Security Council, testified that she was concerned about Mr. Tamraz's ''shady reputation'' and advised the White House not to agree to any formal policy meetings with him.

52. Ms. Heslin further testified that she received calls to pressure her to drop her opposition to Roger Tamraz from Don Fowler of the Democratic National Committee, Jack Carter of the Department of Energy, and a CIA officer referred to publicly as ''Bob of the CIA.'' Ms. Heslin testified, for example, that Jack Carter told her that ''he [Mr. Tamraz] has already given $200,000, and if he got a meeting with the President, he would give the DNC another $400,000.'' When Ms. Heslin persisted in her opposition, Mr. Carter told her not to be ''such a Girl Scout.''

Mr. John Huang in the Commerce Department and the DNC

53. On July 18, 1994, John Huang began to serve as the Deputy Assistant Secretary for International Trade and Economic Policy at the U.S. Department of Commerce. Huang's supervisor at the Commerce Department, Commerce Undersecretary Jeffrey Garten, found Huang ''totally unqualified'' for his position and limited his activities to administrative duties.

54. Prior to working at the Commerce Department, John Huang had been the chief U.S. representative of the Lippo Group. The Lippo Group is a multi-billion dollar firm based in Indonesia with large investments in the Far East and China. The Lippo Group is controlled by Mochtar and James T. Riady, longtime friends and financial backers of President Clinton dating back to his days as governor of Arkansas.

55. The Lippo Group has extensive investments and contacts throughout China and is currently involved in dozens of large-scale joint ventures in China, including construction and development of apartment complexes, office buildings, highways, ports, and other infrastructure. Appearing before the Senate Governmental Affairs Committee on July 15, 1997, Mr. Thomas Hampsen, president of a business research and investigation firm, testified that ''the record is very clear that the Lippo Group has shifted its strategic center from Indonesia to the People's Republic of China.'' Mr. Hampsen noted that Lippo's principal partner in China is ''China Resources,'' a company wholly owned by the Chinese Government. Mr. Hampsen further testified that ''the People's Republic of China uses China Resources as an agent of espionage, economic, military, and political.''

56. Documents from the Lippo Group and its subsidiaries show that, upon leaving the Lippo Group for a much lower paying job at the Commerce Department, Huang received a bonus of over $700,000. A true and correct copy of the Lippo Group documents detailing John Huang's bonus are attached hereto as Exhibit . All of the contents of the attached documents are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

57. Records from the U.S. Secret Service show that during his tenure at the Commerce Department, and despite the fact that he was a relatively low level functionary there, Huang made 67 visits to the White House. A true and correct copy of a list of the dates on which the visits took place and, where available, the visitee is attached hereto as Exhibit . All of the contents of the attached list are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

58. While he was at the Commerce Department, Huang was given top secret security clearance. Appearing before the Senate Governmental Affairs Committee on July 16, 1997, Mr. John H. Dickerson, a CIA agent who handled issues relating to the Commerce Department, testified that he gave John Huang 37 confidential intelligence briefings in which he showed Huang hundreds of confidential documents. Mr. Dickerson further testified that he gave Mr. Huang 12 finished intelligence reports—10 classified ''secret'' and 2 classified ''confidential''—which Mr. Huang kept in his possession until the end of his tenure at the Commerce Department. Mr. Dickerson further stated that Huang had a particular interest in China and Taiwan.

59. Appearing before the Senate Governmental Affairs Committee on July 17, 1997, Mr. John H. Cobb, an attorney with the staff of the Governmental Affairs Committee, testified that Mr. Huang had over 300 contacts (phone conversations, faxes and meetings) with the Lippo Group and Lippo-related individuals during his tenure at the Commerce Department. Many of these calls were made from his Commerce Department office. In addition, other calls were made from the offices of Stephen's, Inc., a Little Rock-based investment bank with an office across the street from the Commerce Department, where Huang regularly went to send and receive faxes and make phone calls.

60. Shortly after he left the Commerce Department in December, 1995, John Huang was appointed Finance Vice-Chairman of the DNC. During his 9 months at the DNC, he raised $3.4 million, nearly half of which was returned as illegal, inappropriate or suspect.

John Huang's Solicitation of Funds in the Presence of the President in the White House

61. In his appearance before the Senate Governmental Affairs Committee on September 16, 1997, Mr. Karl Jackson, a former Assistant to the Vice President for National Security Affairs from 1991 to 1993, testified that Mr. John Huang solicited money in front of and within hearing distance of the President in the White House. Mr. Jackson was present at a coffee held in the Map Room of the White House on June 18, 1996 at which the President, John Huang, and eleven others were present. Mr. Jackson testified that after everyone had taken their seats and were listening to opening comments, Mr. Huang stood up and said, ''Elections cost money, lots and lots of money, and I am sure that every person in this room will want to support the re-election of President Clinton.''

62. A photograph taken of all of the attendees of the June 18 coffee at their seats demonstrates that Mr. Jackson, who heard Mr. Huang clearly, sat four seats away from Mr. Huang. The President was seated next to Mr. Jackson and only three seats away from Mr. Huang. The President did not object to Mr. Huang's comments or disassociate himself from them. A true and correct copy of the photograph and a legend are attached hereto as Exhibit . All of the contents of the attached photograph and legend are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

Mr. Wang Jun and the Possible Laundering of Foreign Contributions

63. Mr. Wang Jun is the chairman of the state-owned China International Trade and Investment Corp. (''CITIC''), a $21 billion conglomerate. One of CITIC's subsidiaries, Poly Technologies, is one of Beijing's leading weapons companies and has been tied to an attempt to smuggle $4 million worth of AK–47s into the United States. Wang Jun is the son of Wang Zing, who was the Vice President of China.

64. In a deposition taken by the Senate Governmental Affairs Committee on June 18, 1997, Ernest Green, a managing director of the Washington office of Lehman Brothers investment bank, stated that he had written a letter to Wang Jun inviting him to the United States. At the time, Lehman Brothers was competing for underwriting business in the vastly expanding Chinese market.

65. On February 5, 1996, a copy of Wang Jun's bio was faxed to the DNC from Lehman Brothers' offices. A true and correct copy of the fax of Wang Jun's bio received by the DNC is attached hereto as Exhibit . All of the contents of the attached fax are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

66. On February 6, 1996, Wang Jun attended a coffee with President Clinton at the White House. On the morning of this coffee, Mr. Green contributed $50,000 to the DNC. A true and correct copy of the check signed by Mr. Green's wife, Phyllis Clause-Green, is attached hereto as Exhibit . All of the contents of the attached check are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

67. In his June 18, 1996 deposition, Mr. Green testified that towards the end of February, he received a bonus of approximately $50,000 from Lehman Brothers. Mr. Green had already received a bonus of $114,961 on February 1, 1996. The grant of a $50,000 bonus so quickly following Mr. Green's $50,000 donation to the D.N.C. gives rise to the inference that Lehman Brothers, not Mr. Green, was the true source of the contribution to the DNC. Making contributions ''in the name of another person'' is prohibited by FECA. 2 U.S.C. 441f.

Vice President Gore and the Hsi Lai Buddhist Temple Fundraiser

68. Vice President Gore appeared at a fundraiser in the Hsi Lai Buddhist Temple in Los Angeles on April 29, 1996. The fundraiser at the Temple was illegal since the Temple is a tax-exempt institution which cannot engage in political activity. The Vice President has maintained that he did not know that the event at the Temple was a fundraiser.

69. There is evidence that Vice President Gore did know ahead of time that the Hsi Lai Temple event was a fundraiser. In a deposition taken by the Senate Governmental Affairs Committee on August 6, 1997, the Venerable Man-Ho, an administrative assistant at the Hsi Lai Buddhist Temple, stated that on March 15, 1996, there was a meeting at the White House between Vice President Gore, Hsi Lai Temple Venerable Master Hsing Yun, John Huang, and Maria Hsia. The Los Angeles Times (9/5/97) has reported that Gore was invited to visit the Temple during this meeting. The involvement at the meeting of Huang (a DNC fundraiser) and Hsia (a long-time Gore fundraiser) should have suggested to Gore that the Temple event was planned as a fundraiser from the beginning. The presence of Huang and Hsia at the Temple when Gore arrived should have further suggested to Vice President Gore that this event was a fundraiser.

70. Following the March 15 meeting, Vice President Gore responded via e-mail to an aide (Kimberly H. Tilley) who inquired about whether the Vice President could attend a New York event the night before the April 29 Los Angeles trip. In his e-mail, Vice President Gore stated ''If we have already booked the fundraisers, then we have to decline.'' This demonstrates that the Vice President knew that the Temple event was a fundraiser, since he used the plural term ''fundraisers'' and the only acknowledged fundraiser he attended on April 29 was a dinner at a home near San Jose. A true and correct copy of a print-out of the Vice President's e-mail message to Kimberly Tilley is attached hereto as Exhibit . All of the contents of the attached print-out are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

71. The facts outlined above constitute sufficient specific and credible evidence to make a prima facie case that the President, Vice President, and other high-ranking executive branch officials conspired to violate the Federal campaign finance laws in order to raise large sums of money to spend on the 1996 presidential campaign. The Attorney General has therefore violated the letter and the spirit of the Independent Counsel Statute by failing to appoint an independent counsel to investigate these allegations.

Johnny Chung, Loral, Inc. and the Launching of American Satellites by China

72. On March 14, 1996, the White House announced that President Clinton had decided to transfer control over export licensing for communications satellites from the State Department to the Commerce Department. This decision makes it much easier for American companies to get permission to export their satellites to be launched by Chinese rockets. (The New York Times, 5/17/98). In February, 1998, the White House gave permission to Loral Space and Communications Ltd. to launch one of its satellites on a Chinese rocket. (The Washington Post, 5/17/98)

73. One of the parties that benefitted from the waivers and eased export restrictions is China Aerospace Corporation, a state-owned company with interests in satellite technology, missile sales and rocket launches. Contracts to launch American satellites are crucial to the financial viability of these ventures. (The New York Times, 5/15/98)

74. Democratic fundraiser Johnny Chung has told Department of Justice investigators that an executive from China Aerospace named Liu Chao-Ying gave him $300,000 to donate to the Democrats' 1996 campaign. According to Mr. Chung, Ms. Liu told him that the money originated with Chinese military intelligence. Mr. Chung has stated that he funneled $100,000 of this money into Democratic party coffers. (The New York Times, 5/16/98)

75. Liu Chao-Ying is a lieutenant colonel in China's People's Liberation Army and vice-president of China Aerospace International Holdings, Ltd., the Hong Kong arm of China Aerospace Corporation. Ms. Liu's father, General Liu, was China's top military officer and a member of the Politburo of China's Communist party. (The New York Times, 5/15/98)

76. Johnny Chung brought Ms. Liu to two fundraisers attended by the President on July 22, 1996. The first fundraiser was a $1,000 a plate affair at the Beverly Hilton. The second fundraiser was a $25,000 per couple dinner at the home of a private donor. At the dinner, Ms. Liu had her picture taken with President Clinton. (The New York Times, 5/15/98)

77. Two American companies, Loral Space and Communications Ltd. and Hughes Electronic Corp., also benefited from the waivers and eased export restrictions on commercial satellites. These companies wanted permission to launch their satellites on Chinese rockets to cut costs and shorten the waiting period prior to launch. These companies repeatedly lobbied the White House to allow them to launch their satellites on Chinese rockets. (The New York Times, 5/17/98)

78. In 1996, a rocket carrying a $200 million Loral satellite crashed upon launch from China. Following this crash, scientists from Loral and Hughes allegedly advised the Chinese on how to improve their guidance systems by sharing technology that had not been cleared for export. (The Washington Post, 5/17/98) A classified Pentagon report concluded that the technology transferred to the Chinese by these companies can be used to significantly improve the accuracy of China's long-range missiles aimed at the United States. (The Chicago Tribune, 4/13/98)

79. The Justice Department started a criminal investigation to determine if Loral and Hughes had illegally transferred technology to the Chinese. That investigation was still underway in February, 1998, when Hughes and Loral petitioned the White House for another waiver to launch a satellite from China. The Justice Department objected to this waiver, arguing that its ability to pursue its investigation would be severely hindered if the government allowed Loral and Hughes to return to China under the same arrangement they had allegedly abused two years earlier. The White House granted the waiver. (The Washington Post, 5/17/98)

80. According to an official familiar with this investigation, the White House decision, ''just about killed a major investigation involving a very sensitive national security issue. On the one hand you have investigators and prosecutors needing to be taken seriously so they can gather information, and then on the other hand the White House is saying that suspicions . . . are not serious enough to keep these companies from going back and doing it all over again.'' (The Washington Post, 5/17/98)

81. Loral's Chief Executive Officer, Bernard L. Schwartz, was the single largest donor to the Democratic party in 1996. According to

the Center for Responsive Politics, Mr. Schwartz gave $632,000 in ''soft money'' donations to the DNC in advance of the 1996 elections. (The Washington Post, 5/17/98). According to the Center for Responsive Politics, Mr. Schwartz has given an additional $421,000 to Democrats in the current election cycle. (The Washington Post, 5/6/98)

III. BEHAVIOR OF THE ATTORNEY GENERAL AND THE DEPARTMENT OF JUSTICE

A. Failure of the Justice Department's Campaign Finance Investigation

82. Attorney General Reno has repeatedly insisted that there is no need to appoint an independent counsel to investigate the campaign finance activity during the 1996 presidential election because the Department of Justice's own Campaign Finance Task Force was conducting a professional and effective investigation. Yet in the two years it has been conducting its investigation, the Task Force has proved unable to handle this matter.

83. In March, 1996, it was revealed that Vice President Gore had solicited campaign contributions from his White House office.

84. For more than five months following Vice President Gore's public defense of his phone calls, Justice Department investigators did not review Vice President Gore's assertion that he acted legally in seeking these contributions from his White House office in 1995–96 and solicited only soft money.

85. On September 3, the Washington Post reported that more than $120,000 raised by Vice President Gore through these phone calls had actually been deposited into legally restricted ''hard money'' accounts maintained by the DNC. This report was based on White House and DNC records that had been available to the public. Only after reading the report, Attorney General Reno ordered a 30-day review of the Vice President's phone calls, the first step in the legal procedure leading to appointment of an independent counsel.

86. On September 5, the Attorney General acknowledged that she learned of the deposits to hard money accounts from the press: ''The first I heard of it was when I saw the article in the Washington Post . . . . It is my understanding that this is the first time the public integrity section learned of it, as well.''

87. On September 20, the Justice Department announced that Attorney General Reno had decided to open a review of President Clinton's fund raising calls from the Oval Office. On September 22, the Washington Post reported that the records that convinced Attorney General Reno to open this review had been turned over to the Justice Department task force several months prior to the decision to open the review, but the Task Force had not examined the documents until that week. The delay in examination was attributed to confused document-handling procedures within the campaign finance task force.

88. On September 11, 1997, Attorney General Reno, FBI Director Freeh and CIA Director Tenet briefed the Senate Governmental Affairs Committee on some matters relating to the campaign finance investigation. At this briefing it was revealed that the Department of Justice had critical information in its files for two years relating to possible illegal contributions without advising the Governmental Affairs Committee without knowing it had the information in the first place.

89. Specifically, CIA Director Tenet advised the Committee that a particular individual (whose identity is confidential) who had been identified in many news accounts as a major foreign contributor to political campaigns and campaign committees, made these contributions as part of a plan of the government of China to buy influence in the United States government through political contributions. According to Senator Arlen Specter, FBI Director Freeh further advised the Committee that one of the reports upon which the briefing was based had been in the FBI's files for over two years, since September/October 1995, and a second report had been on file since January, 1997.

90. On September 16, 1997, Senator Arlen Specter made the following comments about the September 11 briefing from the floor of the Senate: ''In those briefings, Senators learned that the Department of Justice had critical information in its files for a long time on the issue of possible illegal foreign contributions without advising the Governmental Affairs Committee and, apparently, without knowing it had the information or acting on it. That again shows the necessity for Independent Counsel to be appointed to investigate the 1996 Federal campaign illegalities and irregularities.''

91. These failures of the Justice Department Campaign Finance Task Force have been attributed in part to a policy, pattern and practice which prevented the task force from investigating the President, Vice President and other high level officials covered by the Independent Counsel Statute (''covered persons.'')

92. On October 3, 1997, the Washington Post reported that Justice Department prosecutors determined that the law prohibited them from looking at the activities of ''covered persons'' unless presented with ''specific'' and ''credible'' allegations that such covered persons had committed a crime. This approach prevented the Justice Department prosecutors from focusing on or even interviewing senior administration officials, thus insuring that covered persons would be among the last implicated in any possible misdeeds. According to one Justice Department lawyer involved in the investigation, ''You can't ask someone whether a covered person committed a crime.'' That approach and mindset demonstrated the DoJ Task Force could not and did not handle this matter thus calling for Independent Counsel.

93. The Act does not mandate such a passive investigatory approach. The Act requires ''specific and credible'' evidence of wrongdoing by covered persons before the Attorney General is required to appoint an independent counsel. Nowhere does the Act require ''specific and credible evidence'' of wrongdoing before the Department of Justice can investigate a covered person on its own.

94. This policy demonstrates that the Justice Department has simply ignored evidence of violations by covered persons and, contrary to its public pronouncements, has failed to conduct a competent investigation of the evidence that has been presented to it.

B. Estoppel of the Attorney General

95. In her May 14, 1993 opening statement before the Senate Committee on Governmental Affairs on the reauthorization of the Independent Counsel Statute, Attorney General Reno stated: ''The reason that I support the concept of an independent counsel with statutory independence is that there is an inherent conflict whenever senior Executive Branch officials are to be investigated by the Department and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. . . . It is absolutely essential for the public to have confidence in the system and you cannot do that when there is conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. There is an inherent conflict here, and I think that is why this Act is so important.''

96. Commenting on the Independent Counsel Statute, Attorney General Reno, at the same May 14, 1993 reauthorization hearing, stated: ''The Independent Counsel Act was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent, as I have said, the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters, and to avert even the most subtle influences that may appear in an investigation of highly-placed Executive officials.''

97. During most of her tenure in office, Attorney General Reno has interpreted the Act in a manner consistent with these statements. On seven previous occasions she sought appointment of independent counsels when presented with evidence of possible violations by covered officials:

A. On May 11, 1998, Attorney General Reno requested the appointment of an independent counsel to investigate allegations that Labor Secretary Alexis Herman accepted payments in return for directing clients towards a consulting firm operated by her friend and a colleague.

B. On February 11, 1998, Attorney General Reno requested the appointment of an independent counsel to investigate allegations that Interior Secretary Bruce Babbitt allowed contributions to the Democratic party to influence his policy decisions.

C. In November of 1996, Attorney General Reno requested the appointment of an independent counsel to investigate allegations that Eli Segal, head of the AmeriCorps program, raised illegal campaign contributions.

D. In July of 1995, Attorney General Reno requested the appointment of an independent counsel to investigate allegations that former Commerce Secretary Ron Brown improperly accepted a $50,000 payment from a former business partner and then filed inaccurate financial disclosure statements.

E. In March of 1995, Attorney General Reno requested the appointment of an independent counsel to investigate allegations that former Housing and Urban Development Secretary Henry Cisneros misled the FBI about payments he made to his former mistress.

F. In September of 1994, Attorney General Reno requested the appointment of an independent counsel to investigate allegations that former Agriculture Secretary Mike Espy violated the law by accepting gifts from companies regulated by his Department.

G. In January of 1994, Attorney General Reno requested the appointment of an independent counsel to investigate President Clinton's Whitewater real estate venture.

98. Congress relied upon the Attorney General's statements and record when amending and then reauthorizing the Independent Counsel Statute subsequent to the hearing. Accordingly, no Senator saw a need to amend the statute to clarify or emphasize the requirement that independent counsel be appointed in circumstances such as those reflected in the facts recited above.

99. Given the Attorney General's statements and pattern of behavior, and Congress' detrimental reliance thereon, Attorney General Reno is estopped from refusing to appoint an independent counsel in the instant case.

C. Conflict of Interest

100. Section 591(c) of the Act provides that the Attorney General ''may'' conduct a preliminary investigation of any person whenever the Attorney General (1) receives specific and credible information which is ''sufficient to constitute grounds to investigate'' whether such person ''may have violated'' any Federal criminal law, and (2) determines that an investigation or prosecution of such

person by the Department of Justice ''may result in a personal, financial, or political conflict of interest.''

101. The independent Counsel statute presumes that it would present a conflict of interest for the Attorney General to investigate the President or Vice President.

102. The Department of Justice campaign finance task force has indicted five individuals with close ties to the President and/or Vice President (as detailed below). Accordingly, the investigation of the five individual currently under indictment will inevitably involve the Justice Department in investigating the President and Vice President. In order to avoid the conflict of interest presented by such an investigation, the Attorney General should exercise her discretion under the Act and appoint an independent counsel.

Howard Glicken

Finance Vice Chairman of the DNC during the 1996 campaign.

Raised over $2 million for the Democratic party during the 1996 campaign.

Made over 70 visits to the Clinton White House.

Served as Vice President Gore's Florida Finance Chairman during his 1988 Presidential bid.

Maria Hsia

Accompanied Vice President Gore on a trip to Taiwan paid for by a Buddhist organization in 1989.

Organized a $250–a-plate Beverly Hills fund-raiser for Gore's 1990 Senate re-election campaign.

Helped organize April 29, 1996 fund-raising lunch at the Hsi Lai Buddhist Temple attended by Vice President Gore which raised $140,000 for the DNC.

Yah Lin ''Charlie'' Trie

Owned a Chinese Restaurant in Little Rock, Arkansas, frequented by President Clinton during his tenure as Governor of Arkansas.

Raised $640,000 for President Clinton's legal defense fund in 1995–96.

Raised $645,000 for the Democratic party in 1995–96.

Made at least 23 visits to the Clinton White House.

Johnny Chung

Contributed $366,000 to the DNC between August 1994 and August 1996.

Contributed $50,000 to the DNC on March 9, 1995. Handed check to Hillary Clinton's Chief of Staff, Maggie Williams, at the White House.

Two days later, Mr. Chung and a delegation of six Chinese officials were admitted to watch President Clinton tape his weekly radio address.

Made at least 49 visits to the Clinton White House.

Pauline Kanchanalak

Raised $679,000 for the Democratic Party and candidates.

Visited the Clinton White House 26 times.

Appointed Managing Trustee of the DNC.

Recommended by the White House for a position on an executive trade policy committee.

D. Additional Facts relating to the Attorney General's Refusal to Appoint Independent Counsel

Letters to Attorney General Reno from the Senate and House Judiciary Committees and Others

103. On March 13, 1997, Senate Judiciary Committee Chairman Hatch and all Republican members of the Committee sent a letter to Attorney General Reno setting forth, in great detail, evidence of involvement by individuals and associations, including foreign interests, that point to potential involvement by senior Executive Branch officials. The letter also notes the ''inherent conflict of interest'' in the Attorney General investigating the Executive Branch, and calls on the Attorney General to commence a preliminary investigation. A true and correct copy of the March 13, 1997 letter is attached as Exhibit ——. All of the contents of the attached letter are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

104. On April 14, 1997, the Attorney General responded by letter to Chairman Hatch that she would not initiate a preliminary investigation under the Act. A true and correct copy of the April 14, 1997 letter is attached hereto as Exhibit ——. All of the contents of the attached letter are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

105. On October 11, 1996 Senator John McCain wrote to the Attorney General requesting that she appoint an independent counsel. Senator McCain wrote to the Attorney General again on October 29, 1996 in a joint House-Senate letter. True and correct copies of the October 11, 1996 and October 29, 1996 letters are attached hereto as Exhibit —— and ——, respectively. The allegations contained in Exhibits —— and —— are incorporated herein by reference. All of the contents of the attached letters are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

106. On September 3, 1997, House Judiciary Committee Chairman Hyde and all of the Republican members of the Committee sent a letter to Attorney General Reno setting forth, in great detail, the alleged wrongdoings of the Clinton Administration in the 1996 campaign. The letter requests that the Attorney General apply for the appointment of an independent counsel to investigate these matters. A true and correct copy of the September 3, 1997 letter is attached as Exhibit . All of the contents of the attached letter are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

107. On November 13, 1997, House Judiciary Committee Chairman Hyde and a majority of the Republican members of the Committee sent a letter to Attorney General Reno setting forth, in great detail, the allegation that the U.s. Department of the Interior made policy changes in exchange for campaign contributions. The letter calls on Attorney General Reno to immediately request appointment of an independent counsel to investigate these allegations. A true and correct copy of the November 13, 1997 letter is attached as Exhibit . All of the contents of the attached letter are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

The Preliminary Investigations and Failure to Appoint an Independent Counsel

108. On September 3, 1997, Attorney General Reno launched a preliminary investigation under The Act into allegations that Vice President Gore may have violated Federal law by making fund-raising telephone calls from his office in the White House.

109. On October 14, 1997, Attorney General Reno launched a preliminary investigation under The Act into allegations that President Clinton may have violated Federal law by making fund-raising telephone calls from the Oval Office.

110. On November 25, 1997, Senator Arlen Specter wrote to Attorney General Reno setting forth in great detail the reasons why her focus on the issue of fund-raising telephone calls in both preliminary investigations was too limited. Senator Specter noted that there is ''substantial evidence of wrongdoing which meets the specific and credible threshold in the Independent Counsel Statute'' and cited five specific examples of issues other than the telephone calls which require appointment of independent counsel. A true and correct copy of the November 25, 1997 letter is attached as Exhibit . All of the contents of the attached letter are hereby incorporated by reference as part of the factual and evidentiary basis for the relief sought in this complaint.

111. On December 2, 1997, Attorney General Reno announced that she decided not to seek an independent counsel to investigate these allegations against the President and Vice President. On the same day, she formally advised the special panel of three judges who oversee the appointment of independent counsel that ''there are no reasonable grounds'' for further investigation.

112. On August 26, 1998, Attorney General Reno launched a preliminary investigation under The Act into allegations that Vice President Gore lied when he told investigators that he did not know that a percentage of the money he raised from the White House went into hard money accounts. The investigation was initiated after the Department of Justice received evidence that the Vice President had attended a meeting in which the division of such funds into both hard and soft money was discussed.

113. On November 24, 1998, Attorney General Reno announced that she decided not to seek an independent counsel to investigate the allegations that Vice President Gore lied to the campaign finance investigators. On the same day, she formally advised the special panel of three judges who oversee the appointment of independent counsels that ''there are no reasonable grounds'' for further investigation of the allegations against the Vice President.

114. On September 1, 1998, Attorney General Reno launched a preliminary investigation under The Act into allegations that former White House deputy chief of staff Harold Ickes lied to the Senate Governmental Affairs Committee about whether he made efforts to aid the Teamsters Union in exchange for campaign contributions.

115. On November 30, 1998, at the end of the 90-day preliminary investigation, Attorney General Reno decided to delay her decision whether to appoint an independent counsel to investigate Harold Ickes. On that date, Attorney General Reno requested and received from the special three judge panel a 60-day extension of the preliminary investigation into Ickes.

Rejection of Advice from Top Investigators to Appoint an Independent Counsel

116. In deciding not to appoint an independent counsel, Attorney General Reno rejected the advice that had been given to her by two individuals she had placed at the top of the Justice Department's campaign finance investigation: Louis Freeh and Charles LaBella.

117. On October 15, 1997, Attorney General Reno testified before the House Judiciary Committee that she had given FBI Director Louis Freeh a leading role in the Justice Department's campaign finance inquiry and that no avenues of investigation would be closed without Freeh's approval.

118. On December 9, 1997, Director Freeh testified before the House Committee on Government Reform and Oversight that he had recommended to Attorney General Reno that she appoint an independent counsel with respect to the campaign finance investigation. It was later disclosed that in a 22–

page memorandum to the Attorney General explaining his conclusions, Director Freeh concluded that, ''It is difficult to imagine a more compelling situation for appointing an independent counsel.''

119. In September, 1997, Attorney General Reno appointed Charles G. LaBella to direct the Justice Department's campaign finance investigation task force.

120. On May 3, 1998, Mr. LaBella issued a statement confirming that he had recommended to Attorney General Reno that she appoint an independent counsel to investigate whether President Clinton and Vice President Gore violated the law by making telephone solicitations from their offices.

121. On July 16 or 17, 1998, Mr. LaBella delivered a detailed report to Attorney General Reno arguing that she had no alternative but to seek an independent prosecutor to investigate political fund-raising abuses in President Clinton's reelection campaign. In particular, Mr. LaBella concluded that there is enough specific and credible evidence of wrongdoing by high-ranking officials to trigger the mandatory provisions of the Independent Counsel statute. The report was based on all of the evidence gathered by the Department's task force including confidential evidence and grand jury testimony not available to the public.

122. September, 1997, Attorney General Reno appointed James V. DeSarno Jr. to serve as special F.B.I. agent in charge of the campaign finance investigation task force.

123. On August 4, 1998, Mr. DeSarno testified before the House Committee on Government Reform and Oversight that he agreed with the conclusion in Mr. LaBella's memo that Attorney General Reno has no alternative but to seek an independent counsel to investigate campaign finance violations.

Reliance upon Advice from Secondary Advisors

124. In deciding not to appoint independent counsel, Attorney General Reno relied primarily upon the advice of two individuals further removed from the investigation than Freeh, LaBella and DeSarno: Lee Radek and Robert Litt.

125. Robert. S. Litt has plated an active role in the meetings in which Attorney General Reno has concluded not to appoint Independent Counsel. Mr. Litt was nominated to be chief of the Criminal Division of the Department of Justice in 1995, but was never confirmed for this position. He currently serves as Principal Associate Deputy Attorney General and is the de facto head of the criminal division.

126. Prior to moving to the Department of Justice, Mr. Litt was the law partner of David Kendall, the President's private attorney.

127. Lee Radek is a career bureaucrat who currently serves as chief of the Criminal Division's public integrity section. Mr. Radek and the lawyers working under him have been among the strongest advocates for keeping the inquiry inside the Department of Justice. (New York Times, 12/11/97).

128. Mr. Radek has been openly critical of the independent counsel statute and has rejected the fundamental premise of the law—that the Department of Justice should not be in charge of investigating certain high officials in the executive branch. According to Mr. Radek, ''The independent counsel statute is an insult. It's a clear enunciation by the legislative branch that we cannot be trusted on certain species of cases.'' (New York Times, 7/6/97) Radek also complained that the Independent Counsel statute places his prosecutors in a no-win situation, ''If we do very well in our investigation, we have to turn the case over to an independent counsel. If we don't find anything, then we're criticized for not making the case.'' (New York Times, 7/6/97)

Special Standing of the Senate and House Judiciary Committees to Sue for Enforcement of the Independent Counsel Statute

129. The Act provides that: ''The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all non-majority party members of either such committee may request in writing that the Attorney General apply for the appointment of an independent counsel.'' 28 U.S.C. 592(g)(1).

130. The Attorney General must respond in writing to such request and report to the Committees whether she has begun or will begin a preliminary investigation of the matters with respect to which the request was made, and the reasons for her decision. 28 U.S.C. 592(g)(2).

131. This specific inclusion of the Judiciary Committees within the framework of the Act and the role granted these Committees thereunder is evidence that Congress intended to create procedural rights—including the right to sue for enforcement—in members of the Judiciary Committees.

132. Both the D.C. Circuit and the Ninth Circuit have made specific reference to the fact that members of the Judiciary Committees have been given a special oversight role within the scheme of the Act and each court has stated that this role is evidence that Congress intended to create broad procedural rights in the members of these Committees. See *Banzhaf v. Smith*, 737 F.2d. 1167 (D.C. Cir. 1984) and *Dellums v. Smith*, 797 F.2d 817 (9th Cir. 1986).

FIRST COUNT (FOR A WRIT OF MANDAMUS)

133. Plaintiffs repeat and reallege all of the foregoing allegations in the Complaint as if set forth at length herein.

134. Defendant, Attorney General Reno, has been presented with specific and credible evidence pertaining to possible violations of criminal law by covered persons which is sufficient to create reasonable grounds to believe that further investigation is warranted.

135. Given this evidence, Attorney General Reno is required under the Act to make an application to the special division of the circuit court for appointment of an independent counsel.

136. Notwithstanding the duties imposed on her under the Act and repeated requests by Plaintiffs, the Attorney General has refused to apply to the special division of the circuit court for appointment of an independent counsel.

137. The failure of the Attorney General to apply for appointment of an independent counsel despite the evidence that has been presented to her is a violation of her mandatory duty to do so under the Act or, in the alternative, is a gross abuse of her discretion to do so under the Act.

138. The failure of the Attorney General to apply for appointment of an independent counsel injures the plaintiffs, who have requested that she do so in accordance with their special authority under the Act and who have supplied her with information sufficient to trigger such an appointment under the Administrative Procedures Act.

WHEREFORE, the Plaintiffs respectfully pray that the Court require the Defendant, the Attorney General of the United States Janet Reno, to apply to the special division of the circuit court for the appointment of an independent counsel to investigate evidence that criminal violations may have occurred in the 1996 presidential campaign involving covered persons, including possibly the President and/or the Vice President.

SECOND COUNT (FOR A COURT ORDER UNDER THE ADMINISTRATIVE PROCEDURES ACT)

139. Plaintiffs repeat and reallege all of the foregoing allegations in the Complaint as if set forth at length herein.

140. Despite the specific and credible evidence that has been presented to her, the Attorney General has unlawfully withheld and unreasonably delayed applying for the appointment of an independent counsel.

141. The failure of the Attorney General to apply for appointment of an independent counsel injures the plaintiffs, who have requested that she do so in accordance with their special authority under the Act and who have supplied her with information sufficient to trigger such an appointment under the Act.

WHEREFORE, the Plaintiffs respectfully pray that the Court require the Defendant, the Attorney General of the United States Janet Reno, to apply to the special division of the circuit court for the appointment of an independent counsel to investigate evidence that criminal violations may have occurred in the 1996 presidential campaign involving covered persons, including possibly the President and/or the Vice President.

THIRD COUNT (FOR A COURT ORDER)

142. Plaintiffs repeat and reallege all of the foregoing allegations in the Compliant as if set forth at length herein.

143. The failure of the Attorney General to apply for the appointment of an independent counsel despite the specific and credible evidence that has been presented to her is a gross abuse of any discretion she may have to do so under the Act.

144. The failure of the Attorney General to apply for appointment of an independent counsel effectively blocks the proper and orderly administration of justice in the instant case.

145. The failure of the Attorney General to apply for appointment of an independent counsel injures the plaintiffs, who have requested that she do so in accordance with their special authority under the Act and who have supplied her with information sufficient to trigger such an appointment under the Act.

WHEREFORE, the Plaintiffs respectfully pray that the Court exercise its inherent power under common law to issue an order appointing an independent counsel to investigate evidence that criminal violations may have occurred in the 1996 presidential campaign involving covered persons, including possibly the President and/or the Vice President.

FOURTH COUNT (FOR SPECIFIC PERFORMANCE UNDER PROMISSORY ESTOPPEL)

146. Plaintiffs repeat and reallege all of the foregoing allegations in the Complaint as if set forth at length herein.

147. In her May 14, 1993 statement before the Senate Committee on Governmental Affairs on the reauthorization of the Independent Counsel Statute (quoted above), Attorney General Reno made statements which assured the Committee and the Senate that she shared their interpretation of the Independent Counsel Statute and that she understood her obligation to appoint an independent counsel in circumstances such as those reflected in the facts recited above.

148. On four prior occasions during her tenure in office, Attornet General Reno has applied for appointment of an independent counsel. This pattern of conduct further assured the Committee and the Senate that she understood her obligation to appoint an independent counsel in circumstances such as those recited in the facts above.

149. The member of the U.S. Senate relied upon Attorney General's statements and record when amending and then reauthorizing the Independent Counsel Statute subsequent to the hearing. Accordingly, no Senator saw a need to amend the statute to clarify or emphasize the requirement that independent counsel be appointed in circumstances such as those reflected in the facts recited above.

150. The failure of the Attorney General to apply for appointment of an independent counsel injures the plaintiffs, who have requested that she do so in accordance with their special authority under the Act and who have supplied her with information sufficient to trigger such an appointment under the Act.

WHEREFORE, the Plaintiffs respectfully pray that the Court exercise its power under the common law doctrine of promissory estoppel to issue an order appointing an independent counsel to investigate evidence that criminal violations may have occurred in the 1996 presidential campaign involving covered persons, including possibly the President and/or the Vice President.

Dated: December , 1998.

Respectfully submitted,

_____,

Attorney for Plaintiffs.

Mr. SPECTER. I thank the Chair for the extra time, and I yield the floor.

RECESS

The PRESIDING OFFICER. All time having expired, under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the time until 3:15 shall be under the control of the Democratic leader.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield such time as I may need under the time allotted to the distinguished Senator from South Dakota.

PATIENTS' BILL OF RIGHTS

Mr. LEAHY. Mr. President, it is interesting when you think of the debate we are in. Here we are as Americans in the richest and most powerful country the world has ever known. There is really no comparison to it. We have the most highly trained and capable health professionals of any nation. Our technology leads the way on the frontiers of medical science. People come from all over the world to train and to be educated in medical science. But at that same time, millions of American families in our Nation with its first-class medical expertise are subject to second-class treatment because of the policies and practices of our health insurance system.

I have to ask, is it really beyond the ability of this great Nation to ensure access and accountability to help these families? Of course it is not. Is this an important enough problem that solving it should be a high priority for this body, the Senate? Of course it is.

Although the President and many of the Senators have done their utmost for years to encourage the Congress to act, I am afraid that the Republican leadership long ago decided that protection for those Americans insured through private managed care plans was just not a priority for us—this despite the fact that we have had calls from nonpartisan groups from every corner of the Nation. The Republican leadership has refused to schedule a full and reasonable debate to consider the vote on the Patients' Bill of Rights.

Certainly from my experience in the Senate it is clear that the only step left is, of course, to bring the Patients' Bill of Rights directly to the floor. I believe we should keep it there until the Republicans, who are in the majority, agree that it merits the priority consideration that we—and I believe most of the American people, Republican and Democrat—strongly believe it does.

I applaud Senator KENNEDY, Senator DURBIN, and many others for leading this vigilance to save the Patients' Bill of Rights. I commend the distinguished Senate Democratic leader, Mr. DASCHLE, for continuing to insist on a reasonable time agreement as he attempts to negotiate with our friends on the other side of the aisle.

I urge our friends in the Republican Party to make the Patients' Bill of Rights a high priority. Let's get on with the debate, vote it up or vote it down, and then go on to the other matters, things such as the agriculture appropriations bill and other business before us.

The Patients' Bill of Rights that we Democrats have presented reflects a fundamental expectation that Americans have about their health care. That expectation is that doctors—not insurance companies—should practice medicine.

To really sum up our Patients' Bill of Rights, we are saying that doctors—not insurance companies—should be the first decisionmakers in your health care. The rights that we believe Americans should have in dealing with health insurers are not vague theories; they are practical, sensible safeguards. You can hear it if you talk to anybody who has sought health care. You can hear it if you talk to anybody who provides health care. I hear it from my wife, who is a registered nurse. I hear it from her experiences on the medical-surgical floors in the hospitals she has worked in. If you want to see how some of them would work in practice, come with me to Vermont. My state has already implemented a number of these protections for the Vermonters who are insured by managed care plans. I am proud Vermont has been recognized nationally for its innovation and achievements in protecting patients' rights.

I consistently hear from Vermonters who are thankful for the actions that the Vermont legislature has taken to ensure patients are protected. But I also hear from those who do not yet fall under these protections.

This Congress should waste not more time and instead make a commitment to the American people that we will fully debate the Patients' Bill of Rights. We must protect those Vermonters who are not covered under current state law. And we must act now to cover every other American who expects fair treatment from their managed care plan.

I am one of many in this body who firmly believe in the importance of this bill. I hope the leadership is listening and I hope they hear what we are saying. It is what Americans are saying.

As I stated at the beginning of this message, millions of American families in this Nation of first-class medical expertise are subject to second-class treatment because of the policies and practices of our health insurance system.

We have heard a lot of ''our bill has this,'' and ''their bill doesn't have that.'' Here are some of the facts. Our Patients' Bill of Rights will protect every patient covered by private managed care plans. And it offers protections that make sense, such as ensuring a patient has access to emergency room services in any situation that a ''prudent layperson'' would regard as an emergency, guaranteeing access to specialists for patients with special conditions, and making sure that children's special needs are met, including access to pediatric specialists when they need it.

Our Patients' Bill of Rights provides strong protections for women. It will provide women with direct access to their ob/gyn for preventive care. Through successful research, we have learned that regular screening can prevent breast cancer and cervical cancer in women of all ages.

We stress the importance of regular visits to ob/gyns to the women in our lives: our mothers, our wives, our daughters, and our sisters. But we make it difficult for these women to receive care by requiring referrals and putting other obstacles in the way of their care. Let us make sure women have the direct access they need and deserve.

Our bill also will give women time to recover when they have undergone surgery. We should let doctors and patients determine if a lengthier hospital stay is necessary, and our bill would let them decide.

Health plans must be held accountable for their actions, just as doctors and hospitals are today. Out Patients Bill of Rights provides a variety of ways to achieve this goal.

First, patients must be able to appeal decisions made by their health plans. In our bill, any decision to deny, delay or otherwise overrule doctor-prescribed treatments could be appealed. And our bill says these appeals must be addressed in a timely manner, especially when the life of a patient is threatened. Patients must have the opportunity to question managed care decisions and insurance companies must be held accountable, especially when they decide to overrule the decisions of a trained health care providers.

Our bill would require an external appeals process through an independent body with the ability and the authority to resolve disputes in a variety of instances. We know this is often a successful way of mediating labor disputes. Why can't it work for our patients, too?

Finally, the Patients' Bill of Rights would allow patients to hold health plans liable for their decisions. This is essential. How can we justify holding our physicians responsible for decisions that they are not really making? Doctors must account for the decisions they make. Why shouldn't health insurers be responsible for theirs?

Differences between patients and their managed care plans can readily be resolved without going to court. But that will not and should not always be the case. We must extend this consumer protection to patients.

Mr. President, let us make the Patients' Bill of Rights the high priority that our families want it to be on our agenda.

DELAYS IN CONSIDERATION OF THE NOMINATION OF RONNIE L. WHITE

Mr. LEAHY. Mr. President, I rise to speak on the question of nominations. We are approaching another Senate recess. We ought to act on judicial nominations, the longstanding vacancies in the Federal courts around this country. This is the fourth extended Senate recess this year. So far this year, the Senate has confirmed only two judicial nominees for the longstanding vacancies that plague the Federal courts. That is one judge per calendar quarter; it is one half a judge per Senate vacation. We should do better.

Let me focus on one: Justice Ronnie White. This past weekend marked the 2-year anniversary of the nomination of this outstanding jurist to what is now a judicial emergency vacancy on the U.S. District Court in the Eastern District of Missouri. He is currently a member of the Missouri Supreme Court.

He was nominated by President Clinton in June of 1997, 2 years ago. It took 11 months before the Senate would even allow him to have a confirmation hearing. His nomination was then reported favorably on a 13–3 vote in the Senate Judiciary Committee on May 21, 1998. Senators HATCH, THURMOND, GRASSLEY, SPECTER, KYL and DEWINE were the Republican members of the committee who voted for him along with the Democratic members. Senators ASHCROFT, ABRAHAM, and SESSIONS voted against him.

Even though he had been voted out overwhelmingly, he sat on the calendar, and the nomination was returned to the President after 16 months with no action.

The President has again renominated him. I call again upon the Senate Judiciary Committee to act on this qualified nomination. Justice White deserves better than benign neglect. The people in Missouri deserve a fully qualified and fully staffed Federal bench.

Justice White has one of the finest records—and the experience and standing—of any lawyer that has come before the Judiciary Committee. He has served in the Missouri legislature, the office of the city counselor for the City of St. Louis, and he was a judge in the Missouri Court of Appeals for the Eastern District of Missouri before his current service as the first African American ever to serve on the Missouri Supreme Court.

Having been voted out of Committee by a 4–1 margin, having waited for 2 years, this distinguished African American at least deserves the respect of this Senate, and he should be allowed a vote, up or down. Senators can stand up and say they will vote for or against him, but let this man have his vote.

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

For the last several years I have been urging the Judiciary Committee and the Senate to proceed to consider and confirm judicial nominees more promptly and without the years of delay that now accompany so many nominations. I hope the committee will not delay any longer in reporting the nomination of Justice Ronnie L. White to the United States District Court for the Eastern District of Missouri and that the Senate will finally act on the nomination of this fine African-American jurist.

I have been concerned for the last several years that it seems women and minority nominees are being delayed and not considered. I spoke to the Senate about this situation on May 22, June 22 and, again, on October 8 last year. Over the last couple of years the Senate has failed to act on the nominations of Judge James A. Beaty, Jr. to be the first African-American judge on the Fourth Circuit; Jorge C. Rangel to the Fifth Circuit; Clarence J. Sundram to the District Court for the Northern District of New York; Anabelle Rodriguez to the District Court in Puerto Rico; and many others. In explaining why he chose to withdraw from consideration after waiting 15 months for Senate consideration, Jorge Rangel wrote to the President and explained:

> Our judicial system depends on men and women of good will who agree to serve when asked to do so. But public service asks too much when those of us who answer the call to service are subjected to a confirmation process dominated by interminable delays and inaction. Patience has its virtues, but it also has its limits.

Last year, Senator KENNEDY observed that women nominated to federal judgeships ''are being subjected to greater delays by Senate Republicans than men. So far in this Republican Congress, women nominated to our federal courts are four times—four times—more likely than men to be held up by the Republican Senate for more than a year.''

Justice White remains one of the 10 longest-pending judicial nominations before the Senate, along with Judge Richard Paez and Marsha Berzon.

I have noted that Justice White's nomination has already been pending for over two years. By contrast, I note that in the entire four years of the Bush Administration, when there was a Democratic majority in the Senate, only three nominations took as long as nine months from initial nomination to confirmation—that is three nominations taking as long as 270 days in four years.

Last year the average for all nominees confirmed was over 230 days and 11 nominees confirmed last year alone took longer than nine months: Judge William Fletcher's confirmation took 41 months—the longest-pending judicial nomination in the history of the United States; Judge Hilda Tagle's confirmation took 32 months, Judge Susan Oki Mollway's confirmation took 30 months, Judge Ann Aiken's confirmation took 26 months, Judge Margaret McKeown's confirmation took 24 months, Judge Margaret Morrow's confirmation took 21 months, Judge Sonia Sotomayor's confirmation took 15 months, Judge Rebecca Pallmeyer's confirmation took 14 months, Judge Dan Polster's confirmation took 12 months, and Judge Victoria Roberts' confirmation took 11 months. Of these 11, eight are women or minority nominees. Another was Professor Fletcher, held up, in large measure because of opposition to his mother, Judge Betty Fletcher.

In 1997, of the 36 nominations eventually confirmed, 10 took more than 9 months before a final favorably Senate vote and 9 of those 10 extended over a year to a year and one-half. Indeed, in the four years that the Republican majority has controlled the Senate, the nominees that are taking more than 9 months has grown almost tenfold from 3 nominations to almost 30 over the last four years.

In 1996, the Republican Senate shattered the record for the average number of days from nomination to confirmation for judicial confirmation. The average rose to a record 183 days. In 1997, the average number of days from nomination to confirmation rose dramatically yet again, and that was during the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200-day barrier

for the first time in our history. It was 212 days.

Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. Last year the Senate broke its dismal record. The average time from nomination to confirmation for the 65 judges confirmed in 1998 was over 230 days.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees since the 104th Congress, the Senate is shirking its duty. That is wrong and should end.

As the Senate recesses for the Independence Day holiday, I hope Senators will reflect on this record and the need to maintain the independence of the judiciary by acting more promptly on the nominations of the many fine men and women pending before us. We have 45 nominations still pending, the Senate having only acted on only two all year. The courts are faced with 72 vacancies, many of extensive duration. The Senate recesses with a sorry record of inaction on judicial nominations.

The PRESIDING OFFICER. The Senator from North Dakota.

AGRICULTURE APPROPRIATIONS

Mr. DORGAN. Mr. President, I understand yesterday there was a press conference on the Capitol lawn. They brought in some big, shiny farm tractors and a group of folks held a press conference, with the tractors as a background, wheezing and moaning about the agriculture appropriations bill, saying somehow that bill is getting held up and it will hurt family farmers.

I advise my colleagues, if we had invoked cloture as the majority leader and others wanted with respect to that bill, we would have been prevented the opportunity to offer an amendment on the floor dealing with the farm crisis, an amendment that provides some basic income support to family farmers during this urgent farm crisis. We would not have been able to do that.

Voting yes on cloture, on a bill that the majority leader pulled off the floor and then brought back on a cloture motion, would mean there is no opportunity to vote for some kind of income support package for family farms while there are collapsed prices. We have tried to get that before this Congress.

I sat downstairs at midnight in the emergency conference on appropriations between the House and the Senate. Senator HARKIN and I offered an amendment that would have provided about $5.5 billion in emergency help for family farmers during this collapse of farm prices. We lost on a 14–14 tie vote. Then we tried in the appropriations subcommittee and lost there on a partisan vote.

We intend to offer the amendment on behalf of family farmers on the floor, saying when prices collapse, if this country cares about family farmers, if this Senate is indeed profamily and cares about family farmers and wants to have some family farmers in its future, then it will pass an emergency package to respond to family farmers' needs during this price collapse. We wouldn't have been able to do that if we voted to invoke cloture. We would not have been able to offer the amendment. Now we have people saying somehow those who voted against cloture have disserved the interests of farmers.

The agricultural appropriations bill that came to the floor is a piece of legislation that funds USDA; it funds the research programs and the other programs at USDA. It takes effect October 1. It does not take effect for months.

The delay of the bill is not going to injure, in any way, family farmers. The bill will get passed on time. It will be sent to the President and be signed. Contrary to those standing in front of a tractor yesterday, wheezing and blowing about farm issues—some of whom I bet wouldn't know a bale of hay from a bale of twine—I guarantee before that bill leaves the Senate, we intend to offer an emergency package to say to family farmers: You matter; we are going to help you; when prices collapse, we will help you over the price ''valley.''

What happens to a company on Wall Street, Long-Term Capital Management, that threatens to lose billions of dollars? What happens is they get bailed out by the Federal Reserve Board.

What would happen if we were talking about big corporations? They would get bailed out, but they are family farmers.

Somehow in the minds of some, it does not matter what happens to family farmers. It matters to me. It does to many of my colleagues on this side of the aisle.

I know why they held the press conference with tractors. It is because they are upset that folks on this side of the aisle offered a Patients' Bill of Rights. The reason the Patients' Bill of Rights was offered in the Senate on agriculture, and it would not have mattered on which bill it was offered, is we said it was going to be offered to the first bill that came up if we were not given the opportunity to have a Patients' Bill of Rights on the floor of the Senate.

It was offered because we have pushed and pushed and pushed and we have been denied the opportunity to debate and offer amendments on a Patients' Bill of Rights. That is not the way the Senate is supposed to work. You are supposed to be able to offer legislation, offer amendments, have debates, and then have a vote. But some do not want the Senate to operate that way. They want to shut the place down, close the blinds, pull the windows shut, and then say: This is our agenda. Here is all we are going to allow you to do. You can offer these three amendments. They have to be worded this way. If we don't agree with them, we will not give you the privilege of speaking on the floor. That is not the way the Senate is supposed to operate and we will not let it operate that way. We have rights.

The American people have rights. In my judgment, patients in this country have the right to know all of their medical options for their treatment, not just the cheapest. Patients have the right to get emergency room treatment when they have an emergency. Patients have a right to keep their own doctors during cancer treatment even if their employers change HMOs. All of those issues are issues we intend to fight for on behalf of patients in this country. But we are denied that right by a majority who says you can only talk about the things we want to talk about.

Then when the agriculture appropriations bill or any other bill comes to the floor and we offer the Patients' Bill of Rights, we are told by the same folks who say they care about farmers that we have delayed the agriculture appropriations bill. This bill will not take effect until October 1 and is to fund the U.S. Department of Agriculture and had we voted for cloture, it would have prevented Senator HARKIN and myself from offering the specific amendment to deal with income support for family farmers during this farm crisis.

I just have to say it takes some imagination to hold a conference and suggest we are the problem.

Mr. DURBIN. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. DURBIN. Is it not true the course of the debate we have literally taken is to debate measures such as the Y2K liability bill with dozens of amendments, and there was not a complaint made that we were slowing down the process on appropriations?

Mr. DORGAN. That is exactly the case. It is the case that we are in the circumstance which now exists because there are some here in the Senate who simply do not want to have to vote on the issues we are talking about with respect to the Patients' Bill of Rights. They want to have a slogan so they can vote for something titled the Patients' Bill of Rights but one that will not have any strength; one that will really not have any provisions to provide people with the basic rights they ought to be provided with respect to this health care issue.

We have talked at great length about the too many instances in this country where health care decisions are not made by a doctor in a patient's room in the hospital or by a doctor in a doctor's office at a clinic, but where the answer to what kind of patient care will be allowed is to often, in too many circumstances, made by an accountant making medical judgments somewhere in an insurance company office 1,000 miles away. That is what is wrong with the system.

Mr. DURBIN. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. DURBIN. Is my understanding correct that some 200 groups that represent consumers and doctors and hospitals and business and labor have endorsed the Democratic Patients' Bill of Rights and, to my knowledge, the only group endorsing the Republican approach to this is the insurance industry?

Mr. DORGAN. The Senator describes it exactly. It is the difference between one approach that is toothless and an approach that has some teeth to it that says we are going to make this work; we are going to offer some basic protections to patients.

I have a poster I was going to show today. I will show it later in the day. It is a poster of a young boy in a wheelchair named Ethan who was denied treatment by the HMO. He was born with very difficult problems that impaired the use of his limbs. He was denied treatment because a doctor who had never seen this young patient decided that the patient had a 50-percent chance of being able to walk by age 5, and a 50-percent chance of being able to walk if he gets the appropriate therapy is ''not significant.'' This is from a doctor who did not see the patient. It is not significant that this person might have a 50-percent chance of being able to walk, therefore we deny coverage.

That is the kind of thing that is happening time and time again. I say to the Senator from Illinois, I have talked about this woman who falls off a cliff, drops 40 feet, fractures her bones in three places, is knocked unconscious, taken by medevac helicopter out to a hospital, is brought into the emergency room unconscious, survives, and later is told: We will not pay the emergency room bill because you didn't have prior approval for emergency room treatment. This is a woman unconscious, brought into the emergency room for help. That is the kind of thing that ought to stop. Does she have a right through her health care coverage to emergency room treatment when she is knocked unconscious from a fall in the mountains? The answer is yes, of course. We demand that right be given that patient in this Patients' Bill of Rights.

Mr. DURBIN. If the Senator will yield for one other question, it is my understanding the Republican bill, supported by the insurance industry, provides no protection to 115 million Americans who have no health insurance, whereas the Democratic bill provides protection to all of those in this country who have health insurance. That is a pretty dramatic difference; is it not?

Mr. DORGAN. The Senator is absolutely correct. Again, it is the difference between an approach that is toothless and an approach that has teeth; one that works, makes a difference, one that matters.

So we have a couple of bills ricocheting around here for which the other side has adopted the same title—which is a nice thing to do, I guess: The Patients' Bill of Rights. The question is scope. How many Americans will it cover and what kind of coverage will it offer? Will it, in fact, help people like that young boy who was told a 50-percent chance to be able to walk by age 5 really doesn't cut it with us; we will not provide the therapy you need? Or will it, in fact, provide assurance to someone who is knocked unconscious in an accident, that if he or she goes into an emergency room unconscious nobody is going to say later: You should have gotten prior approval from the emergency room?

Mr. REID. Will the Senator yield?

Mr. DORGAN. I will be happy to yield.

Mr. REID. I will ask this in the form of a question. Not only are we concerned now about the terrible care that is being given or not given to patients, but would the Senator care to comment on what we are seeing as a result of how doctors are being treated? Could you have imagined 5 or 10 years ago that the doctors would join together to form unions to protect their interests, as they are doing now?

Mr. DORGAN. I say to the Senator, I was as surprised as anyone to read the news these days about doctors wanting to join a union. But the reason is pretty obvious. They are tired of not being able to practice health care on their own. They are tired of someone making decisions about their patients who they have seen. They are the ones who have been in the examining rooms. They are the ones who have visited the hospital beds. Yet an accountant 500 miles away or 1,000 miles away in some insurance office, is telling them how to practice medicine. They are flat sick of it.

Mr. REID. So I say to my friend, it is not only the patients who are rising up, but now we have the doctors rising up because of this managed care program. I think that is the reason the American people have latched onto this issue and are saying please, Washington, do something. Does the Senator think that is a fair statement?

Mr. DORGAN. I think that is exactly the case, the reason over 200 medical, consumer, and labor groups support this legislation. I have a picture loaned to me by Dr. GANSKE, who is a Member of Congress from the House, a Republican, a very thoughtful Congressman. He is a doctor who does reconstructive surgery. He held up the picture of this young boy. Let me hold up that picture, if I might, just so everyone understands what we are talking about. This is a terrible deformity. Dr. GANSKE held this picture up to use it as an illustration.

Obviously, you look at this young boy and you say what an awful deformity to have to live with. But there are ways, of course, to correct this. A young boy doesn't have to live with that deformity. Dr. GANSKE pointed out he did a survey of his fellow doctors and discovered that half of his fellow doctors had experienced the circumstance of having an HMO say: No, this is not medically necessary. You don't need to correct this. It is not medically necessary.

Can this young person live with this? Yes, I suppose so. Would any prudent American say it is medically necessary to help fix this problem, to give this young child the opportunity to get reconstructive surgery? The answer is clearly yes. That is what is at the root of this issue.

Mr. REID. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. REID. Dr. GANSKE, who is a conservative Republican from the State of Iowa, voted on this issue and joined the Democrats' Patients' Bill of Rights because of this and other instances. Here is a man who also brought in a picture later showing what could happen to a child who has surgery that has been perfected over the decades. This is a child who has a cleft palate; is that not true?

Mr. DORGAN. That is correct.

Mr. REID. I would ask one further question to the Senator.

Isn't it true there are over 200 organizations that support our Patients' Bill of Rights and that the only organization that opposes our Patients' Bill of Rights is the insurance industry basically?

Mr. DORGAN. As I understand it, the Senator describes the case exactly. Virtually every organization in health care supports what we are trying to do. The doctors in this country, the patients all support what we are trying to do because they know we are trying to solve problems.

Let me go back to this notion there are two different approaches. The approach they offer is toothless. It has a title and does not mean anything very much. The approach we offer has teeth, is real, and makes a difference in people's lives.

I want to make one additional point and then conclude because I know there are others who wish to speak. I came to the floor today because the majority leader and others held a press conference yesterday with tractors as a backdrop saying what we have been doing here is shortchanging American farmers. Nothing is further from the truth. American farmers are going to be well served by a Senate that does not push this agriculture appropriations bill through without emergency help which farmers desperately need. That is exactly what would have happened if we had voted for cloture as the majority leader was insisting.

Had we voted for cloture on the agriculture appropriations bill, the amendment that Senator HARKIN and I were going to offer for $6 billion to $7 billion in emergency help for farmers would have been ruled nongermane. It would have been over. We cannot pass an agriculture appropriations bill in the Senate without addressing this farm crisis, and those who stood in front of

tractors and talked about farmers know that. They know better than that. We cannot pass an agriculture appropriations bill and say we have done our job if we ignore the crisis which now exists and if we do not pass some basic income support package.

Senator HARKIN, Senator DURBIN, and I tried in the midnight hours of the emergency appropriations bill. We lost on a 14–14 tie vote. We tried to get it in this year's appropriations bill but lost on a partisan vote. We must try again on the floor of the Senate, and we will in the coming weeks.

We had a farmer and author testify before the Democratic Policy Committee named Wendell Berry. He has written a book called ''Another Turn of the Crank.'' I was thinking about that today because yesterday's show in front of these polished tractors was just another turn of the crank.

As I said, some of these folks would not know a bale of hay from a bale of twine and they are telling us about the long-term interests of farmers. Many of us who fight for farmers every day in every way are insistent that before this Senate moves any appropriations bill dealing with agriculture out of this Senate, it does not just deal with the programs and research over in USDA, that it deals with the income needs of family farmers. That is what has been at stake in the last couple of days.

Frankly, I am not a happy person to see the criticism that has been leveled by those who do not know anything about family farmers and those actions which will undercut our attempt to help family farmers.

Mr. EDWARDS. Will the Senator yield for a question?

Mr. DORGAN. Yes.

Mr. EDWARDS. I wonder if the Senator has the same perception I do, being from the State of North Carolina. The Senator and I both know that agriculture and our family farmers are in desperate crisis, and they need help in the worst kind of way. He and I are committed to help them. I know that. I have heard him talk about that subject in this Chamber. I feel very strongly about that.

My question is about this Patients' Bill of Rights issue. It seems to me what we have—there has been a lot of discussion about the Democratic version and the Republican version—is an insurance company bill, on the one hand, and a patients' and doctors' bill on the other hand. Will the Senator agree with that?

Mr. DORGAN. I think that is correct.

Mr. EDWARDS. Also, we have such extraordinary medical technology in this country. We have the most advanced medical treatment available in the world today. Can the Senator explain to us how that treatment and the fact we are the most advanced medical country in the world today does anybody any good if folks cannot get access to it? Does the Senator have any explanation for that?

Mr. DORGAN. The Senator asks a question that relates to the key components of our piece of legislation. I again refer to this picture used by Dr. GANSKE, a Congressman in the House of Representatives, a Republican who supports our basic legislation.

Does current medical technology and all the advances in reconstructive surgery do this young child any good, if the child does not have access to it, if the child's parents belong to an HMO that says, no, it is not medically necessary we correct that deformity, it is not medically necessary at all? Does that kind of medicine help this child? The answer is no. What helps this child is a determination by this Senate that health care plans ought to judge on a uniform basis that this type of deformity is medically necessary and this child would get reconstructive treatment to solve that problem.

Mr. EDWARDS. Will the Senator yield for one last question?

Mr. DORGAN. I will be happy to yield.

Mr. EDWARDS. We discussed it briefly a moment ago, and that is the fact that doctors are finding it necessary to unionize or to make an effort to unionize because they are no longer able to prescribe the treatments and tests for their patients they know their patients need, in fact because they are not able to make determinations about what is medically necessary, whether a child—if the Senator would hold this photograph up one more time—whether such a child medically needs the surgical procedure the Senator talked about in the last few minutes, the fact that doctors find it necessary to unionize in order to do what they have spent their entire lives being trained to do, which is to provide the best possible medical care to their patients. Can the Senator imagine a more powerful indication and symptom of the medical crisis confronting this country today?

Mr. DORGAN. I cannot. The Senator makes a point with his question. This is real trouble for a lot of patients, and what we are trying to do and say is health care is changing and patients ought to have rights. That is what our Patients' Bill of Rights does. It empowers patients and allows them to believe that if they are covered with health care through their HMO, there will be some basic guarantees that just, prudent people expect would be there anyway but which we have now seen in recent years by some HMOs have systematically been denied patients.

Let me make one final point. Not always, but too often health care treatment has become a function of profit and loss for some corporations. Look at their executives. Find how much money they are making in this industry. Then they say: But we can't afford to provide emergency room care for someone who is unconscious and presents himself on a gurney to emergency room workers, or we can't help this young child with a facial deformity which clearly needs attention. We can't help a child in a wheelchair who has a 50-percent chance of walking and told you don't get the therapy because a 50-percent chance of walking by age 5 is insignificant.

We are saying those are not medical judgments made by a doctor. Those are insurance judgments made by HMO accountants 1,000 miles away, and they undercut the very premise of this health care system in which we ought to expect prudent treatment that a doctor believes is necessary for a patient. Yet in too many instances, they are not getting it. This is not just a consumer bill or a patients' bill, it is a bill that really gets at the root of health care in this country. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, my colleague from North Carolina has 3 minutes. I wonder if he can speak, and I ask unanimous consent I follow him and Senator BOXER follow me.

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

Mr. WELLSTONE. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. I thank the Senator.

TRIBUTE TO MICHAEL HOOKER, CHANCELLOR OF THE UNIVERSITY OF NORTH CAROLINA

Mr. EDWARDS. Mr. President, I rise today to note with sadness the death this morning of the Chancellor of the University of North Carolina at Chapel Hill, Michael Hooker.

Chancellor Hooker was a friend and someone whom I have known for a number of years. He was a man of vision, enthusiasm, energy, brilliance, and he had an extraordinary love for the State of North Carolina.

His passing is not only a loss for those of us in the University of North Carolina family, but for all North Carolinians. By making a great university better, Michael Hooker made a lasting contribution to our entire State.

The truth is that his death was both a shock and a blow. Just yesterday he was at work in Chapel Hill.

He was diagnosed this year with non-Hodgkin's lymphoma and had been undergoing treatments at the National Cancer Institute in Maryland and also at the UNC Hospitals.

While he was up here, I had the pleasure of seeing him a few times. Not too long ago, I ran into him and his wonderful wife Carmen, who is an extraordinary woman, right outside the Senate Chamber. He looked well and was feeling optimistic at that time about his health. He did take a brief leave from his job for treatment of the disease, but for most of the year, he was hard at work.

I cannot say how sad I felt to learn this morning the news that his cancer had grown worse and that it took him at an early age—at the age of 53. My thoughts and prayers go out to Carmen, his wonderful wife, and to their children.

Let me tell you, Mr. President, just a little more about Chancellor Hooker and what he has done for my State of North Carolina.

He was the first person in his family to get a college degree—a philosophy degree from Chapel Hill in 1969. His father was a coal miner. He always credited his parents' belief in hard work and good education for his own success.

After graduation, he left North Carolina to get a graduate degree and to enter the world of academics. He taught philosophy at Harvard. He was president of Bennington College and also president of the University of Massachusetts system. He was president of the University of Maryland at Baltimore County.

He returned to North Carolina in July of 1995 to become UNC's eighth chancellor. And he really attacked the job. One year he visited every single county in North Carolina—and we have 100 counties in North Carolina—to make sure that every person in the State knew they were connected with their university. Then he made sure that the faculty and administration at UNC were connected to the State. He once took the new faculty and administrators from other States on a week-long bus tour of North Carolina.

The truth of the matter is that men like Michael Hooker have long lists of accomplishments. They serve on many blue ribbon panels; they get lots of honorary degrees; they write great scholarly pieces; they are placed on many ''best of'' lists. I could go through a great deal of these with respect to Chancellor Hooker, because he accomplished all of those things.

But in the end, I think Michael Hooker himself valued people most. I believe he would like to be remembered for all of the things he did to make people's lives better. He understood the need for education, not only because it expands men's and women's minds but because it makes our society better, stronger, more prosperous, and more equitable. He was an extraordinary and wonderful man.

He said it best himself, if I could just quote him:

> There is only one reason to have a public university, and that is to serve the people of the state. That should be the touchstone of everything we do: whether it's in the interest of North Carolina and our citizens. Our litmus test is the question: Is what we do in Chapel Hill helping the factory worker in Kannapolis?

The best tribute we can give him is all the good works performed in the future by those who were touched by him and his life. Chancellor Hooker was an extraordinary man. He will be missed by me, he will be missed by every single citizen in North Carolina, and he will be missed by all those who knew him.

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

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Let me just thank the Senator from North Carolina. Having been an undergraduate at the University of North Carolina, having done my doctorate work there, having had two children born in Chapel Hill, and having known Chancellor Hooker, I am also very sorry to hear of his death—a very young man. It is really a loss for North Carolina and the country. I appreciate the Senator's eloquence.

There are other Senators on the floor, so I am going to try to be brief and take only an hour or so—less than that, much less than that.

THE FARM CRISIS

Mr. WELLSTONE. Mr. President, first of all, coming from an agricultural State, I just want to, as I think Richard Nixon would say, make one thing ''perfectly clear'' about agriculture.

Senator DORGAN is right on the mark when he makes the point. It is sort of an inside thing, but it is very important to the outsiders, especially to farmers, and not just to farmers but to those of us who come from farm States. If yesterday the majority leader had been successful on the cloture vote, we would not have been able to bring this amendment to the floor on this ag bill that calls for an additional $6.5 billion of assistance.

Let me just say that this ag appropriations bill that just funds existing USDA programs will not do the job. Let me also say, in my State of Minnesota, and I will not talk about a lot of statistics that I could talk about farm income having dropped 40 percent over the last several years. I could talk about this last decade where farmers have been wondering why they see a 35-percent drop in price, and yet the consumer price goes up while the farm-retail spread grows wider and wider between what farmers make and consumers pay. We want to know what is going on. Let me just tell you, in my State there are a lot of broken lives and a lot of broken dreams and a lot of broken families.

Let me also just simply say that time is not neutral; time moves on. We are confronted with the fierce urgency of now. If we do not get this additional assistance to farmers, much of it directly related to income loss because of record low prices, then a lot of farmers are not going to be able to live to farm another day.

We have to get this assistance to farmers. It has to be in this ag appropriations bill. I will tell you something. I do not even like coming out here and fighting for additional bailout for farmers or additional credit assistance, because most of the farmers in North Carolina and Minnesota, and around the country, are not interested in bailout money. They are interested in being able to get a decent price. That's what they are interested in.

Let me go on. Let me say, again, this appropriations bill will be an appropriations bill that will really help. This amendment calls for this additional $6.5 billion in assistance.

Second point: I do not know what the press conference was about here in Washington. I was back home with a lot of farmers. There were a lot of people from all around the State who came together for a gathering at the capital. But I will tell you this. I hope that some of the folks who held the press conference also talked about how we can make sure that family farms have a future several years from now. I think we have to speak the truth. And the truth of the matter is, this Freedom to Farm bill of 1996 is a freedom to fail bill.

The fundamental crisis is a crisis of price. Right now our corn growers get $1.75 at the local elevator; our wheat growers get $3.13 for wheat. This is nowhere near the cost of production. They cannot cash flow. They cannot make a living. Unless we fix this freedom to fail bill and we go back to some sort of leverage for farmers in the marketplace, some kind of safety net which will give them a decent income, some sort of price stability, our family farmers do not have any future. That is what this is all about.

I am not interested in semantics. If people want to say, I am still for the Freedom to Farm bill, I don't care. But I will say this. The flexibility in that legislation to farm a whole lot of different crops does not do any good if there are record low prices for all of them. So let's get the assistance to people so they can survive.

But let's get beyond the short run, and let's be honest with one another. Let's fix that Freedom to Farm, or freedom to fail, bill, and let's make sure there is some price stability and there is some farm income out there; otherwise, our family farmers have no future.

Finally, if there was a press conference yesterday, I sure as heck hope there was some focus on the distortions in the market. I would like to join all my Republican colleagues in calling for putting free enterprise back into the food industry. I would like to join with all of my Republican colleagues in being a true Adam Smith apostle and calling for a market economy. I would like to join with all my Republican colleagues, in other words, in calling for some antitrust action.

How in the world can our family farmers make it when you have four large firms, the packers dominating the livestock farmers, the grain companies dominating the grain farmers? There has to be some fair competition. Everywhere our family farmers turn, whether it is from whom they buy or to whom they sell, we do not have the competition.

Let's really be on the side of these family farmers and insist on some competition. Let's have the courage to take on some of these conglomerates that have muscled their way to the dinner table exercising their raw political power over our producers and over

our consumers, and, I say to the Chair, who is my friend, I think over the taxpayers as well.

So I am all for a focus on family farmers. This is a crisis all in capital letters. I hope we will have some action. But I want to make it crystal clear, I think these are the issues that are at stake.

PATIENTS' BILL OF RIGHTS

Mr. WELLSTONE. Mr. President, I also want to make it crystal clear that I have been proud to join with my Democratic colleagues out here on the floor; and the sooner we have Republican colleagues joining us, the better. We have been focusing on the importance of patient protection legislation. Protection of medical records privacy is very important to the American people. I hope we will have an opportunity to debate the Patients' Bill of Rights because I want to offer an amendment for segregation of records. The right to privacy is deeply rooted in American culture. American citizens expect that we will continue that tradition.

This amendment allows a person to segregate any type or amount of protected health information, and limit the use or disclosure of the segregated health information to those people specifically designated by the person. I want to just give one more example and, in this small example, tell a larger story.

It would allow a person, any of us, to take some of the particular private health information, and make sure it is not a part of a total record by segmenting it off and preserving privacy. We are getting more and more worried about genetic testing. For example, if you are talking about a woman who has genetic testing for breast cancer, she may fear the results if she thinks the life insurance companies are going to get ahold of this information or employers are going to get ahold of this information. She might not want to even be a part of this testing.

We want to protect the privacy rights of people. The same thing could be said for people who are talking to their doctor about mental health problems or substance abuse problems. The same can be said on a whole range of other issues.

There is the whole question of making sure ordinary citizens have some privacy rights, some protection in terms of who gets to see their medical records and who doesn't, making sure it is not abused. I will give a perfect example. I have never said this on the floor, but I will to make a larger point, I had two parents with Parkinson's disease. Research is now showing there is probably some genetic predisposition. As we move forward with this research, I may want to be a part of whatever kind of test or pilot project is put together by doctors. But maybe I wouldn't, if I thought there would be no way that, whatever their research suggested, that I wouldn't have some right to ensure I had some protection.

The right to privacy is relevant for the potential for genetic map research, for testing, and, for that matter, treatment, for maybe even finding cures for diseases. There are a lot of people who are not going to want to be a part of it, and there are a lot of people who are going to worry about that information if we don't have the privacy rights.

Conclusion: The pendulum has swung too far. I think we should be talking about universal health care coverage as well, and we will. At the moment, here is what we are faced with.

In the last several years, since we were stalemated on every kind of major national health insurance legislation or universal health care coverage bill, major changes have taken place in health care, not here in Washington but in the country. They have been revolutionary in their impact on people. The pendulum has swung too far. We have now moved toward an increasingly bureaucratized, corporatized, impersonal medicine where the bottom line has become the only line, where you have a few large insurance companies that own and dominate the majority of the managed care plans to the point where consumers, ordinary people, the people we represent want to know where they fit in. Right now they don't believe they fit in at all.

So without going into all the specifics, because we have been talking about this for a week, what people in the country have been saying is, if you want to do a good job of representing us, please make sure we have some protection for ourselves and our children to make sure we will be able to get the care we need and deserve. That is what we hear from the patients. That is what we hear from the consumers.

What we hear from the providers, the care givers, is, Senators, we are no longer able to practice the kind of medical care we thought we would be able to practice when we went to medical school or nursing school. We have become demoralized. Demoralized care givers are not good care givers. So we have a lot of work to do to make sure we have families in our States getting the health care they deserve. That is what this debate is all about.

We have been trying for a week to get some commitment from the majority party that we would have a substantive debate. That is the Senate. I hope that we will have an agreement. I hope we can come back to this. I hope we will have an agreement, and then I hope we can have the substantive debate and Senators can bring amendments to the floor.

There are several amendments I am very interested in, and probably a number of other Senators have amendments they are interested in. We will vote them up or down. We will all be accountable. We will all do what we think is right for the people in our States.

The point is, we are not going to accept not being able to come to the floor and fight for people we represent on such an important question. That is what last week was about. That is what the beginning of this week is about.

I hope there will soon be an agreement. I hope there will soon be a debate. My hope is that before it is all over, we can pass a good piece of legislation that will not be an insurance company protection act but will be a consumer or patient protection act.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank the Senator from Minnesota. Before he leaves the floor, I say to my friend that he pointed out we have been talking about this for a week solid. I came down to the floor today to talk about how we have been fighting this for over 2 years. We have increased and we have escalated the debate in the last week, but I asked my staff to go through my earliest talks on this subject.

Mr. WELLSTONE. Will the Senator yield?

Mrs. BOXER. Yes.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Tiffany Stedman, who is an intern, and Carol Rest-Mincberg, who is a fellow, be granted the privilege of the floor today.

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

Mrs. BOXER. I know we are running short of time so I will be glad to yield to my colleagues for questions.

On January 28, 1998, I came to the floor and talked about the case in my State of a gentleman named Harry Christie who had a very poignant story to tell me about his daughter who, when she was 9 years old, was diagnosed with a very malignant and dangerous tumor in her kidney. It was explained to Mr. Christie that there were only a couple of surgeons who knew how to operate on this kind of a tumor, and it would cost $50,000 for the operation.

He went to his HMO. He said to them: Look, this is my flesh and blood, my daughter. She means everything to me. I am assuming the HMO will allow me to go out of the plan, get the specialist, and then the HMO will pay the specialist.

They said: No, we have good oncologists on our staff. We have good physicians, and they will handle it.

He said to them: Did they ever do this kind of pediatric surgery?

No, they had never done it in their lives.

And Mr. Christie said: This is an impossible situation, and I won't accept this.

They said: Then too bad. You will have to pay for it yourself.

Well, that is exactly what he did. It was not easy.

What about parents who can't do that? What happens to their child?

This is just one story. I told it January 28, 1998. By the way, the end of the

story is that Carley is now 15 years old and her cancer is gone. She is a fantastic young woman.

Mr. SCHUMER. Will the Senator yield?

Mrs. BOXER. Yes, I am happy to yield.

Mr. SCHUMER. I would like to ask the Senator a question because I have heard of so many similar instances. A young woman, a nurse on Long Island, needed an orthopedic oncologist to remove a tumor from her leg. No, she can't have it. She couldn't afford it. So she went to a regular orthopedist, not the oncological orthopedist, who took out the tumor. It grew back. She can hardly walk. Then she had to go to an oncological orthopedist and pay the $40,000 herself because there was no other choice.

So the Senator is right. She has fought for this for so long.

I just heard—parenthetically, it is sort of related, because one of the things that inspired some of us to join in this fight was what happened on guns—for instance, that the majority leader in the House has said they would not appoint conferees at least until after July 4, which I consider truly outrageous. I will talk more about that later when we get time. I think it is so wrong to not allow the will of the people to happen. We are doing the same thing on the Patients' Bill of Rights. We just want to debate and let people vote on what is important.

I ask the Senator, is this the only case she has heard of in this situation, or do you hear, when you go around your State, as I go around mine, hundreds of cases where people are denied treatment that the doctors feel they need? They sit there in anguish.

Mrs. BOXER. Yes.

Mr. SCHUMER. They almost go into complete debt to get the operation or get an inferior product.

Mrs. BOXER. Yes. My friend is exactly right.

First of all, I think his point about the House putting off any action on the juvenile justice bill that deals with making sure we keep guns out of the hands of children and criminals is an outrage. When they tried to put this bill forward, we pointed out it was really a sham. Now we have the same thing in the Senate.

I think the Senator from North Carolina was speaking before and we were talking. He points out that it is not a question anymore of the Republican bill or the Democratic bill. He said that we ought to just say it is about a bill that is supported by patients and doctors versus a bill that is supported by insurance companies. We understand on this side of the aisle that it is supported by patients and doctors.

Mr. DURBIN. If the Senator will yield, I would like to ask a question of her. I think it is important to remind those who are following this debate why we are here. We are here trying to bring this issue to the floor of the Senate. We want there to be a debate between Democrats and Republicans on giving patients and families across America some rights when it comes to dealing with these insurance companies. The Republican leadership does not want this debate. We think the American people do. We think that is why we were elected—because families across America know there is real concern when you take your child to the hospital.

I literally ran into a doctor from Highland Park, IL, Sunday night who told me a terrible situation that just happened to him a week before. He is a cardiologist. A woman came in to see him in his office on a Thursday complaining of chest pains. He was worried and said: I want to get you into the hospital tomorrow morning for catheterization. It is a diagnostic process to find out what was wrong with her heart. She said: Fine. He said: We will do it tomorrow morning.

He called her insurance company. The insurance company said: No, we don't approve of the hospital where you want to send her. Let us call our hospital under her insurance policy, and we will see when we can get her scheduled.

They told that to the doctor on Friday. They never had a chance to schedule it. She passed away on Sunday. That was a decision made by the insurance company not to let this woman go to a hospital on a Friday morning to get the catheterization. They did not understand her problem.

Is this not what this debate is all about?

Mrs. BOXER. It is exactly what this debate is all about.

I want to talk about another case that I brought up about a year or two ago, also a doctor with a similar story in Texas. He came to testify before the Democratic Policy Committee. This was in Texas. This doctor was assigned to work in the emergency room. A gentleman comes in with terribly high blood pressure. They checked him into a room, and they monitored his blood pressure. It could not be controlled by medication. They were giving him a lot of medicine that didn't work. The doctor called the HMO and said: We need to keep this patient overnight. I am very fearful he will have a stroke.

Bottom line: The HMO says: You control it by drugs. He says: I can't.

He has to now tell the patient that the HMO won't cover this, and he says to his patient: Pay for that out of your own pocket; I will fight for your right to be reimbursed.

The patient said: How much will it be? Five thousand dollars. I can't do it, says the man, I am sure the HMO wouldn't hurt me.

P.S.—you know the story. The gentleman had a stroke, and he is totally paralyzed on one side.

The irony of all ironies about this is that under current law the doctor can be sued but not the HMO that actually made the decision.

Isn't there any wonder that doctors are joining with patients? You spend your life trying to save others' lives, and now you can't do it—a doctor in Highland Park, and a doctor in Texas. It goes on.

I would be happy to yield to my friend.

Mr. EDWARDS. With respect to the instance described by our distinguished colleague, the Senator from Illinois, where obviously a catheterization would have saved this patient's life, will the Senator from California explain to the American public and to our colleagues, No. 1, when they decided initially, no, we are not going to pay for the care, and, therefore, they could not get the test done, and a lot of life-saving tests that needed to be done, what avenue or recourse does that patient have? Is there anything they can do under the circumstances under existing law if we don't pass a real Patients' Bill of Rights?

Mrs. BOXER. We have to pass a Patients' Bill of Rights, because, unless you are so wealthy that you can pick up the tab and the cost for these very expensive procedures, you are just plain out of luck. We have said this a number of times to our friends on the other side of the aisle. We have good health insurance as Members of the Senate. We really do. We are fortunate. We have the clout. We have good health insurance. We are trying to bring everybody up to our standards.

Mr. DURBIN. If I can ask the Senator, isn't it true that, as Senator EDWARDS of North Carolina just said, the example I gave where the lady didn't get the catheterization and passed away—if her family hears of this and they are upset and want to go to court and believe there has been medical malpractice and negligence—the only exposure and the only thing they can sue the insurance company for is the cost of the catheterization, or for the procedure? That is it under the law. And that our bill says health insurance companies, as every other company in America, will be held accountable for their actions. If they are guilty of negligence, they can be held accountable. But under current law, a law being protected by the Republican bill, the patients will not have that right of recovery.

Is that not the fact?

Mrs. BOXER. That is the most incredible thing about this. As I said, in many of these cases, the doctor can be sued if he is working and he is contracting with the plan and not an employee. The doctor can be sued—a doctor who is trying to fight for the patient—but not the HMO.

Mr. EDWARDS. If the Senator will yield for one other question, with respect to what my distinguished colleague from Illinois just pointed out, it is my understanding that under existing law we have this very privileged group of insurance companies—very wealthy insurance companies—that are singled out in American life as not being held accountable for what they do. You and I can be held accountable.

Everybody in our State of North Carolina, and Illinois, New York, and California, can be held accountable. Every other business, small and large, can be held accountable. But the health insurance industry is special. It is different. It is better than the rest of us. It can't be held responsible.

I want to know how the Senator from California would respond to a family, or to our children who we are trying on a daily basis to teach about personal responsibility, personal accountability, something that all of us believe in deeply, how do we explain that we have singled out this very well-to-do industry for privileged treatment, and, in fact, unlike our children, unlike our families, we are not going to hold them responsible or accountable?

Mrs. BOXER. I think the Senator has made a very good point. If we believe that each of us should be responsible for our actions and our deeds, the current law certainly undermines that. It is unfathomable to me. As the Senator from Illinois has pointed out in another debate, the only people in our country today who are truly exempted from any kind of accountability—you can't go after them—is a foreign diplomat and an HMO. Something is wrong with that.

Mr. SCHUMER. I was going to ask the Senator another question related to one of the other problems we face; that is, even before they get the right to sue, there is an appeal.

Let us say, as in the case that the Senator from Illinois brought up and the unfortunate death that occurred, the doctor said that she needed catheterization, and it is denied by the insurance company. The only type of appeal that is required by law is an internal review. I want to know if that is required—that the only appeal that would be required would be an internal review.

I ask the Senator a question, and that is this: Wouldn't it be much fairer if it at least were mandated that there be some external, impartial review so that in instances over and over again where inadequate health care maybe would be provided before the stroke occurs—as in the case related by the Senator from California, and the unfortunate death that occurred—some outside, independent reviewer gets to say, hey, that actuary didn't quite make the correct medical decision; I agree with the doctor?

Mrs. BOXER. My friend is right on point. It is another aspect of our Patients' Bill of Rights where you have a truly independent outside review so the people who are looking at the actions of the HMO are not part of the initial decision. On the other side of the aisle, they have an appeals process where essentially the HMO says who the outside reviewers are. That is not really an outside review.

I want to say to all of my friends who have been so good on this issue I had such a transforming event 2 years ago at a hearing the Democratic Policy Group had. A woman from an HMO spoke. By the way, she was afraid to show her face. She was on a satellite television hookup with her face covered and her voice was disguised because she was a whistleblower.

In the course of her testimony, she said something that made my skin crawl. I wonder if my friends feel the same. We kept asking questions about patients. We said: What happened when a patient came in and had heart symptoms? How was it handled? Who made the decision?

In the course of describing the patient, she said: This unit was a case we felt we had to look at.

I said: What did you say?

She said: This unit.

I said: What do you mean, this ''unit''?

That is how we refer to clients.

I said: You mean patients?

She said: Yes, we refer to patients or clients as units.

I had this sense there was no humanity left. It is all about ''units.'' It is all about dollars. It is all about the bottom line. It is all about profit. It is not about serving. That is why doctors are saying this is against their Hippocratic oath: Do no harm, help people.

Now they are doing harm. They are in situations where they have predicted patients could die if they didn't get the treatment, and the HMO didn't give the treatment.

I want to hear from my friends as we go back and forth on this question.

I yield to the Senator from North Carolina.

Mr. EDWARDS. I was thinking about the comments from the Senator from Illinois, the comments from the Senator from New York, and the comments made about the health insurance executive accounting, talking about human beings as ''units.''

I did understand the Senator correctly?

Mrs. BOXER. Units, U-N-I-T-S.

Mr. EDWARDS. Units. Not human beings but units.

Under existing law, health insurance companies have proven time and time again they are motivated by one thing, and that one thing is the dollar bill. Profit is the bottom line.

We have talked about doing two things in a patients' bill—not in an insurance industry bill. Since money seems to be what motivates these folks, we will do two things.

No. 1, as the distinguished Senator from New York mentioned, we will create an independent body that can oversee the insurance industry, the HMO. When they make arbitrary decisions, when they decide even though it is clear a patient or child desperately needs a treatment or a test and that was an arbitrary decision, they can get a quick reversal from that truly independent board. That is one thing.

In addition to that, we also say health insurance companies and HMOs, as every other segment of American society, will be treated the same. They can be held accountable. They can be held responsible. They can be held responsible in a court of law.

Those two things together—a truly independent review, done swiftly so reversals can occur, combined and working in concert with arbitrary, money-driven decisions where if some child is severely injured as a result, they can be held accountable.

I wonder if the distinguished Senator would comment on whether she believes those two things, working together, create a tremendous incentive that does not presently exist for HMOs and health insurance companies to do the right thing to start with, so we never get to an independent review board, we never get to a court of law; instead, insurance companies and HMOs are doing the right thing, not making arbitrary decisions, doing what the treating doctors are advising needs to be done in the very first instance when it is most important and could do the most good.

Mrs. BOXER. I thank my friend from North Carolina for articulating two areas of our Patients' Bill of Rights which are so important: The right to independent review if a patient feels the HMO made a mistake, and the ability to hold HMOs accountable if they do the wrong thing.

By the way, the opposition from the other side is misleading because all we do is say if States choose to hold HMOs accountable, they can. We don't dictate the law on the right to sue. It is up to the States. However, we lift the impediment to holding them responsible.

I think it is important to note that we in America have the safest products in the world, even though every once in a while there is a horrible example of something monetarily wrong. The reason is, we hold companies accountable if they make an unsafe product that could explode and harm a child. Most of the time we don't have any problem because we have a very clear precedent in law that says if you don't take into account what your product can do to a human being, and they get hurt, you will pay a price. For HMOs, we don't do that. The irony is that they are dealing with life and death decisions every day and they are making wrong decisions.

My friend is right on those two aspects of our Patients' Bill of Rights, working together.

Mr. WELLSTONE. I follow up on what the Senator from North Carolina said.

Five years ago I introduced a bill on patient protection. This matter has been going on for a while. There is an issue that defines ''medical necessity,'' another issue the Senator from North Carolina raised about an external independent appeals process, another issue on ''point-of-service'' option—making sure the families have a choice, and they don't now have when the employer shifts from one insurer to another.

There are two bills on the floor. People in the country have become more

and more disillusioned with the politics that they think is dominated by money and special interests.

Does the Senator from California agree people want to see a piece of legislation passed that has some teeth in it, that will make a difference and provide some protection?

My question is, Do the Senators think this patient protection legislation, what we are trying to do, is a test case as to whether or not the Senate belongs to the insurance companies, or whether or not the Senate belongs to the people in this country?

Is that too stark a contrast, or does it ultimately boil down to that core question?

Mrs. BOXER. I think the Senator has put his finger on it exactly right.

Who is supporting our Patients' Bill of Rights? It is every patient advocacy group, every provider who has an organization, including the nurses and the doctors. And who is on the other side? The insurance companies.

What do we have? Two bills. The bill on our side is supported by these advocacy groups and doctors; the other is supported by the insurance companies.

My friend is right. People are getting so upset that this place seems dominated by the special interests.

I yield the remaining time to my friend from Rhode Island.

Mr. REED. I thank the Senator from California.

Let me follow up and perhaps engage in a brief dialog. I think the Senator from Minnesota made a good point about the heart of the Republican legislation. The most telling point, in my view, is the coverage. It simply covers one-third of the eligible private-insured individuals throughout the country.

As I understand the legislation, it is aimed at those self-insurers. These are businesses that contract with HMOs simply to manage the health care of their employees, so the only people who will directly be impacted by their legislation are those individuals who are essentially insured by their employers directly through self-insurance.

Mrs. BOXER. That is correct.

Mr. REED. In a sense, the only protections in the Republican bill are protections for the insurance industry. They are completely without risk. All of their patients, all of the people they directly insure, where they directly assume the risk, are exempt from coverage by this legislation.

The Democratic bill covers all of those who are private-insured HMOs throughout the United States. If the logic is these protections are good enough and necessary enough for those in employer-sponsored self-insured plans, why aren't they good enough, important enough, necessary enough, for those who are direct insurers of HMOs?

The answer, frankly, is that the legislation has been designed to protect the insurance companies from any additional risk. It is fine if we put it on employers; it is fine if they have to pay extra or if they have to do these things.

However, the only consistent pattern if you look at the coverage, this is not a patients' protection bill; this is an insurance industry protection bill.

I yield to the Senator for her comments.

Mrs. BOXER. It perplexes me that my friends on the other side have a bill that doesn't cover everyone.

It perplexes me it is called the Patients' Bill of Rights. As my friend points out, if you look at the differences, whether it is the appeals process—and my friend last week came to the floor and pointed out that under the Republican proposal it doesn't look as if there is an outside entity looking over the HMO decision but, rather, someone essentially selected by the HMO itself.

I thank my friend for yielding.

ORDER OF PROCEDURE

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the time from now until 4:15 shall be under the control of the majority leader or his designee.

The Senator from New Mexico is recognized.

NATIONAL CHARACTER COUNTS WEEK

Mr. DOMENICI. On behalf of the leader, I ask unanimous consent the Senate now proceed to the immediate consideration of Calendar No. 148, S. Res. 98.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A resolution (S. Res. 98) designating the week beginning October 17, 1999, and the week beginning October 15, 2000, as ''National Character Counts Week.''

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

Mr. DOMENICI. Mr. President, the resolution I have just alluded to is a bipartisan resolution. A number of years ago we started this approach to character education called Character Counts. Senator Nunn was the cosponsor of a resolution that passed the Senate on innumerable occasions, perhaps as many as five times. It declares for all of America that one week during the year will be known as called Character Counts Week.

Frankly, from this Senator's standpoint, we hear so much about what we ought to do and what we can do to help our young people as they grow up in this very difficult society and often very difficult time. We all understand that there are many people who have primary responsibility for our children. We are not in any way talking about negating that primary responsibility, that of relatives and grandparents and mothers and fathers and brothers and sisters to help raise a child with good values. But we have found, starting about 6 years ago, that the teachers in our public schools have been yearning for something they would like to teach our children that for some reason had been eliminated from both the public and private school agenda. It is sometimes referred to as character education.

I chose to call it ''Character Counts'' and I chose to speak about a specific program that is being used in many public schools in our country, and certainly in my State of New Mexico, whereby the teachers take six pillars of character and they embrace those within the classroom—on a day-by-day basis, not as a special class. But let me just mention a few of the Character Counts traits that are part of this program and used in many schools.

Let's start with the first one. It is trustworthiness. In some public schools and private schools, especially in the grade schools, for one entire month, the school would promote the idea of trustworthiness by students and teachers, who have lesson plans and programs that articulate what trustworthiness is. They use this with the students, and they from time to time engage in discussions, engage in activities around the school that epitomize trustworthiness. I think we all understand trustworthiness is one of those characteristics and qualities of character that says you should not lie. It says if you agree with somebody to do something, you should live up to your agreement. Trustworthiness has a quality of loyalty to it.

Then maybe the next month, one of the other six pillars would be discussed and woven into the curriculum. The next month, it may very well be ''respect.'' The same kind of thing might happen during that month in some grade school in New Mexico or Idaho or the State of Tennessee or the State of Connecticut, where an awful lot of activity in Character Counts education is taking place.

Maybe the next month it might be the third trait, which is ''responsibility,'' and then maybe the next would be ''fairness,'' and ''caring,'' and ''citizenship.''

I have been part of this now for a number of years. It is a joy to visit public schools, parochial schools, and other kinds of schools, and visit a class and just talk to the young people about the word of the month; to see the teachers, how excited they are that for that month the children have been talking about responsibility; they have been talking about that in terms of their classmates, their teacher, their responsibilities at home.

Then if you are lucky, you might choose to visit a school at the time once a month when they are having an assembly. During Character Counts assemblies, schools bring all the students together, and they present awards to the students that month who were most responsible. One way of reinforcing the importance of good character is to reward those who did more

things than anyone else that month to demonstrate ''trustworthiness,'' or ''responsibility,'' or ''caring,'' or ''respect,'' or ''citizenship.''

Actually, Character Counts and its Six Pillars are not the only character education idea and program taking place in our country. But it is one of the best. The resolution we have just adopted resolves and proclaims the week beginning October 17 of this year, and the week beginning October 15 in the year 2000, to be National Character Counts Week. We request that the President issue a proclamation calling upon people and interested groups to embrace the six core elements of character identified by the Aspen Declaration, which are trustworthiness, respect, responsibility, fairness, caring, and citizenship. That week the people in the country observe as National Character Counts Week, with appropriate ceremonies and activities.

There are many Senators who have already joined in this effort from both sides of the aisle. Some are very active in their home States, and some are not. But I can say to any Senator who would be interested, there is a format which is very simple and at the same time very effective and profound, where a Senator or any elected official can get together with the superintendent of schools and others and talk about joint sponsorship of Character Counts in that particular public school. If the board of that school condones it and says it is a good idea, then it is all a question of leadership and who wants to pursue it and push Character Counts. So when graduation at a Character Counts school occurs, you can attend and you can see what the 9 months of character education have done. At schools where arithmetic was taught, grammar was taught, reading was taught, all of a sudden the young kids also know something about these six pillars of character.

Frankly, people ask what has gone wrong with our country and what should we do about it.

I am no prophet, and I am not one who thinks he knows all the answers, but I say what is missing in the United States more now than 20 or 30 years ago is character. The old Greek philosophers talked about character. I think it was Plato who said a country without character is a country that cannot exist for long, and that for a country to have character, the people in the country must have character.

What we are speaking of is our little mission and our part in trying to change the quality of lives of young people by letting them know that some things are better than other things, there are some things that are right and some things that are wrong.

Nobody seems to object across this land to these six pillars, these six words. It used to be whenever one talked about behavior and said values, people would wonder, whose values?

In our America, under our Constitution, we surely cannot decide which religions values are to be taught in the schools, for as soon as we do that, we have to ask which ones are being left out. And as soon as we do that, we begin to break down the wall of separation between church and State, which is such a formidable part of America as it started under our forefathers and continues today.

It is interesting. I have asked in many assemblies of adults whether there was any objection in the community—be it the community of Gallup, NM, or Clovis, NM, or Las Cruces, NM, or Albuquerque, my home city—to these six pillars. If one thinks them through, they are so fundamental and desperately needed that hardly anyone can object to them.

I wish the Governors of our country—and I am going to ask them, along with my good friend and chief cosponsor, Senator DODD of Connecticut—might adopt this in their States. I want to work with the Governors to move together with the public institutions of education and the private institutions of education to begin a broader-based promotion of Character Counts in more States.

Frankly, a number of our Senators have been involved in the past. Senator DODD has brought this idea to his State, and Senator LIEBERMAN works with him. Senator FRIST of Tennessee has had great success in getting it started, and now it is multiplying in his State. I have had a rather phenomenal success in New Mexico. In my small State, over 200,000 young people, one way or another in classrooms across our State, are learning and living these six words, these six pillars of character, as part of their 9 months of education. It is having a profound effect.

On the other hand, there are cynics. They ask: How do you know? Are you sure?

We do not know for sure, although we are beginning to get some objective analysis that seems to indicate that some of the things going wrong in the schools before are not going wrong when the six pillars of character are utilized, are popular and preeminent and where the children are participating in building their character around them.

I believe we are better off trying character education than not. If I had to guess what might change things, I would say if the young people in our country can build individually and collectively into their daily lives the six pillars of character celebrated in this resolution, so they feel part and parcel and immersed in the ideas of respect, trustworthiness, caring, and the other three pillars I have mentioned heretofore, we have a better chance of effecting some change for the positive than almost anything else we can do.

I am going to do my share to keep this going in my State. I am also going to join Senator DODD in meeting at the next opportunity with the Governors in a bipartisan way to see if they will engage us in a discourse and dialog about character education and, in particular, how Character Counts works in the places it is being tried.

There is not an organization that dictates Character Counts for the Nation, nor does it promote it nationwide. This is an activity left up to localities. The only thing is, it is coordinated in our country by an entity which came up with these six pillars, the Josephson Institute of Ethics. That institute helps provide materials and the know-how for localities, schools, Boy Scouts, athletic clubs and others to promote these six pillars. But, it is up to the locality to do something about it.

But today, we are going to adopt this resolution celebrating Character Counts in the hope of raising awareness and encouraging states and localities to consider using this approach in their communities.

I note the presence on the floor of my cosponsor who has done a wonderful job in his State, and also speaks about Character Counts and the six pillars in various places in this country. He has had a significant degree of success. The way it is run in his State is different than our State, but, nonetheless, the six pillars are becoming prominent.

These six pillars are becoming prominent in the education of young people. We might never have thought we could include them, but in the backs of our minds we always thought they must be used.

How can we raise children without responsibility, without caring and respect being meaningful to them?

I am very pleased to be part of this again this year. Like I said, I am going to try to be a little more effective in expanding Character Counts to a few more places with the help of my colleague, Senator DODD. As I said in Senator DODD's absence, we are going to ask Governors to take the lead. We will join them and get the Josephson Institute and any others that are involved in character education and move it ahead so that many States will be like Senator DODD's and mine where it will be flourishing among young kids.

Mr. President, I say again, today, for the sixth consecutive year, we will adopt a resolution designating the third week of October as National Character Counts Week. Once again, this resolution has received overwhelming bipartisan support with 57 cosponsors. Through this measure, this body—the United States Senate—pledges its support and encouragement of character education and training by setting aside one week for a celebration. Yes, National Character Counts Week, October 17–23, 1999 and October 15–21, 2000 will be an opportunity for schools, communities, and youth organizations all over America to celebrate the ideals of good character and honor those who have worked so hard throughout the year to promote values such as trustworthiness, caring, fairness, respect, responsibility, and citizenship.

I believe it is time to reclaim the importance of these values in our daily lives. Many Americans, I regret, have become too cynical about the role of character in modern society. For too long, we have declined to discuss fundamental moral principles in our schools for fear of offending someone or imposing our beliefs. However, we nearly forgot that this nation was founded upon basic values. These values have bound our citizens together and sustained them through wars, depressions and other adversities. Indeed, it is our belief in these core values that continues to make the United States a beacon of hope and opportunity to people around the globe.

The ''Six Pillars of Character'' concept reflects these core values. They are the building blocks to helping our children recognize the difference between right and wrong, and they deserve a place in our schools alongside lessons in math and reading. Although parents do bear ultimate responsibility for teaching children the value of human dignity and character, we, as a community, have a duty to support these messages outside the home. To that end, Senator DODD and I are exploring ways to expand the role of character education in schools and after-school programs, and we urge our colleagues to join us. I can assure the Senate, character education programs have been phenomenally well received in school systems throughout the country.

In my own State of New Mexico, teachers have told me they finally feel empowered to discuss what it means to be a good citizen and a good person with their students, and they love it. Schools across the state have walls covered with posters on what ''responsibility'' means, and students who demonstrate outstanding acts of caring, for example, are celebrated at pep rallies. These simple lessons are taking root among our children, and they must be encouraged.

I am not suggesting that character education is the magic elixir that will prevent tragedies like the Columbine High School shooting from happening, but it's a start. We, as a society, need to tell our children that lying is not acceptable, under any circumstance. Stealing cannot be allowed. Breaking the law will not be tolerated. We also need to reinforce positive values, and programs like Character Counts do just that. I applaud the Senate for passing this resolution designating a National Character Counts Week for this year and next, and I encourage my fellow Senators to continue to work with me to ensure that our children receive strong and consistent messages on the essential values our society must embrace in order to succeed.

This is Republican time, but I am going to yield on Republican time to my colleague, Senator DODD.

Mr. DODD. Mr. President, I thank my colleague from New Mexico for yielding to me. Far more important, I thank him for his leadership on this issue. We have worked on this issue together, along with several of our colleagues for the last 5 or 6 years.

It all began because the Senator from New Mexico discovered this program and brought it to the attention of the Senate and asked a group of his colleagues if we wanted to get involved in this idea of Character Counts.

I will not go through the long history of it, but one can imagine how provocative a meeting it was in Aspen, CO, when educators, child psychologists, and Lord knows who else, gathered together—quite a group of people—to try to come to some conclusion about six pillars of character. Apparently the debate went on for some time on which pillars they could agree on. They finally settled on respect, responsibility, trustworthiness, caring, loyalty, honesty, and fairness.

This is not an all-inclusive list. There may be other ideas. There may be synonyms for each of these words that others find more acceptable to their particular community.

The point is not to be rigid about the words or rigid about how to best promote these values among our young people. What is important is that there be community efforts, efforts at the neighborhood level to promote the idea of strong values in our young people, not only young people but young adults and adults as well.

One of the beauties of this program is it does not focus just on the children in the schoolroom. But when the issue of trustworthiness is raised as an issue that the school is going to focus on for a particular period of time—a day, a week, a month—everybody in the school is involved with the issue of trustworthiness. The administrators, the teachers, the coaches, the faculty advisers, as well as the students, share in coming to a better understanding of how that particular value can be enhanced and understood and promulgated within the community.

This has been a tremendously successful program. In my State of Connecticut, there are now some 10,000 young people who have gone through a Character Counts Program. I do not know the exact numbers in my colleague's State of New Mexico, but it is easily that or more. We are small States. We are not large States. But it is a good indication of how successful this program has been. It has expanded primarily as a result of word of mouth, good reputation, one teacher telling another teacher in another community how it works, one principal telling another principal how well it works. That is why it has expanded as much as it has in my State of Connecticut.

Education, as we all know, is a central activity in any child's life. We teach them to walk, to talk, to read, and to write. But one of the most important things that a child can learn is how to get along with others and to be a part of the larger community, to be a responsible, caring, loyal, honest, fair, respectful citizen. You can add other words, as I said.

Regrettably, today, for a lot of reasons which we do not need to go into this afternoon, young people are entering a school system not having learned these basic values. It has nothing to do with economics. It has nothing to do with race or religion.

I can show you communities in my State that are some of the most affluent in the country where children are entering a school system without these values. I can also take you to some of the poorest neighborhoods in my State and show you where children are entering school with these values. I could also show you children out of those communities who do not have those values.

So it was decided a number of years ago we ought to try to weave into the educational process the teaching of these values, and to do so in a way that would not confront, if you will, the agenda that a teacher, a school system, has on a daily basis, but to weave it into the seamless garment of a student's daily life.

So instead of having, say, 15 minutes at the outset of the school day in which the principal comes on the loudspeaker and says: We are now going to talk about trustworthiness for 15 minutes—and if any of us here recall those kinds of discussions growing up as children, we all know what happened: We yawned; we fell asleep; no one paid much attention; we hardly remember what the principal had to say—what Character Counts says is, we are not going to do it that way; we are going to take the word ''trustworthiness,'' or ''loyalty,'' or ''respect,'' or ''citizenship,'' and we are going to ask you to weave it into the daily life of a student—not for a day or a week, but for a month.

That is what we have done in Connecticut—a month. So from the beginning of the day, whether it is math class or science class or whether the student is going to band or working on the school newspaper, or showing up on the athletic field—whatever the activity is—that school tries to take one of those pillars and make it a part of that teaching experience, for the full program, in a sense, to weave it into it so that everybody in school, for that period of time—in our case, a month—works on that word—''respect,'' ''trustworthiness.'' What does it mean? What is the absence of it? How do you become more respectful, more trustworthy? What are examples when it does not happen? It becomes, as I said, part of the seamless garment of that educational experience.

I have to tell you, you may say: Well, this sounds wonderful, Senator. It is a nice idea. I wonder how it is working.

It is working remarkably well. I can tell you, on the basis of countless conversations I have had with people all across my State, they point to this particular effort as having had success in changing the culture of a school. I

am telling you it has had a profound effect not just on the students I mentioned earlier but on the teachers, administrators, faculty, student advisers. They have all benefited as a result of weaving these Character Counts programs into their school life.

We spent a lot of time over the last couple months after the tragedy of Littleton, CO, talking about what we might do to solve the problem. Without belaboring the point, we sort of resort to our old bromides. We have one group of us here that will convince you it is gun control that is the answer to the problem, and if we could just deal with gun control, we could solve the problem. I happen to believe that is part of the answer. We have others who say: Look, if we can clean up Hollywood, the videos games, that is the answer to the problem. I would not argue, there is certainly an element that contributes to what happened.

But frankly, what happened at Littleton, CO, did not happen all at once. The event did. But I suggest to you that what happened in Littleton, CO, what happened in Arkansas, and Kentucky and Oregon, and other places, in my own State, isolated cases of violence began a long time before the events. There was a breakdown at home. There was a breakdown that occurred weeks, months, years before, that culminated in the tragic events of those days that we all remember with such painful clarity.

What Character Counts does here is, it tries to get at the source of the problem early to try to see if we can begin to change the direction, to offer a foundation in basic values to students so that you might change a young person's ideas on how they relate to each other—understanding differences, respecting differences, not having to feel alienated because you are different, not making someone feel isolated and alone because maybe they are not a good athlete or a great student—maybe their clothes are not the ones you would wear or I would wear; they may listen to music that you and I would not particularly find appealing—but to understand that each person is God's creation and that if we can inculcate them with a basic sense of decency, of understanding that they are part of a larger community, as I said at the outset, learning to respect each other, to trust each other, to be honest with each other, then we can begin to change the kind of culture, in my view, that contributes to this growing sense of violence we too often see among our young people.

I again thank my colleague from New Mexico. He is the leader on this issue. I am his blocking guard here. I get involved whenever he asks me to, because I am so committed to it and so believe in what he is trying to do.

I think the idea of getting our Governors involved is a tremendous idea. We hope that every Governor in the country, if they are not already involved in this, will be willing to join with us and in some public relations efforts, if you will, to raise the level of awareness.

We do not have a fixed idea in mind. My colleague mentioned Mr. Josephson and his program. It is a fine program. There are others who have a different point of view on how best to make this work. We have learned to respect what works in, say, a Native American community in the Southwest or a highly ethnic community in my State of Connecticut where you may have differences on how you approach these particular values. We let local communities and school districts and others try to sort out what size fits them best and how to make it work.

That is what we want to support, we want to recognize, we want to bring attention to. We want to promote and expand this. Again, we do not have any simple answers here for how you stop some of the problems we are seeing that are becoming too frequent in our society.

But I stand here today and tell you that if more communities would adopt a Character Counts program, if they would at least try this—just try it; and we can get you the information; we can put you in touch with people who can help you work through how to start it and get it going so you do not have to make it up on your own—then I promise you, if you try this, if you really give it a chance, you can make a difference not only in your school's life but the individual lives of the people who enter those institutions.

It need not be just elementary schools or middle schools. We have not tried it extensively, but I know of one in my State at the high school level where Character Counts has worked, where the principal said: We're going to try it. And it made a difference at that senior high school.

So many say: Kids are too old then. They are not too old. They are looking for some direction, some ideas they can hold on to and grasp as roadmaps on how to proceed with their lives.

I think the 2 weeks we have designated—October 17 of this year and October 15 of the year 2000—as National Character Counts Week bring us one major step forward, bringing some needed recognition to this very worthwhile program that has made such a difference already in the lives of thousands of people all across our country.

Again, I commend my good friend and colleague from New Mexico for his distinguished leadership on this issue.

Mr. DOMENICI. I thank the Senator very much.

The PRESIDING OFFICER (Mr. GORTON). The Senator from New Mexico.

Mr. DOMENICI. I have been a Senator for a long time. I have participated in a number of events that made me feel very good about my work and about my community and the citizens of my State. But I do not believe there has been anything as satisfying as to work with the communities in New Mexico and school boards and superintendents and teachers on the six pillars of character in Character Counts. It has been absolutely something that I just will never forget.

I am quite confident that while it is not the only answer, the elixir, to all of our problems, it is certainly a very positive thing going on in the lives of our young people. We ought to be proud of these efforts and certainly encourage Character Counts, where we can.

I would say to the Senate, if any of you get involved in Character Counts, it is very difficult for the schools to have success at the high school level, but a lot of work is being done there. It is among the grade school children where this program starts. As they move through those years, when they have been exposed to character education for 4 or 5 years, there is a real difference in how they perceive their relationship to their teachers, to their parents, and to their community.

Mr. President, I understand that I have a number of minutes remaining under my control on the Republican side of this.

The PRESIDING OFFICER. The Senator has the remaining 15 minutes between now and 4:15.

Mr. DOMENICI. If there are any Republican Senators who would like to speak, they may certainly come and do that now. I will yield the floor to them.

Mr. COCHRAN. Mr. President, on May 6, 1999, I was pleased to join my friend, the distinguished Senator from New Mexico, (Mr. DOMENICI), in introducing a Senate Resolution designating the third week in October, 1999 and 2000 as Character Counts Week. I am delighted today that we are approving this legislation, just as we have approved similar legislation in the Senate every year since 1994.

In 1993, the Josephson Institute of Ethics convened a conference of ethicists, educators and other leaders to examine the issue of character development. The result of that conference, held in Aspen Colorado, was the Aspen Declaration on Character Education.

The elements of character described in the Aspen Declaration were: trustworthiness, respect, responsibility, fairness, caring, and citizenship. They are often referred to now as the Six Pillars of Character.

Today, more than 300 member organizations, including community groups, schools and businesses are part of a nationwide Character Counts Coalition. These organizations sponsor programs that emphasize the importance of good character traits in our society. American society is dependent on the strength of the character of her citizens.

Never have we seen a time in the life of our society that good character has been more important. Solid lessons in character must be taught by parents and families, schools, and religious groups.

A 1996 National School Boards Association report on Character Education

in our schools showed a significant trend toward adopting character education programs in schools.

Character Counts! suggests three steps to teach young people for making the decision to do the right thing:

1. Think about the welfare of all people likely to be affected by your actions and make choices that avoid harm to and promote the well-being of others.

2. Demonstrate character by living up to all ethical principles of the Six Pillars of Character even when you must give up other things you want.

3. If you cannot live up to one ethical principle without giving up another, do the thing that you sincerely believe will promote a better society and should be done by all.

The National School Boards Association report found that schools with character education programs reported improvement in student leadership, discipline, violence, vandalism, academic performance, attendance and drug and alcohol incidents. It also stated, ''Ultimately, . . . character education may be a long-term investment as improvement and contribution levels often increase over time.''

As we work to train our children well, we must keep in mind that we are building the foundation for new generations. The examples we set about how we treat others, and what we accept in social behavior will influence not only our children, but all children.

In Mississippi, the Noxubee County Competitive Community Program, the Ocean Springs Chamber of Commerce, Kids With Character, and the Junior Auxiliary of Clinton are organizations who have joined the Character Counts! Coalition. They make specific commitments including:

To integrate character education into new and existing programs and to encourage young people and their parents to adopt and model the Six Pillars. And, to participate in CHARACTER COUNTS! Week.

I congratulate them on their important efforts and hope that this year more groups and communities will become involved in similar programs.

Mr. DOMENICI. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this resolution appear in the RECORD.

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

The resolution (S. Res. 98) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 98

Whereas young people will be the stewards of our communities, the United States, and the world in critical times, and the present and future well-being of our society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of people of the United States;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions, and civic groups;

Whereas the character of a nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character, and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore, conscientious efforts must be made by institutions and individuals that influence youth to help young people develop the essential traits and characteristics that comprise good character;

Whereas although character development is, first and foremost, an obligation of families, the efforts of faith communities, schools, and youth, civic, and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas the Senate encourages students, teachers, parents, youth, and community leaders to recognize the valuable role our youth play in the present and future of the United States and to recognize that character is an important part of that future;

Whereas in July 1992, the Aspen Declaration was written by an eminent group of educators, youth leaders, and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states, ''Effective character education is based on core ethical values which form the foundation of democratic society.'';

Whereas the core ethical values identified by the Aspen Declaration constitute the 6 core elements of character;

Whereas the 6 core elements of character are trustworthiness, respect, responsibility, fairness, caring, and citizenship;

Whereas the 6 core elements of character transcend cultural, religious, and socioeconomic differences;

Whereas the Aspen Declaration states, ''The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.'';

Whereas the Senate encourages individuals and organizations, especially those who have an interest in the education and training of our youth, to adopt the 6 core elements of character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas the Senate encourages communities, especially schools and youth organizations, to integrate the 6 core elements of character into programs serving students and children: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week beginning October 17, 1999, and the week beginning October 15, 2000, as ''National Character Counts Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to—

(A) embrace the 6 core elements of character identified by the Aspen Declaration, which are trustworthiness, respect, responsibility, fairness, caring, and citizenship; and

(B) observe the week with appropriate ceremonies and activities.

THE ECONOMIC AGENDA

Mr. DOMENICI. Mr. President, I would like to speak a little about the President of the United States, his staff and his renewed focus on the domestic and economic issues of this country.

Across the land, it has been heralded that the President is once again coming back to address economic issues and wants to become a part of the economic agenda. He wants to be involved with what we are doing here in Congress in our work on approving money for programs, talking about Medicare, Social Security, and other things. I will say at the outset that it wasn't too many months ago that the President of the United States was promoting a plan that was considerably different from what he is espousing today. It wasn't long ago that you felt satisfied with saving only a portion of the Social Security surplus and using the rest for your spending initiatives. Yet, as of today, the President's plan has come the Republican way. We both say now that we should save 100 percent of the money that belongs to the Social Security recipients of our country and we should not let it be squandered on anything else.

This means that we are going to save the $1.8 trillion dollar Social Security surplus over the next decade. In the Congressional plan, the only way that we can touch these funds is if they are needed to undertake substantive reforms of Social Security to ensure that the program works well for seniors. Nothing else.

In order to guarantee such restraint, we have developed a lockbox proposal—I came up with the basic idea and Senator ABRAHAM has taken a lead in promoting it. While the President's lockbox is different from ours, at least we are speaking the same language—even the President is saying that we must make sure not to spend any of the Social Security surplus. That puts us on the same path. He is following us. We thank him for that and are pleased to have him on board.

However, now is the chance for him to show his commitment to this principle. Up until now, we have faced opposition on our lockbox bill, both in our budget resolution and on the Senate floor. I would remind you that we have not been able to vote on this proposal here yet because the Democratic minority doesn't want to let us vote on our lockbox. We are going to ask them another time, very soon, to give us an opportunity to vote on it. This lockbox has the name, Abraham-Domenici. It is a real lockbox.

We are also joined by the distinguished junior Senator from Missouri as our third cosponsor, Mr. ASHCROFT. We wish others would join. We wish Senators from the other side would join. Let us make sure that when we say to the seniors that we are putting their Social Security funds in a lockbox, that it is real and is the most real one we can do. As a matter of fact,

our bill is so tough that the administration has opposed it on the basis that it might put our Government in a straitjacket. They fear that it might cause some harm to our Government and to our country because we tied the knot on our lockbox so tightly.

We do not agree. We think we need a tough lockbox to guarantee safety. However, the Administration should take comfort in the fact that the Office of Management and Budget—the President's experts on budgetary matters—has just revised up their surplus projections over the next decade in light of recent economic strength. As our economy grows and new jobs are added, people pay more in taxes. This means that once again, there is more revenue expected in the year 2000 than we contemplated 3 months ago. This means that we will now have an on-budget surplus in fiscal year 2000 above and beyond the Social Security surplus—both the President's budget shop and the Congressional Budget Office expect forecast this. This is true, even accounting for the $7 billion we spent recently in FY2000 on Kosovo. This money came out of on-budget funds—we have not touched the funds that are accumulated by Social Security.

The President believes that we have a $5 billion on-budget surplus remaining next year. I can't tell you what the Congressional Budget Office is going to say with certainty, but I can tell you it is more than that. I can tell you it is between $10 and $15 billion. That means we can lock up Social Security's money in the Trust Fund and still have a $10 or $15 billion buffer to absorb any unanticipated expenses. This should allay the Administration's concerns about our lockbox.

Having said that, let me talk for a moment about a profound change which has occurred in our country in recent years. Something very dynamic is happening to the US economy. Some say we're having a new industrial revolution of sorts in the high tech arena that is fundamentally changing the way we do business. It has fueled tremendous growth in all sectors. Now, no one knows for certain why this recovery is so long-lived. However, even though I am usually pretty cautious as budget chairman of the Senate, it does appear that this growth will propel us toward higher and higher surpluses going forward. It is realistic to assume that American taxpayers will be paying far more in taxes than we need to run the Government for many years to come.

That means, year over year, your Government spends less than it takes in. It is great to run persistent surpluses. However, we will surely lose the faith of the American people if we end up spending those surpluses. We must save Social Security's money now and in the future. However, we should think carefully about what we do with the extra surplus—the surplus above Social Security's funds. The President is thinking about this and has formulated 15 year budget plans. I should say as an aside, we will not use 15 year budget numbers—we will not go beyond ten years, regardless of what the President does. Ten-year estimates are long enough—we will have almost a trillion-dollar surplus beyond Social Security during the coming decade.

Now, I have not seen the entire new plan of the President, but I can tell you that is has some odd features. In the first five years, no one in America will get any tax relief. The Government of America will retain control of all the enormous projected surpluses. Tax relief is relegated to the second five years in the President's plan.

That is not fair to the American working man or woman. Now certainly, we will need to retain some of the projected surpluses to put toward Medicare reform. The President envisions one type of reform where he spends $51 billion of surplus dollars on a Medicare prescription drug benefit. We don't know if that is right or not. But we can sit at the table and fix Medicare given our wonderful fiscal situation. But let's not kid ourselves. We don't need a trillion dollars. We should be giving some of this money back to the American people—they are the ones who generated all these extra tax payments, they ought to get some of them back.

In that regard, it appears we are on a collision course with the President. We will let the American people be the judge of who is correct. I don't think that these hardworking men and women will stand by as their taxes climb higher and higher—I think they will support our call for tax relief.

It is unfair to assume that the Government, having collected more than we need, ought to start saying: Well, let's find out how we can spend all of it in Government. How does that make sense? Should we wait for Washington to figure out which new program it needs? Should we do what the President is doing? He wants to put $340 billion of IOUs into the Medicare trust fund, and then say, in 30 years when the IOUs come due, we will just raise income taxes to pay for it. Putting that money into the trust fund for Medicare does not enhance one payment, does not increase its solvency for one week. And here we sit failing to say exactly what it is. The President's proposal will lead to income tax increases down the road to cover these IOUs.

I should say a number of Democrats and almost every Republican have been critical of this presidential proposal. It is similar to writing a postdated check. Guess who is signing the check? The American people, because they back up the U.S. Government who signed that check. It is postdated 30 years. When it comes due, there isn't any money to pay it. So then you go out and tax the American people to pay it. But, in the meantime, you can for some reason run around and say there is a lot of money in the trust fund, ignoring the long-run consequences of this plan. Frankly, I don't believe this is the right way to do things.

I look forward to a good, healthy debate. Normally, I would wonder whether the President is going to once again politicize the issue of Medicare so much so that it will turn out that we will not do anything, and we will all be frightened to death. But I actually believe that the President and Congress can work together. However, we do not endorse the President's reliance on trust fund accounting. Instead of forcing all the surpluses into some trust fund or another, why don't we give them back to the people who paid us? Maybe they could set up their own trust funds. Maybe they could start their own savings plan. Maybe they could put a little more into the kind of things they think they need for their families.

In a sense, I don't know about the rest of the Senators on both sides of the aisle, but I look forward to these issues we are going to discuss between Members of the Congress and the President. On some of them, I look for us to walk right down this aisle in bipartisan fashion and get some things done. However, we will not walk into an end agreement where no relief is given to American taxpayers. We will not be able to agree with the President of the United States if he is leading all the Democrats—which I somehow doubt—saying, no matter how big the surplus is, let's just wait around and see if Government doesn't need it. I submit that, if you do that, Government will need it. Government will use it. And the taxpayers who collectively paid more into Government than we need will see bigger Government, more money spent and less money in their own pockets, which is where more of it ought to be.

I think my time has expired. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. DOMENICI. Mr. President, on behalf of the majority leader, I ask unanimous consent that we remain in morning business until 5 o'clock and that the time be equally divided.

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

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from the State of Washington, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I ask unanimous consent I be given 5 minutes to address the Senate.

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

GUN SHOW LOOPHOLE

Mr. SCHUMER. Mr. President, 2 months ago, right after the tragedy of Columbine High School, I warned that whenever a tragedy occurs in our schools, if we don't act quickly and resolutely, the tragedy would recede in memory and we would fail to pass laws necessary to make our schools safe, thereby creating new ways for future tragedies to occur.

To the relief of the entire Nation, the Senate passed the juvenile justice bill that, thankfully, although belatedly, closed the gun show loophole.

The House, however, failed in its duty to the American people. The House was unable to shake loose from the NRA. They were unable to pass a juvenile justice bill with any gun control legislation and unable to even close the gun show loophole.

I rise today to remind the Senate of the urgency that led us to act firmly and resolutely after Columbine, and to use the various parliamentary procedures that allow Members to bring the juvenile justice bill and the gun show loophole bill to conference where we can do what is right.

I spent part of this weekend, Sunday and Monday, in New York's capital region, talking with constituents from Albany and the surrounding towns. Some of the areas were fairly rural. Without prompting, people walked up to me and said: Senator, what the heck are they doing in Washington? How come you can't even close something as simple as the gun show loophole?

They were incredulous. These people aren't passionate advocates of gun controls. They were outraged. They could not believe that a lobbying group, even such a powerful lobbying group as the NRA, could stop the Congress from passing a basic gun show measure.

I am proud of what the Senate accomplished last month. We debated juvenile justice for over a week. Passions frequently ran high. We cast five separate votes on various proposals purporting to close the gun show loophole. In the end, we approved the real thing. The juvenile justice bill itself passed by a margin of 73–25, with majorities of both parties voting in favor.

Is it a perfect bill? No. Is it a good bill that will make a real difference? Absolutely.

Now the question is whether we are going to throw up our hands and say the House couldn't stand up to the gun lobby, so let's give up.

We are in a strange lull, a lull in which newspaper stories inform us, and I quote the Washington Times of June 23:

> Some [GOP leaders] said even a Senate-House conference to iron out differences with Democrats over gun-control provisions in a juvenile justice bill is now in doubt.

I am told today that Mr. ARMEY said at the very earliest, conferees would not be appointed until after the July 4 recess.

First and foremost, conferees ought to be appointed. We should not simply stop the process because some people, certainly a minority of the Members of Congress, and certainly a minority in terms of the views of the American people, do not want it to happen. The Senate debated the issue. We should have the ability to go to conference. I call on the House leadership to appoint conferees quickly and with alacrity so we might debate the provisions here, not only the gun show loophole but many of the provisions that people on both sides of the aisle support that would make it easier to punish violent juveniles as adults and that would provide some of the prevention services that young people need. Because juvenile justice and closing the gun show loophole is a priority to many Americans; to a large majority of Americans, in my opinion.

Two weeks ago, for instance, a month after we passed the juvenile justice bill, we passed the Y2K liability bill. Lo and behold, Senate conferees were immediately appointed, and I understand we are now close to an agreement. In fact, I believe an agreement is due this afternoon. I think that is great. But Y2K is a far more complicated bill than juvenile justice. It is treading on fresh new ground.

The millennium, by definition, occurs every thousand years but we finished this one right up. The juvenile justice bill, however, is in stasis. There are things that can be done to get it moving. The most obvious is for the House leadership once again to appoint conferees so we can debate the gun show loophole. The real problem I fear is that those in the Republican House leadership do not want to continue to debate this issue. They know their allies in the NRA and the American people, including most gun owners, are divided because most Americans, including most gun owners, sincerely believe providing a background check at a gun show does not infringe their rights just as we now provide that a background check must be done when you buy a gun at a gun shop. But they do not want to do that.

So there are other things we should consider to get things moving. Perhaps we can add these provisions to a bill that has to be conferenced. Perhaps we can add this to other types of proposals which the other body sees a need to have go forward. But I am issuing this challenge, particularly to the House leadership but to all of my colleagues: We should pledge to send a juvenile justice bill, one way or another, to the President's desk, a bill which includes the Senate gun show provision, by the first day of school, the Tuesday after Labor Day. That is 2 months to pass a bill that we already passed. If we do not, and there is, God forbid, another school shooting, we will sorely regret our inaction.

I yield the remainder of my time.

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. REED. 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. REED. I thank the Chair.

PATIENTS' BILL OF RIGHTS

Mr. REED. Mr. President, I will speak for a few moments about a topic that has consumed many of us for many days this week and preceding weeks, and that is the Patients' Bill of Rights.

A particular concern to me has been the status of children in the various versions of the Patients' Bill of Rights. I argue very strenuously and very emphatically that the Democratic proposal recognizes the key differences between children and adults when it comes to health care, and there is a significant difference. For a few moments, I will try to sketch out some of these differences.

First of all, if one looks at the adult population in terms of types of illnesses, they are characterized as chronic diseases with relatively simple symptoms, simple manifestations with known consequences. They are quantifiable over a short period of time. Prostate cancer, breast cancer, heart attack are familiar diseases to all of us.

The other aspect of adults is that there is a large volume of adults who have these types of diseases. As a result, there is more than a sufficient supply not only of physicians but of specialists, those who are particularly skilled and particularly knowledgeable about the most efficacious treatments one can use for these types of conditions.

In contrast, children present another type of population to the health professionals. The good news is that most children are healthy. But if a child is sick, that child usually does not have one of these chronic diseases that is well-researched and well-treated and staffed by numerous specialists, but something more complicated. In fact, as the professionals say, these diseases are usually complex and with multiple co-morbidities. For the layperson, that means different problems interrelated causing a much more complicated case for the physician.

There is another aspect of this dichotomy between adult health and children's health. There are so many

healthy children —the good news. The bad news is in terms of managing this population, there is a very small volume of very sick children. This makes it very difficult for physicians to maintain their clinical competency, particularly for general practitioners. They will see many adults who have similar symptoms and they know very well how to treat them. By contrast, they very rarely see chronically ill children, so treating them effectively becomes especially difficult for a general practitioner.

Another difficulty is the sense these general practitioners or even adult specialists can treat this population of patients. There is a further complicating factor, that is, to manage cases you need volume, you need data, you need to understand what the best treatments are, and you can only do that in a rational way by studying lots and lots of cases and, frankly, because of the nature of children's health, they do not have the same type of volume in children's diseases as they do in adult illnesses.

One other complicating factor is that many times children's true health conditions manifest themselves long after they have actually contracted the condition. It is not the short duration, it is not the heart attack that one can rush the person into the emergency room, do the surgery, apply the drugs, and get that adult on the road to recovery. It is much different when it comes to a child.

Managed care organizations and the way they deliver care can compound these inherent differences between the adult population and the children's population.

First, let me give credit where credit is due. When a managed care plan does it right, they do preventive care very well. They can anticipate, through the management of the child's case, immunizations and well-baby visits, et cetera. But there are certain inherent characteristics of the managed care system of health care delivery that makes it—appropriate for adults but less appropriate for children. That is why we have to focus a part of our efforts on making sure that children are truly recognized in the legislation we are discussing.

First of all, because there are a relatively small number of very sick children, there is not the adequate number of patients for the HMO to maintain a number of pediatric specialists in their provider network. The other fact is that HMOs tend to fragment the market. They go after parts of the market and leave other parts out, but they do not tend to accumulate large groups of children so that a pediatric specialist in a particular area can be fully employed.

Another aspect of the managed care delivery system is that they typically look for an affiliation with what they call centers of excellence, hospitals that are well-known for their practice in a certain field of medicine. In most cases, what they consider to be the center of excellence is a center that provides the best adult medicine because after all, they are marketing their products to adults, not to children. They are marketing their products to human resource managers who have to buy for a company, or they are marketing directly to people who make decisions about health care who are by definition adults. When they are out looking for centers of excellence, they are looking for those hospitals that have the best urology departments, have the best records with prostate cancer and breast cancer and heart attack. That is another built-in aspect of the HMO dilemma which complicates the care to children.

There is something else. There is an economic incentive for these HMOs to refer children to adult specialists and not to pediatric specialists. There is a great difference between a cardiologist and a pediatric cardiologist because of the differences in caring for a child versus caring for an adult. The incentives are sometimes very compelling.

For example, if you have a staff model HMO—that is where the doctor actually works for the HMO—you have a cardiologist simply because that is expected, and if you look at the numbers, you are likely to have a lot of adult cardiology patients and very few children. To add a pediatric cardiologist increases the fixed costs. Why do that when you can simply make a referral to the adult cardiologist that is already in the plan's network?

When you look at the nonstaff model, one where they will contract with individual physicians, typically what they will do is look at volume discounts. A physician will say: Sure, I will sign up for so much per visit, but you have to assure me that I will get a lot of visits. That is another incentive to drive children not to pediatric specialists but to adult specialists.

As a result, these incentives tend to diminish the quality of health care that HMOs give to children, particularly very sick children. It is not because they have some type of grudge against kids. It is simply, if you look at the market dynamics, if you look at the volume they are trying to manage, it all argues against the type of care that sick children must be assured. In other words, there is a failure in the market to recognize the needs of children.

That is why we have to step in. That is why we have to require HMOs to make sure that there is access to pediatric specialists, to make sure HMOs are tracking the health progress of children, to make sure they are measuring their outcomes in terms of children and not just adults. If we do not, the system will always be driven to the needs of the adults who managed care plans are trying to recruit as patients. Another way to say this very simply is that HMOs operate on economies of scale. That is how they make the money. And children with particularly complicated pediatric health care cases do not conform to those types of economies of scale.

I mentioned before there are other particular issues about the health status of children that make them distinct from adults, and one of them is the fact that children are still developing. They are constantly changing their functional levels —mobility, toddlers start walking, and then they start running, speech, puberty—all issues which are seldom associated with adult health.

As a result, unless you consider development as a first order of priority, you are going to overlook a lot of the emphasis that should be placed on children's health care. I suggest that most HMOs do not factor in the sensitivities to development that are so necessary.

Also, when you get into a situation like this, when the development of a child is at stake, the challenge is early intervention. It is not simply catching the disease someplace along its course and providing some type of treatment. It is early intervention.

There are numerous examples. One that I recently read about is a condition in infants called strabismus, which is muscle weakness of the eye. If it is not corrected soon after birth when the neurological connections between the eye and the cortex of the brain are being formed—again, this is not a situation that an adult would ever encounter—if you do not catch it early, you are going to have significant and irreversible loss of sight.

That is a special concern for kids, a very serious developmental concern for children diagnosed with the disease. That is why we need to make sure that development is built into HMOs consideration of the type of treatment and services they provide children. The economics of HMOs means they will not do it themselves. Therefore, we must make it our job. I think that is what is part and parcel of a good part of the Democratic initiative.

Let me suggest something else on the issue of development. My colleague from California, Senator FEINSTEIN, and so many others, have talked about medical necessity. This whole definition of medical necessity tends really to prejudice kids from getting a fair shake in HMOs, for many reasons.

First of all, most medical necessity determinations are documented by data. How efficacious is the treatment? How often do we use it? And it goes right back to one of the inherent issues: The very lack of the volume of seriously ill children to generate the kind of data, treatments and outcomes.

There is nothing in the law that I can see today at the Federal level that even requires HMOs to start thinking about outcomes, to start thinking about effectiveness in terms of kids.

The other thing that we should be concerned about is that a lot of medical necessity is cost based—using the cheapest option. Once again, when you have a very small volume of very sick

kids, the appropriate form of treatment may be extremely costly.

Another factor concerning medical necessity is that usually it is tied to the notion that a health plan will not pay for innovative treatment. It will not pay for experimental treatment.

Once again, many of the treatment modalities used for children, simply because they are not routine, can be called innovative or experimental. That is another example of how children are prejudiced by the system. It is something that we have to correct.

Finally, very seldom will you find in the definition of medical necessity this concept of developmental impacts, beyond simply returning to normal function. As a result, it is easy for HMOs to say a treatment or procedure is not medically necessary when children present themselves or their parents present them for care. It is not threatening their lives today, or even their ability to function today. However, they probably know that months from now, a year from now, 2 years from now, their development will be severely impaired. But that is not part of medical necessity. So that is another example of why we have to step up to the plate, particularly when it comes to children.

We have learned so much about the development of young children, particularly from ages 0 to 3, including the way the brain develops.

Once again, this is an issue that has very little correlation with adult experience. Children are developing.

Just a few examples.

At the Baylor College of Medicine there was a survey of abused and neglected children. They focused on 20 children who they described, in technical jargon, as living in ''globally understimulating environments.'' In other words, these children were rarely touched; they had no real opportunity to play; they had no opportunity to explore and experiment. They found that the brains of these young children were 20 to 30 percent smaller than those of children who had the opportunity to be stimulated. Indeed, literally parts of their brains had wasted away. Again, this is an issue that would never confront a practitioner looking at an adult.

Another example relating to development is in the area of childhood trauma. We have been able to show, through scientific examination, that children who have witnessed violence have physically continued to register that violence, they remain in a high-alert state, and this leads to emotional, behavioral and learning problems.

Again, these are conditions that you would never find in an adult, with some exceptions of course. But they are part and parcel of the developmental process of children. If we do not understand that, we do not recognize it. If we do not provide particular protections for children, it will not be done by the HMOs. It costs too much. They do not have the data. It is just something that they do not think about a lot.

I see my colleague from Oregon is here. Let me make one other point, if I could.

Mr. WYDEN. I just want to, at a convenient time, ask my good friend from Rhode Island to yield for a question or two because I think the Senator has made an excellent presentation on the need to advocate for kids. All the latest research with respect to these children is really dropped-dead material. Unless you get there early, as the Senator from Rhode Island is suggesting, you end up, with a lot of these poor kids, playing catchup ball for the next 10 years.

So when it is convenient, I would like to engage the distinguished Senator from Rhode Island in a few questions about some of the other areas where he has contributed on this bill that, frankly, I think ought to help bring the parties together and help us fashion a bipartisan proposal.

I just want the Senator from Rhode Island to know how much I appreciate him standing up for those kids who do not have political action committees and do not have clout and cannot speak for themselves. At an opportune time in the Senator's address, I would like to be able to ask the Senator to yield just to address a few other questions about some of the areas on which he has focused.

Mr. REED. I thank the Senator from Oregon.

I want to make one final point about children, and then I would very much like to yield to the Senator. And I compliment him, too, on his efforts because we are working together on many of these issues, including children's health.

One final point: Children's health is, I would argue, more dependent on environmental conditions than adults. Of course, there are certain situations in the workplace where adults are exposed to chemicals, and we try to deal with that in terms of regulations and standards. However, it is also important to recognize that children are particularly prone to environmental and sociological conditions.

For instance, lead poisoning—it is an epidemic in so many cities. In my city of Providence it is an epidemic. But it is not just Rhode Island, it is across the country.

For too long, we used lead paint in houses, and now we do not have enough HUD money to clean up homes that have lead-based paints. That is why so many children have lead paint poisoning.

We have to recognize, for kids, is they these are important health problems. We have to be developing mechanisms so managed care organizations recognize these issues as health problems and that the Government recognizes them as health problems, and that they work together with linkages.

My final point is, unless we pass the kind of language that we have in the Democratic alternative, we are not going to give the special needs of children the attention it needs and deserves. When we start collecting the data, when we start having the HMOs publish what they do for kids—what is their success rate with kids? How many kids with complicated conditions do they have enrolled in their program? When we start doing that, they are going to have an incentive to start talking to the schools and the local authorities about their patients because now they have a real visible, accountable incentive to do it.

Just one final point: Again, Bruce Clarke, Gen. Bruce Clarke, one of the great combat leaders of World War II, said—and I remember this from my days at West Point—''A unit does well what its commander checks. If the commander doesn't check, you are not going to find that unit paying attention.''

We have not been checking on kids in HMOs in this country. I do not think they are doing particularly well as a result. When we start checking on kids specifically, as the Democratic alternative does, then we will start doing much better, I think we will start doing well.

I yield to the Senator from Oregon.

Mr. WYDEN. I thank my colleague for yielding. He has made an excellent presentation with respect to the need for strong advocates for these kids.

I will turn briefly to another area where the Senator from Rhode Island has, in my view, done yeoman work, and an area, frankly, that I think has sort of gotten lost a little bit in this discussion. That is the proposal the Senator from Rhode Island has made with respect to having ombudsmen or advocates for consumers around the country. It ought to be one of the areas that both political parties could gravitate to, because I believe that what the Senator from Rhode Island has done—of course, we have gotten great input from Families USA and Ron Pollack and some of the folks who have done so much for consumers over the years—is essentially talk about a true revolution in the area of consumer protection.

What happened—I have seen this so often since my days as director of the Gray Panthers; I was head of the Gray Panthers at home for about 7 years before I was elected to the House—what we saw was that the consumer would have a problem and, without any advocates or the ability to get it handled early on, a problem that started off relatively modest and minor would just fester and get worse and eventually blossom into a huge controversy which ended up in litigation.

As the distinguished Senator from Rhode Island knows, one of the most controversial aspects of this whole debate about managed care is litigation. It seems to me that if the Senate were to adopt the proposal of the Senator from Rhode Island or some version of it, this would shift the focus of consumer protection away from litigation,

away from problems after they have unnecessarily developed into something serious. Instead, we would resolve a lot of the problems early on and we wouldn't need this focus on litigation.

Certainly, we ought to have legal remedies for the really outrageous examples of consumer rip-offs and the like. But I think what the Senator from Rhode Island has done, and it is such a valuable service in this debate and a real revolution in consumer protection, is said: Let's get at it early on when the consumer and the families can find somewhere to turn. We will prevent problems then. It can be done relatively inexpensively.

I would like the Senator from Rhode Island to elaborate a little bit on this and make sure that over the next few minutes the Senator from Rhode Island can lay out his proposal, on which I am honored to join with him. I think this has the potential of, frankly, being one of the areas where the parties, once they focus on it, can say: This is good public policy that will reduce the need for litigation and, as Ron Pollack and Families USA have said so eloquently, help a lot of consumers when they need it most. Perhaps the distinguished Senator from Rhode Island could take us through it.

Mr. REED. I thank the Senator from Oregon for his very kind words. Let me also thank him for his help and support in working so closely with me and Families USA and others to ensure that this proposal will work for all consumers and for the insurance industry as well.

Part of our attempt is to find answers before, as the Senator from Oregon has said, they wind up in court. My experience—I think your experience, too—is that people want their health care to be addressed. They don't want a lawsuit. They want to get their children cared for. They want their own health care. This is not an attempt to figure out some way to get involved in a messy multiyear litigation process. Yet if there are no mechanisms, such as an ombudsman and an internal/external review process, if we don't have these mechanisms, that is where we inevitably will find ourselves.

Let me quickly accept the Senator's invitation to lay out some of the details.

First, it would be a State-based program, not a national program in the sense of some collective wisdom here in Washington, but each State could design their own ombudsman program. We would provide financial support. There would be some general guidelines for the states to follow. Basically, this ombudsman operation or consumer assistance operation would inform people about their plan options that are available and to answer other questions about a person's health plan.

Frankly, one of the great dilemmas most of our constituents have is, they don't know whom to ask about health plans, what health plans are available. This would be a source, a clearinghouse, if you will, for that type of information.

Then the ombudsman or the consumer assistance center would operate a 1–800 telephone hotline to respond to consumer questions and requests for information—again, such a necessary ingredient, for several reasons: First, the general befuddlement one experiences when you try to read a health plan contract. Two, I sense there is deep skepticism about the kind of response you expect to receive from your own insurance company about your rights and your benefits, if you get a response at all. Too many times I have heard constituents say they have just found themselves entangled in a voice mail hell, if you will. As you push one number and find one recording, you push another number and find another recording. The ombudsman program with the 1–800 number would serve as a place where you could get information and get it quickly.

Then this objective ombudsman, or woman, as the case may be, would provide assistance to people who think they have a grievance. They would have an opportunity for a patient to go in and say: My plan said I could not have this procedure for my child. My doctor says my child needs it. Can you help me? Frankly, not only will the ombudsman help the individual consumer, but they will look at the plan, and they will conclude that under the terms and conditions of the contract, that is or is not covered.

It won't be the insurance company protecting their own interest, it will be an objective agency that will be able to step in and advocate for consumer rights when they need to vindicate their rights and explain to them the limitations of the policy, when that is the case.

That is the general outline.

I yield the floor.

Mr. WYDEN. I appreciate the distinguished Senator yielding. I have felt that he has really gone to great lengths to try to ensure that this could be supported by every Member of the Senate.

Frankly, I feel about his proposal much like I do about the gag clause discussion. I think he and I have talked about this. I am probably a lot of things, but one of the last things I guess I would qualify as is an HMO basher. We have a lot of good managed care in my part of the United States. My hometown of Portland has the highest concentration of folks in HMOs in the United States. About 60 percent of the older people are part of a managed care program.

The distinguished Presiding Officer, Senator SMITH, and I have worked together on a lot of these issues. Frankly, one of our big concerns is, we do offer a lot of good managed care. We end up getting the short end of the stick in terms of reimbursement. I think what the Senator is talking about with an ombudsman, much like gag clauses where people, of course, ought to be entitled to all of the information about their options, the ombudsman concept is much the same kind of approach to good government.

The Senator from Rhode Island has written this now so as to ensure it cannot result in litigation, that this specifically is designed to help consumers at the front end and bars litigation. I don't think the majority of the Senate is aware of that. The Senator from Rhode Island has indicated to this Senator and the Senator from Maine, Ms. COLLINS, who has been very interested in this issue over the years, who has done good work, that he wants to make sure we don't duplicate existing services.

I am happy to yield to the Senator.

Mr. REED. Reclaiming my time, it is quite specific in the legislation. Again, the Senator is one of the contributors to this legislation, along with Senator WELLSTONE, and I thank him.

The ombudsman, or the consumer assistance center, could not participate in litigation. Their scope of participation is informal and could include contacting the insurance company, explaining rights, advocating for the patient as an ombudsman, not as a lawyer, not as a litigator.

Let me add one other point and then, again, yield to my colleague from Oregon. Interestingly enough, again I think he has identified an issue that we all can rally around. One of the great talents the Senator from Oregon brings to the Senate is an ability to be a bridge in so many different ways, i.e., the Education Flexibility Act—to find a mechanism that we all can agree upon.

This is another one of these areas. Interestingly enough, a few weeks ago we passed with little controversy and with much enthusiasm the defense authorization bill that included an authorization for an ombudsman program to address the problems and complaints associated with military HMOs—the TRACER system—looking at the same problem that all of the Senator's constituents from Oregon face, and all of my constituents face, but in the context of military families and complaints, and legitimate complaints of military families. They cannot get the care they need. They cannot get the answers. They get the runaround. They do not get the support.

In response to that, this body voted enthusiastically to authorize an ombudsman for the TRACER system. Frankly, both the Senator from Oregon and I are saying if it works well, or we think it is going to work well for our military families who are enrolled in an HMO that has a great deal of responsibility for them, why not give it a chance in the context of the private insurance HMO industry in the United States?

I think that underscores what the Senator from Oregon has said. This is not controversial. This is helpful. This

is practical. This is not about litigation, it is about making sure that people get answers, that people get results, and that people get the care. That is what I think we are all here to do.

Again, I will yield.

Mr. WYDEN. I appreciate the chance to continue this for a moment because the Senator from Rhode Island is essentially being logical. Heaven forbid that actually takes over some of the debate we have. There is nothing partisan about making sure that consumers have all the facts about their health care. That is the effort with respect to barring gag clauses. And there is nothing partisan about this ombudsman approach.

I am very hopeful, frankly, that as the Senate learns more about this kind of concept pioneered by the Senator from Rhode Island, Families USA, and others, that we will see some of the good health care plans in this country saying we are going to support this because it makes sense to solve problems early on.

Frankly, if we can win support for the REED proposal early on—I am honored to join in on it—I think this will go a long way to eventually resolving the controversy about litigation because I think we will see good advocacy programs early on, and we can confine then the need for litigation to really only the outrageous, outlandish cases where I think every Member of the Senate would say, goodness, this is an area where you really ought to have a legal remedy. But we would have skewed the whole system toward prevention and early intervention, or answering the questions that the Senator from Rhode Island has properly identified.

I will tell you that in my hometown, where we do have a lot of good managed care, folks want to see this kind of proposal. They want to see what is laid out in the legislation that our colleagues on this side of the aisle are offering, and they want to see us reach a bipartisan agreement.

The Presiding Officer of the Senate and I have had the most competitive elections in the history of the West. We have teamed up together on a whole host of issues in the Senate.

It would seem to me that around the ombudsman program and around barring gag clauses, this is another area where essentially partisan politics ought to stop outside the Chamber. We ought to work together to enact a good ombudsman program to say that this is the best anecdote to frivolous litigation, frankly, that we could possibly find.

I thank the Senator from Rhode Island, with whom I have enjoyed working for well over a decade on senior and consumer issues, and for the chance to work with him on it.

Perhaps by way of wrapping up my question to the Senator from Rhode Island, could he fill us in on progress with other colleagues? I know that Senator COLLINS has been very interested in this issue. She has done good work in her home State of Maine. Perhaps the Senator from Rhode Island could just wrap up by telling us where his proposal stands. I want to assure him and Senator KENNEDY, who has been leading this fight—and I am anxious to work with him. In fact, when I first came to the Senate, just a few weeks after arriving I had a chance to work with the distinguished Senator from Massachusetts on the effort to bar gag clauses. I only wish we had gotten that in place back then several years ago. It is long overdue that we get that protection for consumers as well as the Reed proposal.

Perhaps the Senator from Rhode Island could tell us where the ombudsman proposal stands at this time.

Mr. REED. Very quickly, we have been working, as the Senator knows, closely on the Reed-Wyden-Wellstone proposal, which was formally introduced as separate legislation. It is incorporated in the Democrat Patients' Bill of Rights. I know Senator COLLINS of Maine is very interested in this issue. I think she is also convinced that this is important and significant.

Let me also say that the Senator from Oregon made reference to his experience as a senior advocate. There are, in fact, senior ombudsman programs throughout the United States which we support with the Older Americans Act. These programs have been very effective and are doing precisely what we want to do in the context of managed care.

Again, we just adopted an ombudsman program for military personnel in the TRICARE system. It was noncontroversial. In fact, we have a great deal of expectation and hope that this will be helpful to our military families. We are working together across the aisle. I hope that we can also incorporate this provision in whatever Patients' Bill of Rights legislation that emerges. It is not designed to be a tool of litigation; it is designed to be a tool of conciliation.

On those grounds, I am optimistic and hopeful.

But, once again, let me finally conclude by thanking the Senator from Oregon not only for our colloquy this afternoon but also for his support, not only on this issue but so many others.

Mr. WYDEN. I will be very brief as well.

I think the distinguished Senator from Rhode Island, particularly with Families USA, is on to something that really constitutes a revolution in consumer protection. What we have seen on one issue after another—just a few minutes ago the distinguished Senator from Arizona, Mr. MCCAIN, and Senator DODD of Connecticut, and I were able to get an agreement on the Y2K issue with respect to trying to hold down frivolous lawsuits surrounding Y2K. What the Senator from Rhode Island and Families USA have been able to do is essentially say in the health care system: We are going to do everything we possibly can to limit frivolous lawsuits; we are going to help people when they need it most, when the problem first develops.

I want to assure the Senator from Rhode Island and the distinguished Senator from Massachusetts that I am anxious to work with them on this proposal, because I think this is one of the areas where the parties ought to be able to come together. It may sound quaint, but the ombudsman notion is simply good government. It is preventive kind of medicine.

I thank the Senator for the chance to work with him on it. I will not ask him to yield further. But I am very hopeful that in the days ahead both political parties can see the merit in this idea and have it included.

Mr. REED. Before yielding the floor, let me just say that I, along with my colleague from Oregon, must recognize Families USA and Ron Pollack for the inspiration and thoughtful analysis that helped propel this proposal. It is a good one.

Frankly, we could do very well in this Senate this year if we could protect children through better managed care legislation and give all of our citizens a real voice in our health care decisions through an ombudsman program. This will be a very satisfactory and very successful endeavor for all of us in the Senate.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from New Hampshire.

Mr. GREGG. Mr. President, are we in morning business?

The PRESIDING OFFICER. The time for morning business was concluded at 5 p.m.

Mr. GREGG. Mr. President, I ask unanimous consent that I be allowed to speak for 10 minutes as if in morning business.

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

MEDICARE

Mr. GREGG. Mr. President, I want to comment on the President's proposal relating to Medicare, and specifically relevant to the drug benefit which has been put forward by the President today and by his staff.

I think the American people have to look at this in the context of the history of this administration's efforts in the area of health care. We know that when this administration came into office, Mrs. Clinton was assigned the task of developing a health care proposal. She came up with what has become known as ''Hillary Care,'' which was essentially a nationalization of the health care system. It was intricate bureaucracy that basically was so interwoven and so complex that it was totally impossible to recognize.

It needs to be noted in evaluating the drug component on this recent proposal on Medicare, the proposal of the

Clinton administration on general health care issues as it came forward under Mrs. Clinton's plan, known as ''Hillary Care,'' was a dramatic invasion of the health care delivery system in this country by the Federal Government. It was essentially a nationalization of the system with huge complexities and huge intricacies. That was followed by a number of other initiatives which were lesser but equally aggressive in their attempts to move to the Federal level control over functions of health care in this country.

Then on the issue of Medicare, a commission was set up. The commission was to be balanced. In fact, the President had a large number of appointments to it, and the Senate and House had a large number of appointments to it. It was chaired by a Democratic Member of the Senate, Senator BREAUX.

That commission was to resolve this matter. It was to come forward with a proposal to address the long-term solvency of Medicare and, within that, the drug benefit for senior citizens. The commission did great work, yeoman's work. They came up with a proposal. More than a majority, a significant majority, of the commission supported the proposal which had in it a drug component, and the President walked away from the proposal, even though the proposal had been supported by a majority of the commission which he was instrumental in setting up and to which he appointed the chairman, who was Senator BREAUX from this body.

The question of his most recent proposal on Medicare, I believe, has to be looked at in that context, and therefore it becomes a question of whether or not the proposal put forward by the President, most recently today, is a serious proposal or is it a political proposal. If it is a serious proposal, why is it not in step with the Breaux commission, and if it is a political proposal, what is its purpose?

Let's look at it quickly. Nobody has had a great deal of time to analyze it, but if you look at it quickly, it appears to be a proposal that is turning on its head the basic purposes of a drug benefit.

The Breaux commission suggested that the purpose of a drug benefit should be to make sure the beneficiary, the person paying the drug costs, was not wiped out by the cost of the drugs. That is a reasonable position. Essentially, the Breaux commission concluded that we should have some way of saying to a senior citizen who ends up with a huge amount of drug costs that if you are hit with a catastrophic drug cost, there is going to be some protection for you and some coverage for you.

This proposal from the President does the opposite. Instead of covering a catastrophic drug event where a senior citizen has to buy a lot of drugs to maintain their health over a period of a year and, thus, runs up huge bills which basically deplete their assets, this proposal has first-dollar coverage. The first-dollar coverage stops when it gets to $2,000, I believe, of drug expenditures, which means that if a senior citizen has a large number of drug expenditures, essentially the senior citizen is still going to be wiped out by those costs.

It makes much more sense to approach it the way the Breaux commission approaches it and the way most people have looked at the issue, which is, you say to a senior citizen or anyone else: Listen, you have to be responsible for the cost up to a certain level, and when you get to that level which would threaten your economic solvency, at that point the Federal Government will come in and assist you in paying the drug costs, which would be catastrophic coverage and makes much more sense than the proposal which has first-dollar coverage, if you are putting forward a plan which has as its purpose the actual correction of the present problems occurring in the health care community relative to drug costs.

The proposal the President puts forward makes no sense substantively on the issue of paying for drug costs, because it does not benefit anybody if they have a catastrophic amount of drug costs. It may make sense, however, politically because it says to a senior citizen, we are going to cover you for first-dollar coverage of your drug costs, which means you can say to all seniors, you no longer have a drug cost for up to $2,000, which means a lot of seniors will be covered, but of course those seniors who are most at risk, who have lots of drug expenditures, who exceed $2,000 in drug expenditures, are thrown out like the baby with the bathwater, but at least politically you pick up the vast majority of seniors who have lower drug costs.

One has to look at that benefit and say that is a more politically driven benefit structure than a benefit structure directed at the problem, which is the huge amount of drug costs on senior citizens and the fact it can wipe out their assets.

One has to look at another issue, which is, we all know a drug benefit is very expensive for the Federal Government, and therefore for the taxpayers, and when we are talking about taxpayers, we are talking about younger taxpayers who are paying to support the senior citizens.

We have a transfer of income from younger working Americans into senior citizens' accounts, and one would expect, therefore, in looking at that, we would be saying: Seniors who are doing well—and a large number of seniors in our society are, fortunately, because we have been able to create an atmosphere where many seniors have a fair amount of income, and, as a matter of fact, as a matter disposable income, people over age 65 have more disposable income than in their working years when they were in their twenties and thirties. For the most part, you could say those people are doing really well.

For example, say, Bill Gates' parents, who probably have a fair amount of stock in Microsoft, may be retired. I do not know if his parents are retired or not. I am using that as an example. Someone who is extremely wealthy who is retired, one would not expect their drug benefits to suddenly be subsidized by somebody who is working in a restaurant, a gas station, or on a computer assembly line in Nashua, NH.

Yet what the President has put forward is a plan that does just that. He put forward a plan where working Americans, Americans who are just trying to make ends meet, where both parents are having to work in order to take care of household expenditures, who are under tremendous financial pressure, are going to have to subsidize the drug benefit of all senior citizens, no matter what their income level.

A high-income senior citizen, somebody who happens to be a member of a famous family that has made millions of dollars, or somebody who is not even a member of a famous family but happens to have a tremendous amount of wealth—Charlton Heston, for example, I suspect he has been successful—that person's drug benefit under Medicare will suddenly become a subsidized event paid for by a working American.

Does that make sense? No; that is upside down. Obviously, if you are going to have a drug benefit for senior citizens, it should really apply to those seniors who need the benefit and who cannot afford it. That happened to be the proposal that came out of the Breaux commission. They suggested people up to 135 percent, I believe, of poverty be allowed to get the drug benefit and have it subsidized and people over 135 percent would not have that event occur. Therefore, people with higher incomes would not end up being subsidized by working Americans who maybe cannot afford to subsidize the drug benefit of senior citizens because they have to take care of their own household expenditures.

Yet this proposal from the administration has not taken the tack of the Breaux commission which says: Let's take care of those seniors who need the assistance, but let the seniors who can afford to pay for their own drugs pay for them. They turned it upside down: Let's take care of all seniors at the expense of working Americans, maybe even Americans who have trouble making ends meet.

That leads one to the question: Why are they doing this? Is this the substantively right thing to do? Is it the politically correct thing to do? Yes, it is, because we all know when it comes to senior citizen accounts, there is tremendous reticence within the senior citizen activist community in this country to have any sort of means testing, which is what this amounts to, or affluence testing, which is where it would lead to. Yet they allow Americans to subsidize extremely wealthy

Americans, not only for the drug benefit as proposed by the President but, unfortunately, as the President did in part B premiums, they are willing to allow that truly inappropriate action to occur for the political benefit of it. Once again, what we are seeing is a political initiative.

Then if you look at the proposal in its outline form, you can see it is going to create an intricate, complex, bureaucratic structure to determine what benefit is covered and is available to be picked up by the Federal Government under the drug benefit cost. There is going to have to be some sort of extremely complex structure. They turned it over to HCFA, which is an agency that has the capacity to develop a complex structure, but there will need to be some sort of national structure set up in order to account for what is and is not covered under the system the President has set up in his proposal.

One gets the feeling we are looking again at the use of the Federal bureaucracy as the agency to manage the day-to-day activities of health care. We know from experience that does not work too well.

This proposal the President has put forward is, on its face, upside down on core basic issues of better health care, whether it happens to be the premium, whether it happens to be the means testing, or whether it happens to be the bureaucracy.

I think the thing that I find most dangerous about this proposal, and the thing I am most concerned about, is the effect on lifestyle of American seniors because it puts us on an extraordinarily slippery slope, in its present structure, which will most likely lead to a diminution of the effort of the American entrepreneurial culture to produce better drugs for seniors.

A great number of American citizens today benefit dramatically from the fact that we have the most vibrant, innovative drug research and development industry in the world. We have an industry which is second to none in producing products that make people's lives better.

But it is an extremely expensive undertaking. It takes 12 years and hundreds of millions of dollars to bring a drug to the market. The only way that these entrepreneurs can undertake that initiative is if they are able to go out in the marketplace and get the capital necessary to take that type of risk to produce those drugs.

When you start having the Federal bureaucracy manage who can and who cannot buy a drug and what drug has to be bought and what drug cannot be bought, as will inevitably be, I suspect, the outcome of this initiative, as it moves into its second- and third-generation event—and was the intention, by the way, of the Hillary health care plan, so we know that we can suspect that is in the back of somebody's mind around here—then your ultimate outcome will be to have a chilling effect, a dramatic dampening effect on the innovative minds of America, on the scientists of America who are producing the new drugs which make people's lives better because those scientists and those innovators are not going to be able to get funds through the capital markets to underwrite their undertakings.

Why? Because if you are a capital investor, as Mr. Greenspan has so often told us, the capital markets are the most efficient markets in the world. Money flows for capital where it gets the return that makes the most sense for those dollars. People are not going to invest in drug research and development if they are not going to get adequate return. They are not going to get adequate return on it if you have a Federal bureaucracy taking over the control of the pricing mechanisms or the appropriate drugs to be purchased—both of which are potential outcomes of any plan put forward by this administration because that, as we have already seen, is a goal that is in the back of the mind of this administration. So although it is not a stated risk, it is, in my opinion, a clear undercurrent of risk as we step into this area of drug benefit for senior citizens.

The ultimate conclusion of this, of course, is that I think the President's proposal is political, not substantive. If the President wanted to substantively pursue a drug proposal, a drug benefit for senior citizens that would work, that had been well vetted and well thought out intelligently, he would have adopted the proposal of his own commission, the Breaux Commission. That was rejected in order to take the path of the political initiative. I think we should be very suspicious before we step on to that path as a Congress.

Mr. President, I appreciate the courtesy of the Chair and yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, let me say first Senator DASCHLE and I have labored long and hard to come to an agreement on a unanimous-consent procedure to deal with the Patients' Bill of Rights issue, appropriations bills, and nominations, and it still takes an awful lot of good faith. We have to work together. We have to have some trust. We have to give the benefit of the doubt to the leaders. Also, in the Senate we have to be prepared to deal with action. We are trying to find a way to deal fairly with the appropriations bills and with the Patients' Bill of Rights.

I ask unanimous consent that the majority leader or his designee, introduce the underlying health care bill and it be placed on the calendar by 12 noon on Thursday, July 8, and the bill become the pending business at 1 p.m. on Monday, July 12, 1999, with a vote occurring on final passage at the close of business on Thursday, July 15, and the bill be subject to the following agreement:

That the bill be limited to 3 hours of debate, to be equally divided in the usual form, that all amendments in order to the bill be relevant to the subject of amendment Nos. 702, 703, the introduced bill or health care tax cuts, and all first degree amendments be offered in an alternating fashion with Senator DASCHLE to offer the initial first degree amendment and all first- and second-degree amendments be limited to 100 minutes each, to be equally divided in the usual form. I further ask consent that second-degree amendments be limited to one second-degree amendment per side, per party, with no motions to commit or recommit in order, or any other act with regard to the amendments in order, and that just prior to third reading of the bill, it be in order for the majority leader, or his designee to offer a final amendment, with no second-degree amendments in order.

I further ask consent that following passage of the bill, should the bill, upon passage, contain any revenue blue slip matter, the bill remain at the desk and that when the Senate receives the house companion bill, the Senate proceed to its immediate consideration, all after the enacting clause be stricken, and the text of the Senate bill that was passed be inserted in lieu thereof, the bill as amended be passed, the Senate insist on its amendment and request a conference with the House, all without any intervening action or debate.

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

Mr. LOTT. I want to announce at this time that the minority leader, Senator DASCHLE, and I have discussed several times how we would proceed with this matter once we have had this period of time for debate and votes on and in relation to the Patients' Bill of Rights.

Senator DASCHLE has given me his assurance that although this agreement will not prohibit Members from offering this issue or an amendment related to this issue again in the session, he does not expect a need to offer this issue again, presuming the normal legislative process is followed.

In other words, if we should complete an action and it goes to conference, if it languishes there or does not come back, this arrangement would not prohibit some amendment from being offered at some subsequent point.

I can fairly say that the minority leader is willing to say this issue will have had due consideration after these 4 days of debate, and at the conclusion of this week we would not feel the need to readdress it.

Finally, I announce to the Senate, following this agreement, the two leaders have jointly agreed to pass three to five of the remaining appropriations bills available prior to the Fourth of July recess. This will take a good bit of cooperation, too.

The top priority of the appropriations bills are likely in the following

order: foreign operations, D.C., Treasury-Postal Service, and the pending agriculture appropriations bill. We will work to see what the prospects are and time to be consumed for Transportation, State-Justice-Commerce, or Interior.

I have already discussed this matter twice this afternoon with the chairman of the committee. I believe he is working with Senator BYRD to try to identify the bills we could most likely move in this remaining time, and how that can be done—time agreements, if necessary—but we will have to work together. I believe we can move at least three, and hopefully four, of these bills.

In light of this agreement, I now ask consent that the pending two amendments to the agricultural appropriations bill be withdrawn.

Mr. DASCHLE. Mr. President, reserving the right to object, and I certainly won't, I want to reserve my comments on the overall agreement until after the majority leader has completed his unanimous consent request, which has one more piece.

Let me say in regard to the comments made by the majority leader about our assurances, as he has indicated, that we would not pursue this matter further this year. He used the right phrase—''if the normal legislative process'' is followed.

Obviously, we expect the normal legislative process to be one which will allow a good debate on an array of amendments, first and second-degrees with limits on time, and that we will have completed an adequate number of those amendments.

This issue, of course, is the Patients' Bill of Rights. The agreement doesn't preclude debate and amendments on other health-related matters unrelated to the Patients' Bill of Rights.

I am confident that if we have a good debate and if we have an opportunity to consider these amendments, there will be no need to pursue this matter further this year. The Senate will have spoken.

I indicated privately in my conversation with Senator LOTT that this certainly is my expectation, and we will decide at the end of that week how well we did. My expectation is the normal legislative process will be followed.

I have no objection.

Mr. KENNEDY. Reserving the right to object, and I do not intend to object, do I understand from the leaders we would have the normal kind of days that we have traditionally had in terms of the workings of the Senate? If the majority leader could give some indication of that.

Mr. LOTT. It is my intent to move forward in the normal fashion that we deal with these legislative days. Of course, we always take into consideration conflicts that one party or the other may have. There will be no intent to have short days. We intend to have long days so we can have adequate discussion.

Let me express my appreciation to Senator NICKLES for the amount of time and effort he has put into all of this. He is very knowledgeable on the substance of the Patients' Bill of Rights issue.

There are many Senators on both sides of the aisle who prefer to do this another way. It has taken restraint on both sides. I know Senator NICKLES still has concerns about it, but he has been willing to work with us to come up with an agreement to move forward. I know that applies to Senator KENNEDY also.

I also have to thank Senator COCHRAN and Senator KOHL, managers of this agriculture appropriations bill, around whose neck this issue has been attached for the last week. They have been very patient and understanding.

I hope tomorrow we will be prepared to move forward aggressively on a number of these appropriations bills—the three I mentioned at the top or agriculture or one of the others.

I will be talking to the ranking member and Senator DASCHLE about the appropriations we can move forward with first.

Mr. KENNEDY. I withdraw my objection.

The PRESIDING OFFICER. Is there objection?

Mr. REED. Reserving the right to object, I do not intend to object, but I want to echo a comment of the Democratic leader. That presumption is that this flexible process will allow a sufficient number of amendments to come to the floor, that it will not be a process where one or two amendments are brought up and then through a series of extended second-degree amendments delayed?

Mr. LOTT. The agreement wouldn't allow for that.

Mr. REED. We are really talking about a procedure where we could fully ventilate all the issues—and there are numerous issues that are inherent in this bill. I hope that is the spirit and the actuality of the agreement.

Mr. LOTT. I think there will be full opportunity to talk about the substance of the issue and the bills pending, and amendments would be offered. I think after 2 or 3 days on this issue, most of the issues that need to be debated—or all of the issues—will have been addressed.

Senator DASCHLE and I will have talked back and forth about that. I think once we have some critical debate and some critical amendments, the Members will think they have had the opportunity to be heard and will have made their points.

So I think there is going to be plenty of time here. It doesn't specify amendments. It doesn't specify a maximum or a minimum. There are some time limitations, which is the orderly way to do business around here, but there is not going to be any effort to have two or three amendments and then forestall everything else. You could not do it under this arrangement.

Mr. REED. I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. REED. I withdraw my objection.

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

Mr. NICKLES. Reserving the right to object, let me clarify something with the majority leader. The majority leader made a request, or we discussed one on Thursday evening, I think, at 6:30. The major difference between this request and the one on Thursday is, No. 1, the limit on debate on the bill is limited to 3 hours and there was not a time limit?

Mr. LOTT. There was not a time limit on the earlier bill in the general debate in the earlier unanimous consent. There is 3 hours in this unanimous consent. Instead of the 2 hours on the first- and second-degree amendments, 2 hours each, there is 100 minutes on each one of them.

Mr. NICKLES. I appreciate that. For further clarification, I understand why the minority leader asked for that, but I will state—I stated it on the floor—it was never anyone's intention on this side, to my knowledge, to filibuster the bill. I do think 3 hours is a very limited time. I do think it is possible, though, you can discuss the bill during amendment time, so I am not going to object.

Then the other major change was a reduction from 120 minutes to 100 minutes. That, of course, is to facilitate a greater number of amendments and that is understandable as well. So I have no objection.

Mr. LOTT. I thank Senator NICKLES again for his cooperation. I do think as we go forward it is very likely some of these amendments will not take the full time. I assume some of them may even be agreed to by both sides. I also think it is possible we might be going along with pretty hot debate and Senators may want a little extra time. Usually, we try to accommodate each other, if there really is a need for it, on both sides of the aisle. I am not advocating it now. I think we could nitpick it to death, but I think we have come about as close as we possibly can.

I do have two other announcements I would like to make.

The PRESIDING OFFICER. Is there objection to the majority leader's request? Without objection, it is so ordered.

NOMINATIONS

Mr. LOTT. As we have discussed, it is my intention to work to clear the Executive Calendar. We now have a number of nominations on the calendar, including a long list of military nominations and the nominee to be Secretary of Treasury. We may even have other nominees coming on the calendar. I understand the Finance Committee reported three more nominations today, including the Under Secretary of Treasury. We have some judicial nominations. We will begin the process tomorrow of hotlining those nominations. We will be moving them along as

we go forward on this process of getting appropriations done.

Again, our purpose is to work together and do the people's business in the next 2½ days, and that will include clearing nominations. Some of them, of course, may hit a snag for one reason or another, but we will certainly work on that.

The other thing is we have talked on both sides of the aisle about how someday we needed to go back and correct a situation that developed a few years ago with regard to rule XVI so that we can preserve the integrity of the appropriations and the authorization process. Senator DASCHLE and I have talked about this. We want to reach a point where he and I together—not when one side or the other seizes the opportunity, but at the earliest opportunity, he and I will stand together to correct what I think was a mistake. And it originated on our side of the aisle. I acknowledge that. I was part of the problem. But I think for the future sanctity of the appropriations process and to make the authorization committees really work as they should, we should have that point of order reinstated. Senator DASCHLE has indicated he would work with me on that. I would like it to be totally a bipartisan effort. I know our ranking member and the chairman of the Appropriations Committee would like to do that, too. So I thank him for his cooperation on this unanimous consent.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I want to publicly commend the majority leader for the effort he has made over the last several days to find a way to resolve this impasse. I believe this is a win-win. I think only through his persistence and willingness to consider a lot of different options were we able to reach this point. I am grateful to him and have, once again, enjoyed the opportunity to resolve what has been a very significant procedural difficulty for us all.

I also want to thank the distinguished senior Senator from Massachusetts for the outstanding job he has done providing us real leadership on this issue, as he does on so many issues relating to health and education.

I also thank the assistant Republican leader as well.

I believe this is a good agreement any way one looks at it. It provides us with the opportunity to have a good debate. It provides us with the opportunity to have a series of amendments. It certainly provides us with the focus that we have been looking for with regard to the Patients' Bill of Rights. This is a very good agreement, agreed to, I think, with the direct involvement of a lot of people. So we are grateful.

The majority leader mentioned a couple of other matters, one having to do with his desire to work full days. He has assured me we will work 9- to 12-hour days that week we come back because he recognizes the importance of giving this issue a full opportunity for debate. I appreciate his commitment in that regard.

I also share his concern about how we might make the appropriations process work better. Democrats were opposed, of course, to the overruling of the Chair at the time it occurred. To take it back would be consistent with the position we took when the vote was taken a few years back. So I do intend to work with him to find a way to resolve this matter. That also, of course, is assuming we will have opportunities—I know we have talked about this—opportunities to have good debates with amendments on authorization bills. This will only work if we have the regular order on authorization bills. We certainly have to be sure that we have an opportunity on those occasions when authorization bills are presented to have a good debate with amendments as we have had now on a couple of bills this year.

Again, I think this is a good agreement. I appreciate the cooperation of everybody but in particular the leadership of the majority leader and Senator KENNEDY and others on our side.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join in commending the two leaders for propounding this unanimous consent request. These past days have been hard fought in establishing a procedure which would be fair and permit the opportunity for the Senate to debate fully some of the important measures I think are included in the Patients' Bill of Rights. I think the leaders have outlined a process and the Senate has been willing to accept that procedure. Both leaders do deserve credit.

I want to underscore what both leaders have said; that is, we are going into this whole process on the basis of good faith. I join with the Senator from South Dakota in feeling we can do the business of the Senate on this issue in that time. But it is also preserved, if for some reason there is not the kind of constructive and positive attitude we have heard this evening, that there is going to be the denial of that opportunity, that rights will be reserved for Members to raise these issues at another time. I am hopeful we can follow what has been outlined here and in good faith have a full and fair debate on these issues.

The real fireworks are going to be after the Fourth of July this year. I look forward to engaging in this debate.

I again thank my leader and the majority leader for moving this whole extremely important piece of legislation to the point where it will be center stage in the Senate. I thank the leader for his efforts.

Mr. DASCHLE. I yield the floor.

Mr. LOTT. Mr. President, I would like to make one further announcement. I have been communicating, as I said, with the chairman of the Appropriations Committee. In the wrapup, we will announce that in the morning we will go to one of the appropriations bills, perhaps D.C. or foreign ops. We will need to confer with a lot of different people. But when we get the time agreement, we will go to one of those.

In view of the work that has gone on, I will announce at this time there will be no further rollcall votes tonight, but Members should expect votes to occur in the morning and throughout the day.

Mr. President, one final announcement: We are going to pursue the possibility of laying down one of the appropriations bills tonight so we would have it pending. I want Members to be aware of that, but there still would not be any more recorded votes.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1301 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

SENATE AGENDA

Mr. DURBIN. Mr. President, there has been a breakthrough which observers in the galleries and others watching might not be aware of; that is, after 2 weeks of effort on the floor, we now have an understanding that after the Fourth of July recess when we return, we are going to debate the Patients' Bill of Rights.

That is the bill that talks about reforming health insurance in America so that families have a better chance of getting quality health care so that when you visit a doctor, and the doctor makes a medical decision for you or someone you love, it will be less likely that some bureaucrat and insurance company will overrule the doctor.

We want to make certain, as well, that if you have a picnic in the backyard on the Fourth of July, and your little boy climbs up the apple tree and falls out and breaks his arm, you can take him to the closest emergency room without fumbling through your papers to figure out which hospital is under your health insurance plan. That is just basic common sense.

We want to make sure that if a doctor decides that a specialist is needed for your problem that the health insurance company just can't overrule them; that you go ahead and get that specialist and get the best care that doctor recommends.

If a woman would like to keep an OB/GYN as her primary care physician, we don't let the insurance company come in and second-guess her on those sorts of things.

Fundamentally, this bill will also argue that health insurance companies, just like every other company in America, should be held responsible for their decisions.

Each of us is responsible for our decisions in life. If you proceed to drink too much and drive and something terrible happens, you could be held accountable in court.

The same thing is true for businesses that make bad decisions or good decisions. They can be held accountable in court.

There are only two groups that are above the law: Foreign diplomats who can't be brought into court in America, and health insurance companies—companies that make decisions every day that are literally life and death decisions.

We believe with the Democratic version of the Patients' Bill of Rights that these health insurance companies should entertain the possibility that if they make the wrong decision they will be held accountable.

I told this story on the floor before. I think it is one that illustrates exactly what is happening.

Sunday night, I was back in my home State of Illinois and met a cardiologist from Highland Park, IL, who a week before had a woman come into his office complaining of chest pains. This was on a Thursday. He said: I want you in the hospital tomorrow morning, Friday morning, for a catheterization to determine what problem you might have.

She checked with her health insurance company, and they said, no, she cannot go in for that catheterization because that isn't an approved hospital. We have to find a hospital that is approved under your health insurance plan. We will check over the weekend and call you back.

There was no need to call back. She passed away on Sunday over that weekend. And the doctor said to me: What am I supposed to tell that family? This woman came to me for the best advice. I had an appointment made in a hurry for what I considered to be a serious situation, and it was overruled by an insurance company clerk.

That sort of thing happens too often. We believe in the Patients' Bill of Rights to be offered on the Democratic side, and that the patients and families across America deserve better treatment.

The bottom line, of course, is that you are never more vulnerable in your life than when you are sick and go to a doctor, or someone you dearly love is sick and you bring them to a doctor. You really want the best care, and you don't want a decision made on the bottom line of a profit statement of an insurance company to guide decisions. You want the decisions made by the professionals involved.

We spent the last 2 weeks kind of twisted in knots not moving forward very quickly on a lot of other matters because we couldn't agree between the Republican side and the Democratic side on how we might approach this issue. There has been a breakthrough today. I am happy that it has happened. Now we have an agreement that the week following the Fourth of July recess, we will come back and devote the entire week to this debate.

I think of all the things that we have talked about in the 106th Congress—and some of them are very important—there is hardly an issue more important than the peace of mind which American families want when it comes to medical care. They want to have affordable, accessible health insurance. They want to be able to speak to a doctor in terms where they are confident that the real focus of the attention is on the health of the member of the family and not the health of the profit and loss statement of the insurance company. That, unfortunately, has become the case.

It wasn't that many years ago in Washington that we had this big debate. President Clinton brought in health care reform. I am sure you remember it. It was a hotly debated issue. The insurance companies opposed it. There were a lot of efforts to derail it. And they were successful. That health insurance-health care reform was swept aside.

But most Americans would believe that we did something because of all the changes that took place within the last few years. There are more and more Americans under so-called managed care plans and fewer and fewer Americans with health insurance. Fewer employers are offering it. People in rural areas whom I represent in Illinois are finding it increasingly difficult to even find, let alone afford, health insurance.

All of these things have been happening over the last several years in a swirl of activities.

They tell me that last night Jay Leno, on his television show, talked about the fact that Stephen King, after this unfortunate accident and the experience he had in the hospital, was going to write his next horror novel about managed care insurance companies. I hope that is not the case. But it might be. It drew a rise from the audience, as I am sure it would almost everywhere.

You may remember the movie, ''As Good as it Gets,'' with Helen Hunt and Jack Nicholson. I enjoyed it a lot. At one point in the movie—she was raising an asthmatic son—she expressed her frustration in very dramatic words about dealing with health insurance companies. And in the movie theater in which I was sitting in Springfield, IL, people started applauding. That doesn't happen much.

But that kind of spontaneous reaction tells you that the people of this country have been waiting for Congress to catch up with the needs of American families.

I think we can do it. I think this debate this week that we have set aside, if it doesn't get bogged down in a lot of parliamentary hassles—and I don't think it will—could result in an honest debate where the Republican Party puts forward its best proposal for health insurance reform, and the Democrats do the same, and we vote on it.

When it is all said and done, perhaps we will then have a bill that really sets us on a track to help families across America get a break when they deal with these health insurance companies.

Last Saturday I met with a group of farmers in downstate Illinois. I heard an interesting story from one farmer about the problems his wife faced because of her medical condition. These farmers in many ways are the most vulnerable of all. They don't have the benefit of group health insurance, in most instances, nor can they bargain with insurance companies. They find themselves, many times, facing outrageous premiums and arbitrary decisions by the insurance companies.

This farmer had driven about 100 miles to the meeting because he wanted to tell his story about what he and his wife had been through with the health insurance companies. These stories, repeated over and over and over again, suggest to me that it is our responsibility to deal with this.

I hope when this Congress comes to an end, at least this year we can point back to the fact that we were sensitive to the issues that America cared about. There was a time, for example, on the Senate floor when there was a serious question as to whether we would do anything—anything—about the horrible shooting that occurred at Columbine High School in Littleton, CO. Fortunately, a debate was scheduled on the floor. After a week of debate, we passed a gun control bill—a modest bill, I might say, but one that was designed to keep guns out of the hands of kids and criminals.

We sent it to the House of Representatives. Sadly, the National Rifle Association, the gun lobby, used the 2 weeks before it came up for a vote to lobby away, and they were very effective. They watered down the bill until it was a joke. The bill ultimately was even defeated in the House of Representatives.

I haven't given up on that issue, because I think most people across the country—gun owners and not—believe we can do things to keep guns out of the hands of people who shouldn't use them for a variety of reasons. The bill we passed was a very modest bill,

which said, for example, that those who purchased guns at gun shows would be subject to a background check. I don't think that is an outrageous idea.

We passed the Brady law. We said, if you want to buy a gun, we want to know if you have a history of committing a crime, a violent crime, because if you do, we are not going to sell you a gun; or if you have a history of violent illness, mental illness, we won't sell you a gun. That has worked. It has kept guns out of the hands of hundreds of thousands of people. At least it slowed them down, at a minimum, but maybe it stopped them from owning a gun.

It turns out that a substantial portion of firearms are sold outside the law. They are sold at gun shows. We have them all over Illinois, all over the United States. People who own guns and collect them get together and sell them to one another, no questions asked. Because no questions are asked, it has become a supply operation for a lot of criminal elements.

In Illinois, the State police found that 25 percent of the guns used in crime came out of those gun shows. One of the things we put into law in the Senate was that there would be a background check, similar to the Brady law, to find out if a person purchasing at a gun show had, in fact, a criminal background or a history of mental illness.

The National Rifle Association doesn't like that. When they got the bill over in the House, they said, you can't take more than 24 hours to do the check. The gun shows occur on weekends, of course, and the wheels that are spinning forward to check the backgrounds of people may not be as available on weekends. As a consequence, they watered down the bill until it was meaningless.

A second provision we put into law—Senator HERB KOHL of Wisconsin was the author—suggested we not sell guns in America unless they had a trigger lock, a child safety device. Thirteen kids every day in America are killed by guns. Some are gangbangers who shoot away in Washington, DC, in Chicago, IL. Others, though, are kids who go out and get a gun off a shelf from their father's closet, start to play with it, discharge it, and shoot themselves, a brother, sister, or playmate. Thirteen kids a day die that way.

We want to lessen the likelihood of those tragic accidents. Trigger locks, safety devices on guns, do that. That was in our bill. That was sent to the House. That was rejected.

The final point is one that Senator DIANNE FEINSTEIN of California proposed, a proposal that tries to close a loophole in the law. When we passed gun control a few years ago, we said, we are going to prohibit the manufacture of these high-capacity ammunition clips, clips that can literally hold up to 240 bullets. Unfortunately, we left a loophole and didn't stop the importation of these clips from overseas. So we stopped the domestic manufacturing, and they started flooding in from overseas.

Frankly, it raises a serious question: Who needs a gun with a 240-bullet high-capacity ammunition clip? If you need an AK–47 and 240 bullets to shoot a deer, you ought to stick to fishing.

Unfortunately, they are coming into this country for no purpose other than to be used for criminal purposes.

Senator FEINSTEIN was successful. She passed that amendment in the Senate. We sent it to the House. It got nowhere.

Those are the kinds of things we did to try to deal with some of the problems we have identified. Having done those things, and having seen the National Rifle Association do its work in the House, we have a lot more work to be done.

I hope when the debate is concluded at the end of this 106th Congress, we can point with pride to having succeeded in passing import elements in law that improve the quality of life in America, that reduce the likelihood of violence in schools, that reduce the likelihood of guns getting in the hands of criminals, that increase the opportunities for families across America to have good health insurance and be able to trust their doctor's decisions, and several other things that I think are very important as part of the agenda.

One of them has to deal with increasing the minimum wage of $5.15 an hour. Imagine, if you will, trying to raise a family or even take care of yourself for $5.15 an hour. It has been years since we have increased it. It is time we bring that up to a wage that more accurately reflects the cost of living in America. I hope before we leave this year we can address that.

We cannot leave, as well, without addressing the future of Medicare. This has been a banner week for Medicare with the President's announcement that we now have a reestimate of the budget. We believe if the economy continues to grow, as we believe it will, we are going to have an additional surplus. With that surplus we can do some extraordinary things.

I first came to Congress 17 years ago. When I came, we were facing all sorts of red ink and all sorts of deficits. We have been through a lot of tortuous effort to try to reduce. Now we have reached the point where we can honestly see a surplus in our future. I think we can use that surplus to solidify Social Security and Medicare and, most importantly, while we do that, eliminate the publicly held national debt in America. To move from the point where a large portion of our budget is being spent on interest on the debt to the point where virtually none is being spent on interest on our debt is a great legacy to leave our children. I hope we can achieve that on a bipartisan basis.

I yield the floor.

ELECTION OF EHUD BARAK

Mr. EDWARDS. Mr. President, I rise today to acknowledge the election of Ehud Barak to Prime Minister of Israel and his efforts to form a new government. I congratulate him, not only on his most impressive victory, but also for his commitment to reinvigorate the Middle East peace process. As Mr. Barak enters the critical stage in his efforts to forge a coalition government, I wish him luck. And I applaud his initial steps of talking with Egyptian President Mubarak and declaring his intent to form a ''peace administration'' of three negotiating teams, one each for Syria, Lebanon and the Palestinians, reporting directly to him. We must not risk losing momentum toward achieving a lasting peace.

As Israel continues to take risks for peace, it is all the more important that America's commitment toward Israel be unquestioned. Our strong commitment helps Israel take risks and makes it clear to Israel's neighbors that Israel is a permanent reality that must be dealt with directly. Our dedication to Israel must take many shapes. We must continue aid to Israel. We must help Israel militarily. We must actively support the peace process. We must maintain our support for Jerusalem as Israel's capital.

America's support for the peace process, for the security of this region, and for Israel itself must be unwavering. Israel, the only pluralistic democracy in the Middle East, deserves our continued strong support. Helping Israel survive and thrive is the right thing to do. In a particularly volatile part of the world, Israel is strategically important to America's interests. We cannot help but benefit by strengthened economic, political, military and cultural ties with Israel.

I have the greatest respect for Israel, its citizens, and its founders. The creation of the state of Israel is a remarkable story of a great people who overcame the Holocaust, rebuffed repeated foreign hostility, and created an industrialized democracy in a desert. The story of Israel appeals to me because it is a story of faith and it is a story of justice. I respect all who stand up to powerful forces against great odds for a just cause.

No issue is more important to our relationship than aid to Israel. It is one of America's most cost-effective foreign policy investments. The economic and military aid that America provides Israel serves the interests of both countries by promoting peace, security, and trade. Israel recently initiated an agreement with the United States under which the United States will gradually reduce the amount of economic aid in the coming years while ensuring an adequate amount of military assistance. I commend Israel for this initiative, and I believe that the United States should stand by it.

The Middle East's unstable mixture of unconventional weaponry, advanced military technology, political instability, and radical fundamentalism

threatens both Israel's security and America's vital interests in the region and around the world. I am committed to the expansion of the United States-Israel strategic cooperation that was formalized in 1983.

In addition, it is our national interest to help ensure that Israel maintains her qualitative military edge. Furthermore, the Unites States should not sell sophisticated weaponry that could erode that edge to nations hostile toward Israel. And, of course, the United States must do all it can to stop the development or acquisition of nuclear, chemical, and biological weapons by rogue states such as Libya, Iraq and Iran.

True and lasting peace between Israel and her neighbors can be achieved only through direct negotiations between the parties. Nevertheless, the United States has played a critical role with Israel and her neighbors in helping bridge the differences between them. We must continue to invest the time and energy necessary to help continue this very complex series of negotiations.

Israel's capital of Jerusalem is important to Jews, Christian, and Muslims. I commend Israel for allowing all three faiths open access to worship at their holy places. Jerusalem is and ought to remain a united city under Israeli sovereignty.

Israel is the only country where the United States chooses not to locate our embassy in that country's capital city. I support the Jerusalem Embassy Act that recognizes the united city of Jerusalem as Israel's capital and mandates the moving of our embassy from Tel Aviv to Jerusalem.

Finally, I want to discuss Israel's special relationship with my home state of North Carolina. Since 1993, North Carolina and Israel have had one of the most comprehensive official exchange programs in the country. Both North Carolina and Israel have economies that depend on high technology, agriculture, and education. Both states benefit from their ongoing economic, social, and cultural exchanges. I look forward to doing all I can to promote this valuable relationship between Israel and the great state of North Carolina.

Mr. President, I look forward to working with Israel's soon-to-be formed government to pursue our nations' many mutual interests. I wish Mr. Barak and his government the best as he pursues peace, security, and prosperity in the twenty-first century.

ANNOUNCEMENT OF HEARINGS

Mr. MURKOWSKI. Mr. President, for the information of the Senate I would like to announce that S. 1273, the Federal Power Act Amendments of 1999; and S. 1284, the Electric Consumer Choice Act have been added to the hearing to be held before the Committee on Energy and Natural Resources on Tuesday, June 29 at 9:30 a.m. I would also like to announce that the hearing before the Committee on Energy and Natural Resources previously scheduled for July 1, 1999 has been postponed until July 15, 1999 at 9:30 a.m. in SH–216 of the Hart Senate Office Building. The Committee will receive testimony on S. 161, the Power Marketing Administration Reform Act of 1999; S. 282, the Transition to Competition in the Electric Industry Act; S. 516, the Electric Utility Restructuring Empowerment and Competitiveness Act of 1999; S. 1047, the Comprehensive Electricity Competition Act; S. 1273, the Federal Power Act Amendments of 1999; and S. 1284, the Electric Consumer Choice Act. For additional information you may write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

Mr. President, I also announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 27, 1999, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 1052, to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes.

Those wishing to testify or who wish to submit written statements should contact the Committee on Energy and Natural Resources, Washington, D.C. For further information, please call James Beirne, Deputy Chief Counsel at (202) 224–2564, or Betty Nevitt, Staff Assistant at (202) 224–0765.

COSPONSORSHIP OF S. 680

Mr. CLELAND. Mr. President, I am happy to announce that I have decided to cosponsor S. 680. This bill, which was introduced by Senators HATCH and BAUCUS, makes the tax credit for research and development permanent so as to encourage investment by companies and external investors in research activities. It has been shown through studies conducted by the General Accounting Office and the Bureau of Labor Statistics that R&D tax credit stimulates domestic R&D spending by U.S. companies. This continued spending on R&D is very important for the U.S. economy as we head into the next century, and I believe this bill serves an important purpose in achieving this goal.

I look forward to cosponsoring this bill and gaining support for it in the days ahead.

THE MUNICIPAL SOLID WASTE INTERSTATE TRANSPORTATION AND LOCAL AUTHORITY ACT OF 1999

Mr. FEINGOLD. Mr. President, on June 10, 1999 I joined as a co-sponsor of legislation introduced by my Midwestern colleagues, the Junior Senator from Ohio, Mr. VOINOVICH, and the Junior Senator from Indiana, Mr. BAYH, S. 872, The Municipal Solid Waste Interstate Transportation and Local Authority Act of 1999. I am pleased to be working with them on this very important issue. I know that they, as former Governors, are intimately aware of the concerns that the growing trash trade poses for the States we represent.

We in the Midwest, especially those of us fortunate enough to be from the Great Lakes States, enjoy a very high quality of life—beautiful scenery, small, neighborly towns, and spectacular natural resources. We hold it as a particular point of pride that we, in many instances, have the luxury of avoiding many environmental problems and we have structured our State and local governments in Wisconsin to try to be sure that we continue to avoid them. However, Mr. President, we in Wisconsin are unable to protect our communities, which have done a good regulatory job, from having to deal with the solid waste mess created by our neighboring communities in other States. Instead, my State has been forced to accept other States' municipal solid waste in ever increasing amounts.

We need to enact legislation to reempower States to be able to control the flow of waste into state-licensed landfills from out-of-state sources. This legislation would give States the tools to do just that. It gives states, like mine, the power to freeze solid waste imports at the 1993 levels. States that did not accept out of State waste in 1993 would be presumed to prohibit receipt of out-of-State waste until the affected unit of local government approves it. Facilities that already have a host community agreement or permit that accepts out-of-State waste would remain exempt from the ban. States would also be allowed to set a Statewide percentage limit on the amount of waste that new or expanding facilities could accept. The limit can not be lower than 20 percent. Finally, States, under this bill, are also given the ability to deny the creation of either new facilities or the expansion of existing in-State facilities if it is determined that there is no in-State need for the new capacity.

My home State has tried to address this issue repeatedly on its own, without success. On January 25, 1999, a federal appeals court struck down as unconstitutional a 1997 Wisconsin law that prohibits landfills from accepting out-of-State waste from communities that don't recycle in compliance with Wisconsin's law. We are now examining options for limiting out-of-State trash in Wisconsin including: appealing the decision to the United States Supreme Court, which refused to hear an appeal of a similar Wisconsin case in 1995, passing new State legislation, or pursuing the option before us today—seeking specific authority from Congress to regulate trash from other States.

Wisconsin's law bans 15 different recyclables from State landfills. Under the law, communities using Wisconsin landfills must have a recycling program similar to those required of Wisconsin communities under Wisconsin law, regardless of the law in their home State. About 27 Illinois towns rely on southern Wisconsin landfills. Since the law took effect, waste haulers serving those communities have had to find alternative landfills for their clients, incurring higher transportation costs in the process. IL-based Waste Management Inc. and the 1,300-member National Solid Waste Management Association were the entities that challenged Wisconsin's law, arguing that the law violated the Interstate Commerce Clause.

By recycling, Wisconsin residents have reduced the amount of municipal waste heading to landfills. Since the State's previous out-of-State waste law was struck down by the appeals court in 1995, the amount of non-Wisconsin waste in Wisconsin landfills has tripled. When the law was in effect, 7.7 percent of the municipal waste in Wisconsin came from out of State. That has risen to more than 22.9 percent since the law was struck down. Though this legislation will not afford Wisconsin the ability to block garbage containing recyclables from our landfills, it will at least give my State the ability to address the overall volume of waste entering our State.

In 1995, I supported flow control legislation sponsored by the Senator from New Hampshire, Mr. SMITH, and drawn substantially from the work of the former Senator from Indiana, Mr. Coats. I have been shocked that the Senate, which passed that bill by a significant majority vote of 94–6, has not taken up legislation to address this issue since that time, shocked until I examined the relationship between the interests opposing that legislation and political campaigns. According to the Center for Responsive Politics, in the 1998 election cycle, one of the interests that opposes flow control legislation, Waste Management Inc., contributed $422,275 in soft money to the two major political parties—$85,000 to the Democratic Party and $337,275 to the Republican Party. Mr. President, the issue of interstate waste control effects my home State and 23 other States. For years States have been faced with the challenge of ensuring safe responsible management of out-of-State waste, and the need for State control is even more acute today than in was in 1995. Congress is the only body that can give the States the relief they need from being overwhelmed by a tidal wave of trash. We have not acted on a problem that effects nearly half of our States, and citizens are left to try to understand our inaction by following the money trail behind the trash truck.

We need to take prompt action on this matter, and I think this legislation is a good first step. I urge my other colleagues to consider lending this bill their support.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 28, 1999, the federal debt stood at $5,600,865,929,234.63 (Five trillion, six hundred billion, eight hundred sixty-five million, nine hundred twenty-nine thousand, two hundred thirty-four dollars and sixty-three cents).

Five years ago, June 28, 1994, the federal debt stood at $4,603,690,000,000 (Four trillion, six hundred three billion, six hundred ninety million).

Ten years ago, June 28, 1989, the federal debt stood at $2,781,451,000,000 (Two trillion, seven hundred eighty-one billion, four hundred fifty-one million).

Fifteen years ago, June 28, 1984, the federal debt stood at $1,506,943,000,000 (One trillion, five hundred six billion, nine hundred forty-three million) which reflects a debt increase of more than $4 trillion—$4,093,922,929,234.63 (Four trillion, ninety-three billion, nine hundred twenty-two million, nine hundred twenty-nine thousand, two hundred thirty-four dollars and sixty-three cents) during the past 15 years.

PERSONAL EXPLANATION

Mr. LIEBERMAN. Mr. President, on June 28, I was unavoidably detained due to inclement weather which prevented my flight from taking off in Hartford, CT. Had I not been delayed, I would have voted ''no'' on all four cloture votes, numbers 184, 185, 186, and 187.

EXPLANATION OF MISSED VOTE

Mr. DODD. Mr. President, on Monday June 28, 1999, I was not present during Senate action on rollcall vote No. 184, a motion to invoke cloture on S. 1233, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, because my flight was delayed by inclement weather.

Had I been present for the vote, I would have voted ''no.''

CORRECTION TO THE RECORD

In the RECORD of June 24, 1999, on page S7590, the introduction of S. 1280, a bill to terminate the exemption of certain contractors, and other entities from civil penalties for violations of nuclear safety requirements under Atomic Energy Act of 1954, and for other purposes, was incorrectly attributed to Mrs. BOXER. The permanent RECORD will be corrected to reflect the following:

By Mr. BRYAN:

S. 1280. A bill to terminate the exemption of certain contractors and other entities from civil penalties for violations of nuclear safety requirements under the Atomic Energy Act of 1954; to the Committee on Environment and Public Works.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a treaty which was referred to the Committee on Foreign Relations.

REPORT ON THE NATIONAL EMERGENCIES WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) AND KOSOVO—MESSAGE FROM THE PRESIDENT—PM 43

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Yugoslavia (Serbia and Montenegro) as declared in Executive Order 12808 on May 30, 1992, and with respect to Kosovo as declared in Executive Order 13088 on June 9, 1998.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 29, 1999.*

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 1998—MESSAGE FROM THE PRESIDENT—PM 44

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1998 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies for that same year.

Among its many outstanding projects over the past year, CPB has put considerable time and effort into strengthening the teaching and development of America's literacy tradition. Working with educators, writers, and experts from all across the country, CPB has launched a companion website filled with exceptional teaching materials and continues to make possible

the broadcast of some of the Nation's finest literature over our public airwaves. In addition, CPB is also expanding the availability of teacher professional development in the social sciences, humanities, and literature.

As we move into the digital age, I am confident that the Corporation for Public Broadcasting will continue to act as a guiding force. As the projects above illustrate, CPB not only inspires us, it educates and enriches our national culture.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 29, 1999.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3992. A communication from the Secretary of Education, transmitting, a draft of proposed legislation entitled ''College Completion Challenge Grant Act of 1999''; to the Committee on Health, Education, Labor, and Pensions.

EC–3993. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation relative to the Chattahoochee River National Recreation Area; to the Committee on Energy and Natural Resources.

EC–3994. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Foreign Assistance Act of 1961, the report of a determination authorizing the use in fiscal year 1999 of funds to support the United Nations Assistance Mission to East Timor; to the Committee on Foreign Relations.

EC–3995. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Trade Act of 1974, the report of an extension of Presidential Determination 99–26 relative to the Republic of Belarus; to the Committee on Foreign Relations.

EC–3996. A communication from the Chairman of the Board, National Credit Union Administration, transmitting, pursuant to law, a report relative to schedules of compensation; to the Committee on Banking, Housing, and Urban Affairs.

EC–3997. A communication from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Interpretive Bulletin 99–1; Payroll Deduction Programs for Individual Retirement Accounts'' (RIN1210–AA70), received June 23, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–3998. A communication from the Acting Chair, Federal Subsistence Board, U.S. Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition to Include Waters Subject to Subsistence Priority; Correction'' (RIN1018–AD68), received June 23, 1999; to the Committee on Energy and Natural Resources.

EC–3999. A communication from the Acting Chair, Federal Subsistence Board, U.S. Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D–1999–2000 Subsistence Taking of Fish and Wildlife Regulations'' (RIN1018–AD69), received June 23, 1999; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–227. A joint resolution adopted by the General Assembly of the State of Colorado relative to federal highway taxes and demonstration projects; to the Committee on Environment and Public Works.

SENATE JOINT MEMORIAL 99–003

Whereas, Due to the dynamics of state size, population, and other factors such as federal land ownership and international borders, there is a need for donor states that pay more in federal highway taxes and fees than they receive from the federal government and for donee states that receive more moneys from the federal government than they pay in federal highway taxes and fees; and

Whereas, The existence of such donor and donee states supports the maintenance of a successful nationwide transportation system; and

Whereas, There should be a uniform measure when considering the donor and donee issue, and a ratio derived from the total amount of moneys a state receives divided by the total amount of moneys that the state collects in federal highway taxes and fees is a clear and understandable measure; and

Whereas, Demonstration projects are an ineffective use of federal highway taxes and fees; and

Whereas, All moneys residing in the federal highway trust fund should be returned to the states either for use on the national highway system or nationally uniform highway safety improvement programs or as block grants; and

Whereas, The state block grant program should allow states to make the final decisions that affect the funding of their local highway projects based on the statewide planning process; and

Whereas, Only a reasonable amount of the moneys collected from the federal highway taxes and fees should be retained by the United States Department of Transportation for safety and research purposes; and

Whereas, States with public land holdings should not be penalized for receiving transportation funding through federal land or national park transportation programs, and such funding should not be included in the states' allocation of moneys; and

Whereas, The evasion of federal highway taxes and fees further erodes the ability of the state and the federal government to maintain an efficient nationwide transportation system; now, therefore, be it

Resolved by the Senate of the Sixty-second General Assembly of the State of Colorado, the House of Representatives concurring herein:

(1) That, when considering issues related to donor and donee states, the federal government should adopt a ratio derived from the total amount of moneys a state receives in federal highway moneys divided by the total amount of moneys the state collects in federal highway taxes and fees; and

(2) That all demonstration projects should be eliminated; and

(3) That after federal moneys have been expended for the national highway system and safety improvements, a state block grant program should be established for the distribution of remaining federal moneys;

(4) That it is necessary to expand federal and state activities to combat the evasion of federal highway taxes and fees. Be it further

Resolved, That copies of this Joint Memorial be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Colorado's delegation of the United States Congress.

POM–228. A resolution adopted by the House of the Legislature of the State of Michigan relative to a permanent repository for high-level nuclear waste; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 56

Whereas, Over the past four decades, nuclear power has become a significant source for the nation's production of electricity, Michigan is among the majority of states that derive energy from nuclear plants; and

Whereas, Since the earliest days of nuclear power, the great dilemma associated with this technology is how to deal with the waste material that is produced. This high-level radioactive waste material demands exceptional care in all facets of its storage and disposal, including the transportation of this material; and

Whereas, In 1982, Congress passed the Nuclear Waste Policy Act of 1982. This legislation requires the federal government, through the Department of Energy, to build a facility for the permanent storage of high-level nuclear waste. This act, which was amended in 1987, includes a specific timetable to identify a suitable location and to establish the waste facility. The costs for this undertaking are to be paid from a fee that is assessed on all nuclear energy produced; and

Whereas, In accordance with the federal act, customers of utilities operating nuclear plants in Michigan have contributed, directly and through accumulated interest, some $700 million for the construction and operation of a federal waste facility; and

Whereas, There are serious concerns that the federal government is not complying with the timetables set forth in federal law. Every delay places our country at greater risk, because the large number of temporary sites at nuclear facilities across the country makes us vulnerable to potential problems. The Department of Energy, working with the Nuclear Regulatory Commission, must not fail to meet its obligation as provided by law. There is too much at stake; now, therefore, be it

Resolved by the House of Representatives, That we urge the United States Department of Energy and the Nuclear Regulatory Commission to fulfill their obligation to establish a permanent repository for high-level nuclear waste; and be it further

Resolved, That copies of this resolution be transmitted to the United States Department of Energy, the Nuclear Regulatory Commission, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Adopted by the House of Representatives, May 5, 1999.

POM–229. A concurrent resolution adopted by the Legislature of the State of Michigan relative to a permanent repository for high-level nuclear waste; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 29

Whereas, Over the past four decades, nuclear power has become a significant source for the nation's production of electricity, Michigan is among the majority of states that derive energy from nuclear plants; and

Whereas, Since the earliest days of nuclear power, the great dilemma associated with this technology is how to deal with the waste material that is produced. This high-level radioactive waste material demands exceptional care in all facets of its storage and disposal, including the transportation of this material; and

Whereas, In 1982, Congress passed the Nuclear Waste Policy Act of 1982. This legislation requires the federal government, through the Department of Energy, to build a facility for the permanent storage of high-level nuclear waste. This act, which was amended in 1987, includes a specific timetable to identify a suitable location and to establish the waste facility. The costs for this undertaking are to be paid from a fee that is assessed on all nuclear energy produced; and

Whereas, In accordance with the federal act, customers of utilities operating nuclear plants in Michigan have contributed, directly and through accumulated interest, some $700 million for the construction and operation of a federal waste facility; and

Whereas, There are serious concerns that the federal government is not complying with the timetables set forth in federal law. Every delay places our country at greater risk, because the large number of temporary sites at nuclear facilities across the country makes us vulnerable to potential problems. The Department of Energy, working with the Nuclear Regulatory Commission, must not fail to meet its obligation as provided by law. There is too much at stake; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we urge the United States Department of Energy and the Nuclear Regulatory Commission to fulfill their obligation to establish a permanent repository for high-level nuclear waste; and be it further

Resolved, That copies of this resolution be transmitted to the United States Department of Energy, the Nuclear Regulatory Commission, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Adopted by the House of Representatives, May 5, 1999.

Adopted by the Senate, May 20, 1999.

POM–230. A joint resolution adopted by the Legislature of the State of Montana relative to national forest road closure and obliteration; to the Committee on Energy and Natural Resources.

HOUSE JOINT RESOLUTION 26

Whereas, there are 737 million acres of forested land covering approximately one-third of the United States, a nation that has created the largest legally protected wilderness system in the world, while at the same time sustaining a highly productive and efficient wood products industry; and

Whereas, the federal government owns approximately two-thirds of the land in western Montana and these lands are primarily administered by the U.S. Forest Service; and

Whereas, the management of federal lands has a direct impact on economic and recreational opportunities and the quality of life for thousands of Montana residents; and

Whereas, Congress has declared in the federal Multiple-Use Sustained-Yield Act of 1960 that national forests are established and must be utilized for outdoor recreation, range, timber, watershed, and wildlife and fishery purposes; and

Whereas, the national forest road system represents a significant capital infrastructure investment and a valuable existing forest asset for forest managers and the public, providing access for a multitude of recreational opportunities, for emergency response efforts, and for resource management, protection, and improvement activities; and

Whereas, the federal government continues to close roads to public access by motorized vehicles and, in early 1998, the forest service proposed and is now planning to implement an 18-month moratorium on all new road building in roadless areas pending a review of its road management policies; and

Whereas, one stated purpose of the moratorium is to close or obliterate existing roads, thus creating additional defacto roadless areas contrary to the interests of Montana's citizens; and

Whereas, the scheduled destruction of nearly 2,000 miles of roads in the 10 national forests in Montana can have significant environmental, economic, and cultural impacts upon the fabric of many Montana communities and its citizens; and

Whereas, 650 miles of forest system roads in the Flathead National Forest alone have been scheduled for obliteration and 200 miles have already been destroyed; and

Whereas, destruction or obliteration of existing forest system roads can cause short-term and long-term increased discharges of sediment to streams, adversely affecting certain sensitive or endangered fish species and resulting in further restrictions on other multiple-use activities. Now, therefore, be it

Resolved by the Senate and the House of Representatives of the State of Montana:

(1) That the 56th Montana Legislature opposes the current administration's policy on national forest road closure and obliteration and urges the immediate suspension of road closure and obliteration activities.

(2) That existing roads are a valuable and necessary capital investment in public lands that should not be lost or destroyed.

(3) That forest plans specifying multiple-use management for timber harvest, outdoor recreation, range, watershed, and fish and wildlife values should be given priority as the appropriate and necessary management guidance to the forest service. Be it further

Resolved, That copies of this resolution be sent by the Secretary of State to the Montana Congressional Delegation, the Secretary of the federal Department of Interior, the Secretary of the federal Department of Agriculture, the Director of the United States Forest Service, the Director of the United States Fish and Wildlife Service, the President of the United States Senate, the Speaker of the United States House of Representatives, and the President and Vice President of the United States.

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. SPECTER (for himself, Mr. LIEBERMAN, Ms. COLLINS, and Mr. LEVIN):

S. 1297. A bill to make improvements in the independent counsel statute; to the Committee on Governmental Affairs.

By Mr. WARNER:

S. 1298. A bill to provide for professional liability insurance coverage for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ROCKEFELLER (for himself, Mr. NICKLES, Mr. ROBB, Mr. HATCH, and Mr. MACK):

S. 1299. A bill to amend the Internal Revenue Code of 1986 to provide corporate alternative minimum tax reform; to the Committee on Finance.

By Mr. HARKIN:

S. 1300. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to prevent the wearing away of an employee's accrued benefit under a defined plan by the adoption of a plan amendment reducing future accruals under the plan; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. LOTT, Mr. HOLLINGS, and Mr. DORGAN):

S. 1301. A bill to provide reasonable and non-discriminatory access to buildings owned or used by the Federal government for the provision of competitive telecommunications services by telecommunications carriers; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAMS (for himself, Mr. DOMENICI, and Mr. THOMAS):

S. 1302. A bill to correct the DSH Allotments for Minnesota, New Mexico, and Wyoming under the medicaid program for fiscal years 2000, 2001, and 2002; to the Committee on Finance.

By Mr. MURKOWSKI (for himself, Mr. BREAUX, Mr. GORTON, Mr. COCHRAN, Mr. HUTCHINSON, Ms. COLLINS, Mrs. LINCOLN, Mr. SHELBY, Ms. SNOWE, Mrs. MURRAY, Mr. SESSIONS, Mr. SMITH of Oregon, Mrs. HUTCHISON, Mr. GRAMS, and Ms. LANDRIEU):

S. 1303. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 1298. A bill to provide for professional liability insurance coverage for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL EMPLOYEES EQUITY ACT OF 1999

Mr. WARNER. Mr. President, I rise today to introduce the Federal Employees Equity Act of 1999.

My legislation expands a provision included in the omnibus appropriations bill for fiscal year 1997 (P.L. 104–208) to allow federal agencies to contribute to the costs of professional liability insurance for their senior executives, managers and law enforcement officials. While this important benefit contained in the Omnibus Appropriation bill was indeed enacted, it has not been made available on as wide a basis to federal employees as we had hoped.

The Federal Employees Equity Act would ensure that federal agencies reimburse one-half the premiums for Professional Liability Insurance for employees covered by this bill. Federal managers, supervisors, and law enforcement officials should not have to fear the excessive costs of legal representation when unwarranted allegations are made against them for investigations of these allegations are conducted.

I was a strong supporter of the provision in 1996 because federal officials often found themselves to be the target of unfounded allegations of wrongdoing. Sometimes allegations were

made by citizens, against whom federal officials were enforcing the law and by employees who had performance or conduct problems. Although many allegations have proven to be specious, these federal officials were often subject to lengthy investigations and had to pay for their own legal representation when their agencies could not provide it.

The affected federal managers, supervisors, and law enforcement officials are generally prohibited from being represented by unions. For employees who are in bargaining units represented by unions, Congress allows federal agencies to subsidize the time and expenses of union representatives when they are needed by such employees, whether or not they are dues paying members of the union.

Because these federal officials are denied union representation, they have found it necessary to purchase professional liability insurance in order to protect themselves when allegations are made against them to the inspector general of their agency, to the Office of Special Counsel, or to the EEO office. The insurance provides coverage for legal representation for the employees when they are accused, and will pay judgements against the employee up to a maximum dollar amount if the employee is found to have made a mistake while carrying out his official duties. Currently, these managers must hire their own lawyers in order to defend their reputation and careers when they are the subject of a grievance, regardless of whether the complaint has merit.

The current law has had some success and has been implemented by several federal departments including: Departments of Agriculture, Education, Interior, Labor, and such agencies as the Social Security Administration, Small Business Administration, General Services Administration, Securities and Exchange Commission, National Aeronautics and Space Administration, the Office of the Inspector General at the Department of Housing and Urban Development, the National Science Foundation, the Merit Systems Protections Board, the Office of the Inspector General at the Office of Public Health and Science, and the Substance Abuse and Mental Health Services Administration at Department of Health and Human Services.

Regrettably, other departments such as Treasury, Justice, Defense, Commerce, Transportation, Veterans Affairs, and agencies such as the Equal Employment Opportunity Commission, and the Office of Personnel Management have not seen fit to do so.

The professional associations of these officials (the Senior Executives Association, the Professional Managers Association, the FBI Agents Association, the Federal Criminal Investigators Association, the Federal Law Enforcement Officers Association, the National Association of Assistance U.S. Attorneys, and the National Treasury Employees Union) have endorsed the concept for legislation to require federal agencies to reimburse half the cost of premiums for professional liability insurance.

The intent of this measure is simply to ''level the playing field'' so that supervisors and managers are treated equally by various federal agencies and have access to protections similar to those which are already provided for rank and file federal employees.

I request your support for these federal officials and for this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1298

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

SECTION 1. PROFESSIONAL LIABILITY INSURANCE.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Employees Equity Act of 1999''.

(b) IN GENERAL.—Section 636(a) of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–363; 5 U.S.C. prec. 5941 note) is amended in the first sentence by striking ''may'' and inserting ''shall''.

(c) LAW ENFORCEMENT OFFICERS.—Section 636(c)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009-364; 5 U.S.C. prec. 5941 note) is amended to read as follows:

''(2) the term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, prosecution, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including—

''(A) any law enforcement officer under section 8331(20) or 8401(17) of title 5, United States Code;

''(B) any special agent under section 206 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4823);

''(C) any customs officer as defined under section 5(e)(1) of the Act of February 13, 1911 (19 U.S.C. 267);

''(D) any revenue officer or revenue agent of the Internal Revenue Service; or

''(E) any Assistant United States Attorney appointed under section 542 of title 28, United States Code.''.

(d) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the later of—

(1) October 1, 1999; or

(2) the date of enactment of this Act.

By Mr. ROCKEFELLER (for himself, Mr. NICKLES, Mr. ROBB, Mr. HATCH, and Mr. MACK).

S. 1299. A bill to amend the Internal Revenue Code of 1986 to provide corporate alternative minimum tax reform; to the Committee on Finance.

ALTERNATIVE MINIMUM TAX REFORM ACT OF 1999

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the ''Alternative Minimum Tax Reform Act of 1999'' with a bipartisan group of my colleagues on the Senate Finance Committee, Senators NICKLES, ROBB, HATCH and MACK. This bill is designed to improve the way the corporate alternative minimum tax works for capital intensive and commodity based companies. It is relatively modest in scope and I hope it will be part of any discussion we have about how we might deliver appropriate tax relief. Even though this bill does not change the fundamentals of the corporate AMT, it would eliminate some of the unfairness of current law by allowing companies with long term AMT credits to recover those credits faster. I think this bill should be part of the Finance Committee's discussions about constructive ways to provide corporate tax relief.

The alternative minimum tax imposes a significant long term tax burden on capital intensive industries —it is not a minimum tax, but is, in fact, a maximum tax which requires companies to calculate their taxes two different ways and pay the higher of the two calculations. It hits our manufacturing sector hard because these businesses are most likely to have to make large investments in plants and equipment. Manufacturing businesses that make commodity products often have slim profit margins and must contend with fierce international competition. The coal and steel industry are perfect examples of these types of industries. Other businesses with tight profit margins such as start up companies are also negatively affected by AMT.

Today, a taxpayer's AMT may be reduced by foreign tax credits and net operating losses, but they are limited to 90% of the alternative minimum tax. Under present law, if a taxpayer pays alternative minimum tax in any year, the amount of that payment is treated as an alternative minimum credit for future years. This was intended to ensure that companies did not wind up paying more under the AMT than was owed under the regular income tax. However, under current law, AMT credits may be used to reduce regular tax but not alternative minimum tax. No carryback of credits is permitted.

The provisions of the ''Alternative Minimum Tax Reform Act of 1999'' would allow a corporation with AMT credits that are unused after three or more years to reduce its tentative minimum tax by a maximum of 50% using those credits. The portion which would be allowed would the lesser of the aggregate amount of the taxpayer's AMT credits that are at least three years old; or 50% of the taxpayer's alternative minimum tax. The taxpayer would use its oldest AMT credits first under both current law that allows a company to use its AMT credits, and under the provisions of this bill. The bill would enhance a company's ability to use AMT credits to reduce its regular tax. Finally, the bill would allow a taxpayer with AMT net operating losses in the current and two previous years to carry back AMT net operating losses up to 10 years to offset AMT paid in previous years. First-in, and first-

out ordering would apply. This provision would help companies in the toughest financial shape.

The ''Alternative Minimum Tax Reform Act of 1999'' is designed to help prevent companies from being trapped permanently into AMT status. Recovering more AMT credits sooner will help ease the position of many companies who are now stuck with excess and unusable AMT credits. Too many companies have paid AMT for years and see no possibility of using their AMT credits without this reform. Moreover, a great many U.S. companies have had to deal with sharply decreasing commodity prices due to the collapse of markets in Asia and around the world over the last few years. Without some assistance it will be very hard for American companies to continue to modernize and remain competitive. Their position of accumulating excess AMT credits hurts their cash flow and their bottomline profitability.

The Alternative Minimum Tax Reform Act of 1999 is something reasonable we can do to help companies that are the backbone of our manufacturing base. I look forward to discussing this issue with my colleagues and to a score of how much this proposal would cost from the Joint Tax Committee to inform our discussions.

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. 1299

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 ''Alternative Minimum Tax Reform Act of 1999.''.

SEC. 2. LONG-TERM UNUSED CREDITS ALLOWED AGAINST MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 53 of the Internal Revenue Code of 1986 (relating to limitation) is amended by adding at the end the following:

''(2) SPECIAL RULE FOR CORPORATIONS WITH LONG-TERM UNUSED CREDITS.—

''(A) IN GENERAL.—If a corporation to which section 56(g) applies has a long-term unused minimum tax credit for a taxable year, the credit allowable under subsection (a) for the taxable year shall not exceed the greater of—

''(i) the limitation determined under paragraph (1) for the taxable year, or

''(ii) the least of the following for the taxable year:

''(I) The sum of the tax imposed by section 55 and the regular tax reduced by the sum of the credits allowed under subparts A, B, D, E, and F of this part.

''(II) The long-term unused minimum tax credit.

''(III) The sum of—

''(aa) the excess (if any) of the amount under paragraph (1)(A) over the amount under paragraph (1)(B), plus

''(bb) 50 percent of the tentative minimum tax (determined under section 55(b)(1)(B)).

''(B) LONG-TERM UNUSED MINIMUM TAX CREDIT.—For purposes of this paragraph—

''(i) IN GENERAL.—The long-term unused minimum tax credit for any taxable year is the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years beginning after 1986 and ending before the 3rd taxable year immediately preceding the taxable year for which the determination is being made.

''(ii) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of clause (i), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.''.

(b) CONFORMING AMENDMENTS.—Section 53(c) of such Code is amended—

(1) by striking ''The'' and inserting the following:

''(1) IN GENERAL.—The''; and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

SEC. 3. 10-YEAR CARRYBACK OF CERTAIN NET OPERATING LOSSES.

Section 56(d) of the Internal Revenue Code of 1986 (relating to definition of alternative tax net operating loss deduction) is amended by adding at the end the following:

''(3) SPECIAL RULE.—In the case of a corporation to which section 56(g) applies which has a net operating loss under this part for 3 or more consecutive taxable years which includes a taxable year beginning after the date of enactment of this paragraph, the loss for each such year shall be a net operating loss carryback for purposes of this part to each of the 10 years preceding the taxable year of such loss.''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1998.

Mr. NICKLES. Mr. President, today I join my colleague from West Virginia, Senator ROCKEFELLER, to introduce legislation to reform the alternative minimum tax, or AMT.

Congress created the AMT in 1986 to prevent businesses from using tax loopholes, such as the investment tax credit or safe harbor leasing, to pay little or no tax. The use of these tax preferences sometimes resulted in companies reporting healthy ''book'' income to their shareholders but little taxable income to the government.

Therefore, to create a perception of fairness, Congress created the AMT. The AMT requires taxpayers to calculate their taxes once under regular tax rules, and again under AMT rules which deny accelerated depreciation, net operating losses, foreign tax credits, and other deductions and credits. The taxpayer then pays the higher amount, and the difference between their AMT tax and their regular tax is ''credited' to offset future regular tax liability if it eventually falls below their AMT tax liability.

Unfortunately, the AMT has had a negative, unanticipated impact on many U.S. businesses. As it is currently structured, the AMT is a complicated, parallel tax code which places a particularly heavy burden on capital intensive companies. Corporations must now plan for and comply with two tax codes instead of one. Further, the AMT's elimination of important cost-recovery tax incentives increases the cost of investment and makes U.S. businesses uncompetitive with foreign companies.

Mr. President, I am proud to say that several AMT reforms I began pushing in 1995 were eventually enacted in 1997. The Taxpayer Relief Act of 1997 exempted small corporations from the AMT, and conformed the depreciation cost-recovery periods for AMT and the regular corporate tax. The depreciation provisions in particular will relieve much of the AMT's negative impact on capital-intensive businesses.

However, even with these changes, some businesses continue to be chronic AMT taxpayers, a situation that was not contemplated when the AMT was created. These companies continue to pay AMT year after year, accumulating millions in unused AMT credits. These credits are a tax on future, unearned revenues which may never materialize, and because of the time-value of money their value to the taxpayer decreases every year.

The legislation Senator ROCKEFELLER and I are introducing today helps AMT taxpayers recover their AMT credits in a more reasonable time frame than under current law. Our bill would allow businesses with AMT credits which are three years old or older to offset up to 50 percent of their current-year tentative minimum tax. This provision will help chronic AMT taxpayers dig their way out of the AMT and allow them to recoup at least a portion of these ''accelerated tax payments'' in a reasonable time-frame.

Mr. President, our legislation does not repeal the AMT, and it will not allow taxpayers to ''zero out'' their tax liability. This bill specifically addresses the problems faced by companies that are buried in AMT credits they might otherwise never be able to utilize. I encourage the Senate Finance Committee to consider our bill when drafting this year's tax reconciliation legislation.

By Mr. HARKIN:

S. 1300. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to prevent the wearing away of an employee's accrued benefit under a defined plan by the adoption of a plan amendment reducing future accruals under the plan; to the Committee on Finance.

OLDER WORKERS PENSION PROTECTION ACT OF 1999

Mr. HARKIN. Mr. President, older workers across America have been paying into pension plans throughout their working years, anticipating the secure retirement which is their due. And now, as more Americans than ever before in history approach retirement, we are seeing a disturbing trend by employers to cut their pension benefits.

Many companies are changing to so-called ''cash balance'' plans which often saves them millions of dollars in pension costs each year by taking a substantial cut out of employee pensions. This practice allows employers to unfairly profit at the expense of retirees.

Employees generally receive three types of benefits for working: direct wages, health benefits and pensions.

Two of those are long-term benefits which usually grow in value as workers become older. Pensions are paid entirely after a worker leaves. Reducing an employee's pension years after it is earned should be no more legal than denying a worker wages after work has been done.

In fact, our laws do prohibit employers from directly reducing an employee's pension accrued benefit. Unfortunately, however, these protections are being sidestepped and workers' pensions are being indirectly reduced through the creation of cash balance pension plans.

Under traditional defined benefit plans, a worker's pension is based on their length of employment and their average pay during their last years of service. Their pension is based on a preset formula using those key factors rather than the amount in their pension account. Under the typical cash balance plan, a worker's pension is based on the sum placed in the employee's account. That sum is based on their wages or salary year to year.

When a worker shifts from a traditional to a cash balance plan, the employer calculates the value of the benefits they have accrued under the old plan. The result for many older workers who have accrued significant sums in their pension that are higher than it would have been under the new cash balance plan. In that case, under many of these cash balance plans the employer simply stops contributing to the value of their pension till the value reaches the level provided for under the new plan. And this can go on for significant periods—five years and sometimes more. Pension experts call this ''wear away'' others call it a ''plateau.''

This is not right. It is not fair. In fact, I believe it is a type of age discrimination. After all, a new employee, usually younger, would effectively be receiving greater pay for the same work: money put into their pension plan. And, there are some who believe this practice violates the spirit and perhaps the letter of existing law in that regard.

What does this mean to real people?

Two Chase Manhattan banking executives hired an actuary to calculate their future pensions after Chase Manhattan's predecessor, Chemical Bank, converted to a cash balance plan. The actuary estimated their future pensions had fallen 45 percent. John Healy, one of the executives, says ''I would have had to work about ten more years before I broke even.''

Ispat Inland, Inc, an East Chicago steel company, converted to a cash balance plan January 1. Paul Schroeder, a 44-year-old engineer who has worked for Ispat for 19 years, calculated it could take him as long as 13 years to acquire additional benefits.

Why are companies changing to these cash balance plans? They have lots of stated reasons: ease of administration, certainty in how much is needed to pay for the pension plan and that the plan is beneficial to those workers who move from company to company (with similar pension plans). But, the big reason is the companies save millions of dollars. They save it because the pensions provided for with almost all cash balance plans are, on average far less generous, and they immediately reduce their need to pay anything into a pension plan at all for a while, sometimes for years, because of this wear away or plateau feature.

At one conference of consulting actuaries, Joseph M. Edmonds told companies:

. . . it is easy to install a cash balance plan in place of a traditional defined benefit plan and cover up cutbacks in future benefit accruals. For example, you might change from a final average pay formula to a career average pay formula. The employee is very excited about this because he now has an annual account balance instead of an obscure future monthly benefit. The employee does not realize the implications of the loss of future benefits in the final pay plan. Another example of a reduction in future accruals could be in the elimination of early retirement subsidies.

Because traditional pension plans become significantly more valuable in the last years before retirement, the switch to cash balance plans also can reduce older workers' incentive to stay until they reach their normal retirement age.

I support Senator MOYNIHAN'S legislation that requires that individuals receive clear individualized notice of what a conversion to a cash balance plan would do to their specific pension. There is no question that shining the light on this dark practice can reduce the chance that it will occur. I certainly agree with his view that those notices should not be generalized where obfuscation is easier and employees will pay less attention to the result.

I also believe that more must be done. For that reason, I am introducing the Older Workers Pension Protection Act of 1999 which prohibits the practice of ''wear away.'' It provides that a company cannot discriminate against longtime workers by not putting aside money into their pension account without any consideration for the long term payments made to the employee's pension for earlier work performed. Under my bill, there would be no wear away, no plateau in which a worker would be receiving no increases in pension benefits while working when other employees received benefits. The new payments would have to at least equal the payments made under the revised pension plan without any regard to how much a worker had accrued in pension benefits under the old plan.

Some suggest that if such a requirement were put in place, companies could and would opt out of providing any pension at all. I do not believe that would happen. Companies with defined benefit plans do not have them because they are required to do so. They do it because of negotiated contracts or because the company has decided that it is an important part of the benefits for employees to acquire and maintain a productive workforce. Many suggest that the simple disclosure alone might prevent a reduction in payment benefits.

Much is made about the gains of younger workers when companies switch to cash benefit plans. There is greater portability. But, none of the experts I've consulted believes that is a dominant motivation of the companies for proposing these changes in pension law. And, the changes I am proposing would not reduce the benefits for younger workers.

I urge my colleagues to take a fresh look at the spirit of the current law that prevents a reduction in accrued pension benefits. I believe it is only fair to extend that law with its current spirit by simply requiring that any company which changes to a cash balance or similar pension plan treats all workers fairly and not penalize older employees whose hard work has earned them benefits under the earlier pension plan.

Mr. President, Ellen Schultz at the Wall Street Journal has done an excellent series of articles on this issue. I ask unanimous consent that a copy of those articles appear in the RECORD at this point. I am also including the text of a piece of this same subject done by NPR. If my colleagues have not seen these articles I commend them to their attention. I believe that once you've read them, you'll agree with me that we must take action to protect the pensions of older workers.

[From the Wall Street Journal, Dec. 4, 1998]

EMPLOYERS WIN BIG WITH A PENSION SHIFT; EMPLOYEES OFTEN LOSE

(By Ellen E. Schultz and Elizabeth MacDonald)

Largely out of sight, an ingenious change in the way big companies structure their pension plans is saving them millions of dollars, with barely a peep of resistance. Unless they happen to have a Jim Bruggeman on their staff.

Sifting through his bills and junk mail one day last year, Mr. Bruggeman found the sort of notice most people look at but don't spend a lot of time on: His company was making some pension-plan changes.

The company, Central & South West Corp., was replacing its traditional plan with a new variety it said was easier to understand and better for today's more-mobile work force. A brochure sent to workers stressed that ''the changes being made are good for both you and the company.''

Alone among Central & South West's 7,000 employees, Mr. Bruggeman, a 49-year-old engineer in the Dallas utility's Tulsa, Okla., office, set out to discover exactly how the new system, known as a cash-balance plan, worked. During a year-long quest to master the assumptions, formulas and calculations behind it, Mr. Bruggeman found himself at odds with his superiors, and labeled a troublemaker. In the end, though, he figured out something about the new pension system that few other employees have noticed: For many of them, it is far from a good deal.

But it clearly was, as the brochure noted, good for the company. A peek at a CSW regulatory filing in March 1998, after the new plan took effect, shows that the company saved $20 million in pension costs last year

alone. Other government filings revealed that whereas the year before, CSW had to set aside $30 million to fund its pension obligations, after it made the mid-1997 switch it didn't have to pay a dime to fund the pension plan.

PENSION LIGHT

The switch to cash-balance pension plans—details later—is the biggest development in the pension world in years, so big that some consultants call it revolutionary. Certainly, many call it lucrative; one says such a pension plan ought to be thought of as a profit center. Not since companies dipped into pension funds in the 1980s to finance leveraged buyouts, have corporate treasurers been so abuzz over a pension technique.

But its little-noticed dark side—one that many companies don't make very clear to employees, to say the least—is that a lot of older workers will find their pensions cut, in some cases deeply.

So far, only the most financially sophisticated employees have figured this out, because the formulas are so complex. Even the Labor Department and the Internal Revenue Service have trouble with them. So thousands of employees, while acutely aware of how the stock market affects their retirement next eggs, are oblivious to the effect of this change. (See related article on page C1.)

One might get the impression, from the rise of 401(k) retirement plans funded jointly by employer and employee, that pensions are a dead species. In fact, nearly all large employers still have pension plans, because pulling the plug would be too costly; the company would have to pay out all accrued benefits at once. Meanwhile, companies face growing obligations as the millions of baby boomers move into their peak pension-earning years.

Now, however, employers have discovered a substitute for terminating the pension plan; a restructuring that often makes it unnecessary ever to feed the plan again.

PITFALLS FOR EMPLOYERS

But this financially appealing move has its risks. The IRS has never given its blessing to some of the maneuvers involved. If employers don't win a lobbying battle currently being waged for exemptions from certain pension rules, some of these plans could be in for a costly fix.

In addition, the way employers are handling the transition could result in employee-relations backlashes as more and more older workers eventually figure out they are paying the price for the transformation of traditional pension plans.

In those traditional plans, most of the benefits build up in an employee's later years. Typical formulas multiply years of service by the average salary in the final years, when pay usually is highest. As a result, as much as half of a person's pension is earned in the last five years on the job.

With the new plans, everyone gets the same steady annual credit toward an eventual pension, adding to his or her pension-account ''cash balance.'' Employers contribute a percentage of an employee's pay, typically 4%. The balance earns an interest credit, usually around 5%. And it is portable when the employee leaves.

For the young, 4% of pay each year is more than what they were accruing under the old plan. But for those nearing retirement, the amount is far less. So an older employee who is switched in to a cash-balance system can find his or her eventual pension reduced by 20% or 50% or, in rare cases, even more.

This is one way companies save money with the switch. The other is a bit more complicated. Companies can also benefit from the way they invest the assets in the cash-balance accounts.

If the employer promised to credit 5% interest to employees' account balances, it can keep whatever it earned above that amount. The company can use these earnings to finance other benefits, to pay for a work-force reduction, or—crucially—to cover future years' contributions. This is why the switch makes pension plans self-funding for many companies.

Although employers can do this with regular pensions, the savings are grater and easier to measure in cash-balance plans. The savings often transform an underfunded pension plan into one that is fully funded. ''Cash-balance plans have a positive effect on a company's profitability,'' says Joseph Davi, a benefits consultant at Towers Perrin in Stamford, Conn. They ''could be considered a profit center.''

MOTIVE FOR THE MOVE

Employers, however, are almost universally reticent about how they benefit. ''Cost savings were not the reason the company switched to a cash-balance plan,'' says Paul Douty, the compensation director at Mr. Bruggeman's employer, CSW. Sure, the move resulted in substantial cost savings, he says, but the company's goal was to become more competitive and adapt to changing times. Besides, he notes, the $20 million in pension-plan savings last year were partly offset by a $3 million rise in costs in the 401(k); the company let employees contribute more and increased its matching contributions.

There is another reason some employers like cash-balances plans: By redistributing pension assets from older to younger workers, they turn pension rights—which many young employees ignore since their pension is so far in the future—into appealing benefits today. At the same time, older workers lose a financial incentive to stay on the job, since their later years no longer can balloon the pension.

Some pension professionals think companies should be more candid. ''If what you want to do is get rid of older workers, don't mask it as an improvement to the pension plan,'' says Michael Pikelny, an employee-benefits specialist at Hartmarx Corp., an apparel maker in Chicago that decided not to install a cash-balance plan.

UNDER A MICROSCOPE

Most employees aren't equipped to question what employers tell them. But Mr. Bruggeman was. He had a background in finance, his hobby was actuarial science, he had taken graduate-level courses in statistics and probability, and he knew CSW's old pension plan inside and out. So when the company announce it was converting to a cash-balance plan last year, he began asking it for the documents and assumptions he needed to compare the old pension to the new one.

With each new bit of data, he gained another insight. First, he figured out that future pension accruals had been reduced by at least 30% for most employees. CSW got rid of early-retirement and other subsidies and reduced the rates at which employees would accrue pensions in the future.

Employees wouldn't necessarily conclude this from the brochures the human resources department handed out. Like most employers that switch to cash-balances plans, CSW assured employees that the overall level of retirement benefits would remain unchanged. But a close reading of the brochure revealed that this result depended on employees' putting more into their 401(k) plans, gradually making up for the reduction in pensions.

At a question-and-answer session on the new plan before it was adopted, Mr. Bruggeman spoke up and told co-workers how their pensions were being reduced. The next day, he says, his supervisors in Tulsa came to his office and told him that CSW management in Dallas was concerned that his remarks would ''cause a class-action suit'' or ''uprising,'' and said he shouldn't talk to any other employees. He says the supervisor, Peter Kissman, informed him that if he continued to challenge the new pension plan, CSW officials would think he wasn't a team player, and his job could be in jeopardy.

Asked about this, Mr. Kissman says: ''In my department I would not tolerate employee harassment. I believe the company feels the same way. Past that, I really can't speak to this issue. It's being investigated by the company.''

A FEW SWEETENERS

Employers, aware that switching to cash-balance plans can slam older workers, often offer features to soften the blow. They may agree to contribute somewhat more than the standard 4% of pay for older employees, or they may provide a ''grandfather clause.'' CSW offered both options, saying employees 50 or older with 10 years of service could stay in the old plan if they wished. Mr. Bruggeman, a 25-year veteran, was just shy of 49. He calculated that people in his situation would see their pensions fall 50% under the new plan, depending on when they retired.

Mr. Bruggeman told company officials that the plan wasn't fair to some long-term employees. Subsequently, he says, in his November 1997 performance evaluation, his supervisor's only criticism was that he ''spends too much time thinking about the pension plan.'' A CSW official says the company can't discuss personnel matters.

What bothered Mr. Bruggeman even more was his discovery of one of the least-known features of cash-balance plans: Once enrolled in them, some employees don't earn any more toward their pension for several years.

The reasons are convoluted, but in a nutshell: Most employees believe that opening balance in their new pension account equals the credits they've earned so far under the old plan. But in fact, the balance often is lower.

When employers convert to a cash-balance plan, they calculate a present-day, lump-sum value for the benefit each employee has already earned. In Mr. Bruggeman's case, this was $352,000—something he discovered only after obtaining information from the company and making the calculations himself. Yet Mr. Bruggeman's opening account in the cash-balance plan was just $296,000, because the company figured it using different actuarial and other assumptions.

This is generally legal, despite a federal law that bars companies from cutting already-earned pensions. If Mr. Bruggeman quit, he would get the full $352,000, so the law isn't violated. But if he stays, it will take several years of pay credits and interest before his balance gets back up to $352,000.

''WEARAWAY''

Mr. Douty says this happened to fewer than 2% of workers at CSW. But at some companies that switch to cash-balance plans, far more are affected. At AT&T Corp., which adopted a cash-balance plan this year, many older workers will have to work three to eight years before their balance catches up and they start building up their pension pot again. ''Wearaway,'' this is called. Only if an employee knows what figures to ask for can he or she make a precise comparison of old and new benefits.

Indeed, the difficulty of making comparisons has sometimes been portrayed as an advantage of switching to cash-balance plans. A partner at the consulting firm that invented the plans in the 1980s told a client in

a 1989 letter: ''One feature which might come in handy is that it is difficult for employees to compare prior pension benefit formulas to the account balance approach.''

Asked to comment, the author of that line, Robert S. Byrne of Kwasha Lipton (now a unit of PricewaterhouseCoopers), says, ''Dwelling on old vs. new benefits is probably not something that's a good way to go forward.''

At one company, employees did know how to make comparisons. When Deloitte & Touche started putting a cash-balance plan in place last year, some older actuaries rebelled. The firm eventually allowed all who had already been on the staff when the cash-balance plan was adopted to stick with the old benefit if they wished.

STRUGGLE AT CHASE

At Chase Manhattan Corp., two executives in the private-banking division hired an actuary and calculated that their future pensions had fallen 45% as a result of a conversion to a cash-balance plan by Chase predecessor Chemical Bank. ''I would have had to work about 10 more years before I broke even and got a payout equal to my old pension,'' says one of the executives, John Healy, now 61.

He and colleague Nathan Davi say that after seven years of their complaints, Chase agreed to give each a pension lump sum of about $487,000, which was roughly $72,000 more than what they would have received under the new cash-balance plan. Although a Chase official initially said the bank had ''never given any settlement to any employee over the bank's pension plans,'' when told about correspondence about the Healy-Davi case, Chase said that a review had determined that about 1,000 employees could be eligible for additional benefits. ''We amended the plan so that it would cover all similarly situated employees,'' a spokesman said.

How many quiet arrangements have been reached is unknown. But employees are currently pressing class-action suits against Georgia-Pacific Corp. and Cummins Engine Co.'s Onan Corp. subsidiary, alleging that cash-balance plans illegally reduce pensions. (Both defendants are fighting the suits.) Judges have recently dismissed similar suits against Bell Atlantic Corp. and BankBoston N.A.

CONCERN AT THE IRS

Not aware of any of this ferment, Mr. Bruggeman in August 1998 filed his multiple-spreadsheet analysis of the CSW cash-balance plan with the IRS and the Labor Department, asking them for a review. Soon after, he says, a manager in CSW's benefits department called him in and ''wanted to know what it would take for me to drop all this.'' The answer wasn't to be ''grandfathered'' and exempted from the new plan. ''I told him all I want is for the company to . . . be fair to employees,'' he says, ''It's the principle of the thing.''

The manager couldn't be reached for comment, but a CSW official says the company takes complaints ''very seriously and they're thoroughly investigated. In every part of this type of investigation an employee is interviewed by a company representative, and in every initial interview the employee is asked for suggestions on what might be a preferred solution.''

Even without Mr. Bruggeman's input, the IRS has a lot of cash-balance data on its plate. The agency is swamped with paperwork from hundreds of new plans seeking its approval, and applications are piling up. The delay is due in part to concern at the IRS that such plans may violate various pension laws, according to a person familiar with the situation. Meanwhile, the consulting firms that create the plans for companies are lobbying for exemptions from certain pension rules.

They say they aren't worried. That's because ''companies who now have these plans are sufficiently powerful, sufficiently big and have enough clout that they could get Congress to bend the law . . . to protect their plans,'' says Judith Mazo, a Washington-based senior vice president for consulting firm Segal Co. Regulators, meanwhile, are playing catch-up. Bottom line, Ms. Mazo says: ''The plans are too big to fail.''

[From ''Morning Edition,'' Feb. 1, 1999]

PROS AND CONS OF CASH BALANCE PLANS FOR RETIREMENT SAVINGS

BOB EDWARDS, host. This is NPR's ''Morning Edition.'' I'm Bob Edwards.

A new type of pension program is becoming popular with the nation's top employers. The program is called the cash balance plan. It's an innovative and complicated type of retirement account suitable for today's modern work force, especially many young mobile employees. And that's the problem. Critics warn cash balance plans benefit the young at the expense of older, longtime workers. NPR's Elaine Korry reports.

ELAINE KORRY reporting. The traditional pension plan so widespread a generation ago essentially promised long-term employees a secure monthly income when they reached retirement age. Eric Lofgren (ph), head of the benefits consulting group (ph) at Watson Wyatt (ph), says that type of pension made sense when people worked at the same job for decades. But, he says, great changes in the workplace have made those plans obsolete.

Mr. ERIC LOFGREN (Benefits Consulting Group, Watson Wyatt). The traditional plan does a very good job for about one person out of 20. But for the rest of us who have changed jobs a couple times in our career, the traditional plan really doesn't deliver, because it rewards long career with one employer and that just isn't the situation for most people.

KORRY. The response of many large employers—so far about 300 of them—has been to quietly switch to a new plan that turns the traditional pension on its head. Lofgren, who helps companies formulate these new cash balance plans, says they spread the wealth around so more employees prosper, perhaps 19 out of 20. But that's not the only reason companies are lining up to make the switch. Edgar Pouk (ph), a New York pension law attorney, says that the real winners in these plan conversions are the employers.

Mr. EDGAR POUK (Pension Law Attorney). They stand to gain by the change, and so they're trying to sell it, and they sell it by emphasizing the advantages of the conversion for younger workers, but not explaining the drawbacks, and serious drawbacks, for older workers.

KORRY. In fact, says Pouk, switching to a cash balance plan can cost older employees tens of thousands of dollars, a loss they may never figure out. This stuff is so technical, many pension experts don't understand it, let alone the average employee. In simple terms, here's what happens: Pension regulations permit companies to use two different interest rates when calculating the value of the old pension vs. the opening balance of the new one. Employers usually choose the formula that favors them, even though it leaves older workers worse off. A pension balance of, say, $100,000 under the old plan might be worth only $70,000 when converted to a cash balance plan. Right there, the older worker is down 30 grand.

It gets worse. For some accounting purposes, the employer can treat the $70,000 as if it were 100 grand. Then the employer can freeze the account until the employee works the five to 10 years it can take to make up the difference. Edgar Pouk says the contributions the company doesn't have to make during that time add up quickly.

Mr. POUK. You're talking about tens of thousands of dollars for each worker. You multiply that by thousands of workers and the employer saves millions of dollars.

KORRY. Often older workers don't know what happened. Some employers, however, are careful to point out the differences. Then older workers have a choice. They can recoup their losses, but only by quitting, in which case they would receive a lump-sum payment equal to their old balance. So cash balance plans may be an inducement for older workers to leave. Olivia Mitchell (ph), head of the Pension Research Council at the Wharton School, says recent changes in labor and law have given older workers many more job protections than before, so employers are resorting to creative ways to ease their older worker force out.

Ms. OLIVIA MITCHELL (Pension Research Council, Wharton School). They may be downsizing, they may be looking for a different type of employee, perhaps with different skills, and so they're taking the cash balance plan as one of many human resource policies to essentially restructure the work force. So it's seen as a tool toward that end.

KORRY. Companies that convert to cash balance plans can level the playing field so that all employees benefit. Some companies will guarantee their older workers a higher rate of return or allow them to keep the old plan until they retire. But those are voluntary measures that eat up the cost savings. For now, regulators have not caught up with the growing momentum toward the new plans. But according to attorney Edgar Pouk, employers who don't protect their older workers are running the risk of landing in court.

Mr. POUK. When you have a number of years where the older worker receives no additional benefits that a plan is illegal per se, because federal law prohibits zero accruals for any year of participation.

KORRY. So far, the Internal Revenue Service has not given its blessing to cash balance plans. Employers have mounted an intense lobbying effort to win a safe harbor within pension law. On the other side, employees at a few large companies have lawsuits pending against the conversions, and some congressional leaders have expressed concern. Staffers on the Senate Finance Committee are considering legislation that would at least require employers to spell out what a pension conversion would mean for older workers. Elaine Korry, NPR News, San Francisco.

By Mr. STEVENS (for himself, Mr. LOTT, Mr. HOLLINGS, and Mr. DORGAN):

S. 1301. A bill to provide reasonable and non-discriminatory access to buildings owned or used by the Federal government for the provision of competitive telecommunications services by telecommunications carriers; to the Committee on Commerce, Science, and Transportation.

COMPETITIVE ACCESS TO FEDERAL BUILDINGS ACT

Mr. STEVENS. Mr. President, today I introduce, along with Senators LOTT, HOLLINGS, and DORGAN, a bill to ensure that the Federal Government stands behind its pledge to foster true competition in the provision of local telecommunications services.

While competition in the local telecommunications sector is growing, new

entrants using terrestrial fixed wireless or satellite services lack of the significant advantages of incumbent local exchange carriers when it comes to gaining access to many buildings. This is particularly true when it comes to access to rooftops and to the internal risers and conduits linking the rooftop to the basement, where the access point to the internal phone wiring is usually located.

In some instances these wireless local carriers are welcomed by building owners and landlords with open arms; however, more often than not they meet resistance, are rejected, or just plain ignored. I believe the Federal Government should do more to ensure a level playing field for these new entrants to compete on.

Our bill is designed to spur competition and to hopefully save taxpayer dollars. We focus in this legislation only upon buildings owned by the Federal Government or where the Federal Government is a lessee.

The inspiration of this bill comes from States which have moved to encourage access by competitors. Connecticut and Texas have both enacted measures to promote nondiscriminatory access by telecommunications carriers to rooftops, risers, conduits, utility spaces, and points of entry and demarcation in order to promote the competitive provision of telecommunications and information services.

This bill takes a similar approach to that enacted by the States, and requires that nondiscriminatory access be provided to all telecommunications carriers seeking to provide service to federally-owned buildings and buildings in which Federal agencies are tenants. The National Telecommunications and Information Administration of the Department of Commerce, the NTIA, which is the Agency that coordinates telecommunications policy for Federal agencies, is tasked with implementing this requirement.

Building owners can easily meet the requirements of this bill. They can either certify that they are already bound to provide nondiscriminatory access under State law or they can commit in writing that they will provide such access as a matter of contract.

This bill does not mandate that every building must use the services of these new competitors. What it does say is that the Federal Government should lead by example.

This bill does not mandate a takings. Owners and operators can charge a nondiscriminatory fee for the rooftop and conduit space these technologies use to provide local service—which I am encouraged to say is quite small.

Owners and operators may impose reasonable requirements to protect the safety of the tenants and the condition of the property.

Any damage caused as a result of installing these services will be borne by the telecommunications carrier.

The carriers must pay for the entire cost of installing, operating, maintaining, and removing any facilities they provide.

The bill will not adversely impact the ability of Federal agencies to obtain office space. Federal agency heads may waive the requirements of this bill if enforcement of the bill would result in the agency being unable to obtain suitable space in a geographic area.

The President may also waive the nondiscriminatory access provisions for any building if they are determined to be contrary to the interests of national security.

I look forward to working with NTIA, the General Services Administration, and private building owners who have a leasing relationship with the Federal Government to carry out the purpose of this bill.

My goal is to ensure that the Federal Government sets a good example. I hope it will become the standard in the private sector. Businesses should demand that building owners provide every opportunity for competitive choice in telecommunications providers.

Access to Federal buildings or a building that is housing Federal workers should be encouraged. This bill is a further step in implementing the promise of the Telecommunications Act which Congress enacted.

It will help ensure that telecommunications providers can compete fairly on the basis of the cost and quality of the services provided.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1301

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Competitive Access to Federal Buildings Act''.

SEC. 2. FINDINGS

The Congress finds that—

(1) non-discriminatory access to, and use of, the rooftops, risers, telephone cabinets, conduits, points of entry or demarcation for internal wiring, and all utility spaces in or on federal buildings and commercial property is essential to the competitive provision of telecommunications services and information services;

(2) incumbent telecommunications carriers often enjoy access to such buildings and property through historic rights of way that were developed before the advent of new means of providing such services, in particular the provision of such services using terrestrial fixed wireless or satellite services that enter a building through equipment located on rooftops;

(3) the National Telecommunications and Information Administration is the Federal agency tasked with developing policies for the efficient and competitive use of emerging technologies that combine spectrum use with the convergence of communications and computer technologies for the utilization of telecommunications services and information services by federal agencies;

(4) that several States, for example Connecticut and Texas, have already enacted measures to promote non-discriminatory access by telecommunications carriers to rooftops, risers, conduits, utility spaces, and points of entry and demarcation in order to promote the competitive provision of telecommunications services and information services; and

(5) that the Federal government should encourage States to develop similar policies by establishing as federal policy requirements to promote non-discriminatory access to Federal buildings and commercial property used by agencies of the Federal government so that taxpayers receive the benefits and cost savings from the competitive provision of telecommunications services and information services by telecommunications carriers.

SEC. 3. ACCESS TO BUILDINGS FOR COMPETITIVE TELECOMMUNICATIONS SERVICES

The National Telecommunications and Information Administration Organization Act (Title I of Public Law 102–538; 47 U.S.C. 901 et seq.) is amended—

(1) in section 103(b)(2) (47 U.S.C. 902(b)(2)) by adding at the end the following new subparagraph:

''(U) The authority to implement policies for buildings and other structures owned or used by agencies of the Federal government in order to provide for non-discriminatory access to such buildings and structures for the provision of telecommunications services or information services by telecommunications carriers, and to advise the Commission on the development of policies for nondiscriminatory access by such carriers to commercial property in general for the provision of such services.''; and

(2) in section 105 (47 U.S.C. 904) by adding at the end the following new subsection:

''(f) PROHIBITION ON DISCRIMINATORY ACCESS.—

''(1) IN GENERAL.—No Federal agency shall enter into a contract with the owner or operator of any commercial property for the rental or lease of all or some portion of such property unless the owner or operator permits non-discriminatory access to, and use of, the rooftops, risers, telephone cabinets, conduits, points of entry or demarcation for internal wiring, easements, rights of way, and all utility spaces in or on such commercial property, for the provision of telecommunications services or information services by any telecommunications carrier that has obtained, where required, a Federal or state certificate of public convenience and necessity for the provision of such services, and which seeks to provide or provides such services to tenants (including, but not limited to, the Federal agency for which such rental or lease is made) of such property. Such owner or operator may—

''(A) charge a reasonable and nondiscriminatory fee (which shall be based on the commercial rental value of the space actually used by the telecommunications carrier) for such access and use;

''(B) impose reasonable and non-discriminatory requirements necessary to protect the safety and condition of the property, and the safety and convenience of tenants and other persons (including hours when entry and work may be conducted on the property);

''(C) require the telecommunications carrier to indemnify the owner or operator for damage caused by the installation, maintenance, or removal of any facilities of such carrier; and

''(D) require the telecommunications carrier to bear the entire cost of installing, operating, maintaining, and removing any facilities of such carrier.

''(2) STATE LAW OR CONTRACTUAL OBLIGATION REQUIRED.—No Federal agency shall enter into a contract with the owner or operator of any commercial property for the rental or lease of all or some portion of such property unless the owner or operator submits to such agency a notarized statement

that such owner or operator is obligated under State law, or is obligated or will undertake an obligation through a contractual commitment with each telecommunication carrier providing or seeking to provide service, to resolve any disputes between such telecommunication carriers and such owner or operator that may arise regarding access to the commercial property or the provision of competitive telecommunications services or information services to tenants of such property. To meet the requirements of this paragraph such State process or contractual commitment must—

''(A) provide an effective means for resolution of disputes within 30 days (unless otherwise required by State law or agreed by the parties involved), either through arbitration or order of a State agency or through binding arbitration;

''(B) permit the telecommunications carrier to initiate service or continue service while any dispute is pending;

''(C) provide that any fee charged for access to, or use of, building space (including conduits, risers, and utility closets), easements or rights of way, or rooftops to provide telecommunications service or information service be reasonable and applied in a non-discriminatory manner to all providers of such service, including the incumbent local exchange carrier; and

''(D) provide that requirements with respect to the condition of the property are limited to those necessary to ensure that the value of the property is not diminished by the installation, maintenance, or removal of the facilities of the telecommunications carrier, and do not require the telecommunications carrier to improve the condition of the property in order to obtain access or use.

''(3) EFFECTIVE DATE.—Paragraphs (1) and (2) shall take effect six months after the date of enactment of this subsection for all lease or rental agreements entered into or renewed by any Federal agency after such date.

''(4) WAIVER PERMITTED.—The requirements of paragraphs (1) or (2) may be waived on a case by case basis—

''(A) by the head of the agency seeking space in a commercial property upon a determination, which shall be made in writing and be available to the public upon request, that such requirements would result in the affected agency being unable, in that particular case, to obtain any space suitable for the needs of that agency in that general geographic area; or

''(B) by the President upon a finding that waiver of such requirements is necessary to obtain space for the affected agency in that particular case, and that enforcement of such requirements in that particular case would be contrary to the interests of national security.

Any determination under subparagraph (A) may be appealed by any affected telecommunications carrier to the Assistant Secretary, who shall review the agency determination and issue a decision upholding or revoking the agency determination within 30 days of an appeal being filed. The burden shall be on the agency head to demonstrate through the written determination that all reasonable efforts had been made to find suitable alternative space for the agency's needs before the waiver determination was made. The Assistant Secretary shall revoke any agency determination made without all reasonable efforts being made. The decision of the Assistant Secretary shall be binding on the agency whose waiver determination was appealed.

''(5) Limitations.—

''(A) Nothing in this subsection shall waive or modify any requirements or restrictions imposed by any Federal, state, or local agency with authority under other law to impose such restrictions or requirements on the provision of telecommunications services or the facilities used to provide such services.

''(B) Refusal by an owner to provide access to a telecommunications carrier seeking to provide telecommunications services or information services to a commercial property due to a demonstrated lack of available space at a commercial property on a rooftop or in a riser, telephone cabinet, conduit, point of entry or demarcation for internal wiring, or utility space due to existing occupation of such space by two or more telecommunications carriers providing service to that commercial property shall not be a violation of paragraphs (1)(B) or (2)(D) if the owner has made reasonable efforts to permit access by such telecommunications carrier to any space that is available.

''(6) DEFINITIONS.—For the purposes of this subsection the term—

''(A) 'Federal agency' shall mean any executive agency or any establishment in the legislative or judicial branch of the Government;

''(B) 'commercial property' shall include any buildings or other structures offered, in whole or in part, for rent or lease to any Federal agency;

''(C) 'incumbent local exchange carrier' shall have the same meaning given such term in section 251(h) of the Communications Act of 1934 (47 U.S.C. 251(h)); and

''(D) 'information service,' 'telecommunications carrier,' and 'telecommunications service' shall have the same meaning given such terms, respectively, in section 3 of the Communications Act of 1934 (47 U.S.C. 153).''.

SEC. 4. APPLICATION TO PUBLIC BUILDINGS.

Within six months after the date of enactment of this Act the Secretary of Commerce, acting through the Assistant Secretary of Commerce for Telecommunications and Information, shall promulgate final rules, after notice and opportunity for public comment, to apply the requirements of section 105(f) of the National Telecommunications and Information Administration Organization Act, as added by this Act, to all buildings and other structures owned or operated by any Federal agency. In promulgating such rules the Assistant Secretary may, at the direction of the President, exempt any buildings or structures owned or operated by a Federal agency if the application of such requirements would be contrary to the interests of national security. The Assistant Secretary shall coordinate the promulgation of the rules required by this section with the Administrator of the General Services Administration and the heads of any establishments in the legislative and judicial branches of government which are responsible for buildings and other structures owned or operated by such establishments. Such rules may include any requirements for identification, background checks, or other matters necessary to ensure access by telecommunications carriers under this section does not compromise the safety and security of agency operations in government owned or operated buildings or structures. For the purposes of this section, the term ''Federal agency'' shall have the same meaning given such term in section 105(f)(6) of the National Telecommunications and Information Administration Organization Act, as added by this Act.

By Mr. MURKOWSKI (for himself, Mr. BREAUX, Mr. GORTON, Mr. COCHRAN, Mr. HUTCHINSON, Ms. COLLINS, Mrs. LINCOLN, Mr. SHELBY, Ms. SNOWE, Mrs. MURRAY, Mr. SESSIONS, Mr. SMITH of Oregon, Mrs. HUTCHISON, Mr. GRAMS, and Ms. LANDRIEU):

S. 1303. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

THE REFORESTATION TAX ACT OF 1999

Mr. MURKOWSKI. Mr. President, on June 17, I introduced bipartisan legislation (1240) providing capital gains for the forest products industry and lifting the existing cap on the reforestation tax credit and amortization provisions of the tax Code.

Unfortunately, because of a clerical error, the section of the bill that lifted the cap on the tax credit and the amortization provisions of the Code was inadvertently omitted from the bill. Today I am reintroducing the bill as it was originally intended to be drafted.

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. 1303

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 ''Reforestation Tax Act of 1999''.

SEC. 2. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by adding at the end the following new section:

''SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

''(a) IN GENERAL.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the qualified percentage of such gain.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means gain from the disposition of timber which the taxpayer has owned for more than 1 year.

''(c) QUALIFIED PERCENTAGE.—For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

''(1) 3 percent, by

''(2) the number of years in the holding period of the taxpayer with respect to the timber.

''(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion of (if any) the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.''

(b) COORDINATION WITH MAXIMUM RATES OF TAX ON NET CAPITAL GAINS.—

(1) Section 1(h) of such Code (relating to maximum capital gains rate) is amended by adding at the end the following new paragraph:

''(14) QUALIFIED TIMBER GAIN.—For purposes of this section, net capital gain shall be determined without regard to qualified timber gain (as defined in section 1203) with respect to which an election is in effect under section 1203.''

(2) Subsection (a) of section 1201 of such Code (relating to the alternative tax for corporations) is amended by inserting at the end the following new sentence:

''For purposes of this section, net capital gain shall be determined without regard to qualified timber gain (as defined in section 1203) with respect to which an election is in effect under section 1203.''

(c) ALLOWANCE OF DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (17) the following new paragraph:

''(18) PARTIAL INFLATION ADJUSTMENT FOR TIMBER.—The deduction allowed by section 1203.''

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 172(d)(2) of such Code is amended to read as follows:

''(B) the exclusion under section 1202 and the deduction under section 1203 shall not be allowed.''

(2) The last sentence of section 453A(c)(3) of such Code is amended by striking ''(whichever is appropriate)'' and inserting ''or the deduction under section 1203 (whichever is appropriate)''.

(3) Section 641(c)(2)(C) of such Code is amended by inserting after clause (iii) the following new clause:

''(iv) The deduction under section 1203.''

(4) The first sentence of section 642(c)(4) of such Code is amended to read as follows: ''To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) or qualified timber gain (as defined in section 1203(b)), proper adjustment shall be made for any exclusion allowable under section 1202, and any deduction allowable under section 1203, to the estate or trust.''

(5) The last sentence of section 643(a)(3) of such Code is amended to read as follows: ''The exclusion under section 1202 and the deduction under section 1203 shall not be taken into account.''

(6) The last sentence of section 643(a)(6)(C) of such Code is amended by inserting ''(i)'' before ''there shall'' and by inserting before the period '', and (ii) the deduction under section 1203 (relating to partial inflation adjustment for timber) shall not be taken into account''.

(7) Paragraph (4) of section 691(c) of such Code is amended by inserting ''1203,'' after ''1202,''.

(8) The second sentence of paragraph (2) of section 871(a) of such Code is amended by striking ''section 1202'' and inserting ''sections 1202 and 1203''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1203. Partial inflation adjustment for timber.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1998.

SEC. 3. AMORTIZATION OF REFORESTATION EXPENDITURES AND REFORESTATION TAX CREDIT.

(a) DECREASE IN AMORTIZATION PERIOD.—

(1) IN GENERAL.—Section 194(a) of the Internal Revenue Code of 1986 is amended by striking ''84 months'' and inserting ''60 months''.

(2) CONFORMING AMENDMENT.—Section 194(a) of such Code is amended by striking ''84-month period'' and inserting ''60-month period''.

(b) REMOVAL OF CAP ON AMORTIZABLE BASIS.—

(1) Section 194 of the Internal Revenue Code of 1986 is amended by striking subsection (b) and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(2) Subsection (b) of section 194 of such Code (as redesignated by paragraph (1)) is amended by striking paragraph (4).

(3) Paragraph (1) of section 48(b) of such Code is amended by striking ''(after the application of section 194(b)(1))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to additions to capital account made after December 31, 1998.

ADDITIONAL COSPONSORS

S. 348

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 348, a bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

S. 386

At the request of Mr. GORTON, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 566

At the request of Mr. LUGAR, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Texas (Mr. GRAMM) were added as cosponsors of S. 566, a bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

S. 664

At the request of Mr. CHAFEE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 680

At the request of Mr. CLELAND, his name was added as a cosponsor of S. 680, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 761

At the request of Mr. ABRAHAM, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. 761, a bill to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and for other purposes.

S. 765

At the request of Ms. COLLINS, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 765, a bill to ensure the efficient allocation of telephone numbers.

S. 796

At the request of Mr. WELLSTONE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 796, a bill to provide for full parity with respect to health insurance coverage for certain severe biologically-based mental illnesses and to prohibit limits on the number of mental illness-related hospital days and outpatient visits that are covered for all mental illnesses.

S. 894

At the request of Mr. CLELAND, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 894, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

S. 916

At the request of Mr. GRAMS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 916, a bill to amend the Agricultural Market Transition Act to repeal the Northeast Interstate Dairy Compact provision.

S. 921

At the request of Mr. ABRAHAM, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 921, a bill to facilitate and promote electronic commerce in securities transactions involving broker-dealers, transfer agents and investment advisers.

S. 978

At the request of Mr. WARNER, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 978, a bill to specify that the legal public holiday known as Washington's Birthday be called by that name.

S. 1074

At the request of Mr. TORRICELLI, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1074, a bill to amend the Social Security Act to waive the 24-month waiting period for medicare coverage of individuals with amyotrophic lateral sclerosis (ALS), and to provide medicare coverage of drugs and biologicals used for the treatment of ALS or for the alleviation of symptoms relating to ALS.

S. 1088

At the request of Mr. KYL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1088, a bill to authorize the Secretary of Agriculture to convey certain administrative sites in national forests in the State of Arizona, to convey certain

land to the City of Sedona, Arizona for a wastewater treatment facility, and for other purposes.

S. 1118

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1118, a bill to amend the Agricultural Market Transition Act to convert the price support program for sugarcane and sugar beets into a system of solely recourse loans to provide for the gradual elimination of the program.

S. 1133

At the request of Mr. GRAMS, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1133, a bill to amend the Poultry Products Inspection Act to cover birds of the order Ratitae that are raised for use as human food.

S. 1185

At the request of Mr. ABRAHAM, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1185, a bill to provide small business certain protections from litigation excesses and to limit the product liability of non-manufacturer product sellers.

S. 1266

At the request of Mr. GORTON, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1266, a bill to allow a State to combine certain funds to improve the academic achievement of all its students.

S. 1268

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1268, a bill to amend the Public Health Service Act to provide support for the modernization and construction of biomedical and behavioral research facilities and laboratory instrumentation.

S. 1269

At the request of Mr. MCCONNELL, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1269, a bill to provide that the Federal Government and States shall be subject to the same procedures and substantive laws that would apply to persons on whose behalf certain civil actions may be brought, and for other purposes.

S. 1272

At the request of Mr. NICKLES, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 21, a joint resolution to designate September 29, 1999, as ''Veterans of Foreign Wars of the United States Day.''

SENATE CONCURRENT RESOLUTION 22

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of Senate Concurrent Resolution 22, a concurrent resolution expressing the sense of the Congress with respect to promoting coverage of individuals under long-term care insurance.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. SPECTER, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of Senate Concurrent Resolution 34, a concurrent resolution relating to the observance of ''In Memory'' Day.

SENATE RESOLUTION 91

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of Senate Resolution 91, a resolution expressing the sense of the Senate that Jim Thorpe should be recognized as the ''Athlete of the Century''.

SENATE RESOLUTION 95

At the request of Mr. THURMOND, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Resolution 95, a resolution designating August 16, 1999, as ''National Airborne Day.''

SENATE RESOLUTION 98

At the request of Mr. DOMENICI, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of Senate Resolution 98, a resolution designating the week beginning October 17, 1999, and the week beginning October 15, 2000, as ''National Character Counts Week.''

SENATE RESOLUTION 109

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of Senate Resolution 109, a resolution relating to the activities of the National Islamic Front government in Sudan.

SENATE RESOLUTION 111

At the request of Mr. GRAHAM, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of Senate Resolution 111, a resolution designating June 6, 1999, as ''National Child's Day.''

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, June 29, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 161, the Power Marketing Administration Reform Act of 1999; S. 282, the Transition to Competition in the Electric Industry Act; S. 516, the Electric Utility Restructuring Empowerment and Competitiveness Act of 1999; S. 1047, the Comprehensive Electricity Competition Act; S. 1273, a bill to amend the Federal Power Act to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; and S. 1284, a bill to amend the Federal Power Act to ensure that no State may establish, maintain or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any customer who seeks to purchase electric energy in interstate commerce from any supplier.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a business meeting to mark up (1) S. 1100, a bill to amend the Endangered Species Act of 1973 to provide that the designation of critical habitat for endangered and threatened species be required as part of the development of recovery plans for those species; (2) Nomination of Timothy Fields, Jr., nominated by the President to be Assistant Administrator, Office of Solid Waste, Environmental Protection Agency; and (3) Committee Budget Resolution. The meeting is scheduled for Tuesday, June 29, 10:00 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FINANCE

Mr. DOMENICI. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Tuesday, June 29, 1999 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''ESEA: Arts Education and Magnet Schools'' during the session of the Senate on Tuesday, July 29, 1999, at 9:30 a.m.

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

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Forests & Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, June 29, for purposes of conducting a hearing which is scheduled to begin at 2:30 p.m. the purpose of this oversight hearing is to receive testimony on fire preparedness on Federal lands.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 29, 1999, at 2:30 P.M. on NOAA, U.S. Fire Administration, and Earthquake Hazards Reduction Program reauthorization

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

ADDITIONAL STATEMENTS

TRIBUTE TO RABBI MOSHE SHERER

● Mr. KENNEDY. Mr. President, it is a privilege to join in this tribute to Rabbi Moshe Sherer. To all of us who knew him and worked with him, Rabbi Sherer was a great friend, a great leader, and a great champion of democracy and freedom.

Rabbi Sherer was an inspiration to all of us, especially in his work on immigration and religious freedom. He worked skillfully and tirelessly to free prisoners of conscience in the former Soviet Union, to reunite divided families, and to protect freedom of religion across the globe.

Even in the darkest hours of communism, Rabbi Sherer was an eloquent advocate for the right of the oppressed to leave the Soviet Union. He had an enduring belief that the freedom to emigrate to escape persecution is one of the most basic and fundamental human rights.

As the President of Agudath Israel of America for over three decades, Rabbi Sherer was instrumental in developing that organization into a powerful force for justice in our nation and across the world. He inspired us all with his generous spirit of tolerance, his extraordinary knowledge and understanding, and his deep commitment to human rights and religious freedom.

We are fortunate to have worked with Rabbi Sherer, and we mourn his loss. His brilliant legacy will continue to be an inspiration for future generations. We miss his leadership and we miss his friendship.●

JUVENILE CRIME IN AMERICA

● Mr. GRAMS. Mr. President, I rise today to express my support for the recent passage by the Senate of S. 254, the ''Violent and Repeat Offender Accountability and Rehabilitation Act of 1999.''

One of the most complex issues facing our society is how communities confront the troubling trends in violent crime committed by young people. In particular, the recent tragedy in Littleton, Colorado underscores that all elements of our society, including parents, faith-based organizations, local officials, educators, students, and law enforcement officials should be encouraged to work together to develop innovative and effective solutions to reducing and preventing violent acts committed by our nation's youth.

In 1997, young people under the age of eighteen represented 17 percent of all violent arrests; 50 percent of all arson arrests; 37 percent of burglary arrests; and 14 percent of murder arrests. Overall in 1997, law enforcement agencies made approximately 2.8 million arrests of persons under the age of eighteen. These sobering statistics indicate the need to combat youth violence in America to ensure that the young offenders of today do not become the career criminals of tomorrow.

For these reasons, I am pleased to have voted for passage of S. 254, the ''Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act.'' I believe that many of the provisions within this legislation will hold violent juvenile offenders accountable for their actions and also integrate many young offenders back into their communities. We should all recognize that federal legislation is not a ''silver bullet'' solution to the problem of youth violence, and that our response to this epidemic is only one aspect of nationwide efforts to reduce and prevent violent juvenile crime.

Among its most significant provisions, this bipartisan legislation will provide assistance to Minnesota and other states to help develop local programs that hold young criminal offenders accountable for their actions, including such reforms as drug testing offenders upon arrest; implementing graduated sanction programs for repeat offenders; and building detention facilities for juvenile offenders. Equally important, states will also be empowered to prevent juvenile delinquency through initiatives such as one-on-one mentoring programs aimed toward at-risk juveniles and providing treatment for juveniles who suffer from substance abuse.

Mr. President, this measure also addresses an area of increasing concern to communities in my home state of Minnesota—gang violence. Today, there are more than 12,000 gang members in Minnesota, the nation's tenth-highest level of gang participation.

Throughout Minnesota, many communities have developed programs to stop the spread of gang activity, including the ''South Metro Gang and Youth Violence Project'' sponsored by Carver, Dakota and Scott counties. Among its achievements, this project has developed a computerized database to identify gang members, established a telephone hotline for graffiti removal, and formed the ''South Metro Gang Task Force,'' through which law enforcement agencies meet monthly to share information regarding gang activity in their jurisdictions. Through education, training and other community initiatives, this program has begun to tackle the threat of gang and youth violence.

In my view, the federal government can supplement local anti-gang initiatives by vigorously enforcing federal laws designed to combat interstate gang crime. The anti-gang provisions within S. 254 will also help to deter gang involvement by imposing stiff penalties on anyone who recruits a minor to become a member of a criminal street gang, or who uses a minor to distribute illegal drugs or participate in crimes of violence—common activities of gangs. By imposing enhanced penalties on those who wear body armor during crimes and prohibiting violent felons from owning body armor, we will also help to protect the lives of law enforcement officers who put their lives on the line each day protecting our communities from the threat of gang violence.

As someone who has always supported the important role of local communities in developing anti-crime strategies, I am pleased that the Senate modified this legislation to encourage the active role of State Advisory Groups (SAGs) as part of the juvenile justice system. I am hopeful that the conference report to this legislation will preserve the same level of responsibility for SAGs as provided under current law.

In my home state, the Minnesota Juvenile Justice Advisory Committee (JJAC) is composed of twenty-two individuals appointed by the Governor, including local prosecutors, students, police chiefs, judges, and state agency personnel, representative of communities throughout Minnesota. In 1998, JJAC awarded more than $1 million in federal funds to community-based organizations, schools, Indian reservations, and local law enforcement agencies to help develop effective and innovative juvenile offender programs. Statewide, more than 40,000 youth and their families were served by local programs identified and evaluated by JJAC last year. I ask that a list of the Minnesota Juvenile Justice Advisory Committee membership and a letter to me from the JJAC Vice-Chair be included as part of the RECORD following my remarks.

Mr. President, over the last several months, I have given careful thought to the aspects of our society that may contribute to incidents of juvenile crime, including the influence of the entertainment industry upon young people. My concerns are underscored by a recent e-mail I received from Andrew Backenstross, a young Minnesotan and Boy Scout who is working on his Citizenship in the Nation merit badge in the community of White Bear Lake.

Andrew wrote, ''All my teachers say that school should be a safe place to go and study. But Colorado and other places show us how exposed we are and that it could happen to us. Public schools need to be able to discipline or remove anyone who is not a threat or will not meet standards. Metal detectors, searches and police walking the halls is not the answer. That was not needed when my Dad went to school. People thought differently. We have to ask, what has changed? Maybe we are being conditioned for violence.

''My parents have taught me about standards, acceptable behavior and respect for myself and others. Maybe more help could be given to parents to be parents. Maybe if they didn't have to give so much of their income away in taxes they could afford to stay home and be parents.''

In response to the concerns expressed by young people such as Andrew, and thousands of parents, I am pleased that the Senate bill encourages the entertainment industry to voluntarily establish guidelines to reduce violence in motion pictures, television programming, video games, and music lyrics. The bill also encourages Internet Service Providers (ISPs) to provide filtering software to consumers that could block juvenile access to unsuitable material. These provisions will provide parents with the tools needed to reduce their children's exposure to the culture of violence.

Mr. President, there were several amendments offered to this legislation that would impose additional restrictions upon lawful Americans, without contributing to a reduction in juvenile crime. Throughout the debate over these proposals, I urged the Senate to promote greater enforcement of our existing firearms laws before passing new gun control measures that would infringe upon the constitutional rights of law-abiding citizens. I am very concerned that prosecutions of those who violate federal firearms laws have been far less zealous than what the American people deserve and expect.

According to the Executive Office of the United States Attorney, there were only eight prosecutions in 1998 of those who violated the federal prohibition on possessing a firearm in a school zone. From 1996 through 1998, there was only one prosecution of felons who have been denied the purchase of firearms after being subjected to a background check. These statistics underscore the reality that passing new, expansive gun control laws will not prevent violent crime or the illegal use of firearms.

As an alternative to far-reaching gun control proposals, I supported an amendment that encouraged the enforcement of existing gun laws, the rights of law-abiding citizens, and keeping firearms from children and criminals. This proposal provided $50 million to hire additional federal prosecutors to prosecute those who violate our gun laws; a prospective ban on juveniles convicted of violent offenses from ever owning a firearm; and enhanced penalties for juveniles who illegally bring a gun or ammunition to school with the intent of possessing or using the firearm to commit a violent crime.

Additionally, this proposal requires all firearms transactions at gun shows to be subject to the National Instant Check System (NICS) without subjecting law-abiding purchasers to unnecessary fees or record-keeping requirements. Importantly, this provision preserves legitimate business transactions at gun shows while also addressing the public safety concerns of millions of Americans. In my view, this proposal was more reasonable than a more-restrictive proposal by Senator LAUTENBERG that was later passed by the Senate.

Mr. President, I believe the Senate passage of this bill is an important contribution to the national response to youth violence. The 106th Congress should seize the opportunity to pass meaningful and balanced legislation that will encourage local solutions to the complex problem of juvenile crime.●

RETIREMENT OF SISTER JANE FRANCIS BRADY

● Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Sister Jane Francis Brady, who is retiring after 30 years at St. Joseph's Hospital and Medical Center in Paterson, New Jersey. For 27 of those years, Sister Jane served as the hospital's President and Chief Executive Officer. This not only is a well-deserved public tribute, but also a very personal tribute. Paterson is my hometown, and St. Joseph's Hospital has been an institution both literally and figuratively for generations of Paterson families, including my own. To thousands of people in New Jersey and the region, she is ''Sister Jane'' and the hospital is ''St. Joe's.'' They are a union that has put quality and hope into so many lives.

For many people in the Paterson area, Sister Jane has been the soul, the spirit and the face of healthcare. I have been privileged to work with her on a number of projects that have expanded St. Joe's to meet the continually growing needs of the surrounding community. Under Sister Jane's stewardship, St. Joseph's Hospital has become a focus of wellness care and training—the source for preventive, primary and emergency health services, and for more general education and counseling.

Sister Jane's curriculum vitae is stellar. She has held the highest advisory positions on healthcare, serving as Vice-Chair of the New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care; on New Jersey's Health Care Administration Board; on the SEEDCO Board of Trustees of New York; on the Leadership Task Force on Health Policy Reform of the Catholic Health Association of the United States; and on the Board of Trustees of the Catholic Health Association of the U.S.

She has been recognized for her contributions by numerous organizations, receiving, among others, the Paterson Community Service Award; the Citation of Merit from the NJ Association of Nonprofit Homes for the Aging; the Paterson Community Support Fund Humanitarian Award; ''Woman of the Year'' awards from the American Legion, the Paterson Boys and Girls Club, the NJ State Organization of Cystic Fibrosis, the American Cancer Society, and Passaic County Community College; the Felician College Founders Day Award; the Paterson Historic Preservation Commission's Heritage Award; and the Palestinian Heritage Foundation Humanitarian Award.

Sister Jane's retirement presents a huge challenge. We have the legacy of her intellect and passion; we have the solid foundation of her three decades of guidance; we have her enduring vision; but we will need an extraordinary talent to fill the void she leaves.

The best tribute we can give, the tribute we owe to Sister Jane, is the promise and commitment to find the best way to give the best healthcare to the most people. That was what she did. That was her gift of faith and strength.●

SESQUICENTENNIAL OF McDONALD COUNTY

● Mr. BOND. Mr. President, this weekend will be doubly special for the residents of McDonald County in my home state of Missouri. On March 3, 1849, McDonald county was established by the State Legislature and named after Revolutionary War hero Alexander McDonald. Not only will this weekend mark the 223rd anniversary of the founding of our country, but it is also the formal celebration of the 150th anniversary of the founding of McDonald County.

McDonald County has a distinguished history, including a gold rush in the last century. McDonald County was also the site for the filming of a 1938 movie about Jesse James starring Tyrone Power, Randolph Scott, and Henry Fonda. More recently, every Christmas the Post Office in the city of Noel receives thousands of cards to receive the stamp of ''The Christmas City.'' McDonald County is also a major economic force in the state of Missouri, ranking first in agricultural sales, due to their $50 million poultry industry.

I join the citizens of McDonald County in celebrating this milestone in their history. I take great pride in recognizing this historic event and wish McDonald County prosperity in the next 150 years that is even greater than the last. Mr. President, I ask that my colleagues in the Senate join me in recognizing the sesquicentennial of McDonald County.●

PHYSICIAN-ASSISTED SUICIDE

● Mr. WYDEN. Mr. President, today I have informed the minority leader that I will object to any unanimous consent request to proceed to S. 1272 or any legislation containing provisions that would override Oregon's physician assisted suicide law. I have notified the bill's sponsor and the committee chairman and ranking member to which it was referred.●

MILITARY CHANGE OF COMMANDS

● Mr. ALLARD. Mr. President, in the June edition of Leatherneck magazine, the Commandant of the Marine Corps, General Charles Krulak, quotes his father as saying: ''The American people believe that Marines are downright good for the country.'' I agree with The Commandant's father. And I am pleased General Krulak also holds that well founded opinion. The United States Marine Corps is collectively good for this country, and the services of individual marines such as General Krulak are a big part of that positive contribution made by the Corps.

Unfortunately, the title of the article in which General Krulak quoted his father was ''A farewell to the Corps.'' General Krulak will be retiring after four years from his position as Commandant at the end of this month. I would like to thank him for his service and efforts on behalf of his Corps and his nation.

Although I have been on the Armed Services Committee a short six months, I have had several good experiences with the Commandant.

I think the most notable was in May of this year, when a large group of my constituents were taking a tour of the Pentagon, and the Commandant invited them into his office. He said then that he usually tries to do something similar—bring tourists into his personal office—everyday. I do not think Krulak was fully aware of what he was getting himself into, but all fifty or so crowded their way into his office, and listened while he spoke about the Corps, the moving of his office down from the 'barbed wire surrounded hill of the Naval Annex' to the corridors of the Pentagon, and the Corps' efforts and ability to turn young men and women into marines.

Let me tell you, they were impressed. They were impressed with his position, they were impressed with his efforts, they were impressed with his commitment, and they were impressed with the man.

I have also had correspondence with General Krulak relating to our work on S.4, and for the process of preparing the defense authorization. He consistently strikes me as a man who is well aware of the challenges his position holds, and works to meet them. He has been straightforward and dependable. Hearing testimony from him at committee hearings is always a pleasure. He does not rattle off bland platitudes. I felt that I could always rely on his opinion to be the truest possible interpretation of the situation, and one that held the best interests of the country at the foremost.

Let me end by repeating: General Krulak has been fundamentally good for this country. I wish him well in whatever new course he sets for himself.

Also, I would like to welcome General James Jones into his role as the 32nd Commandant of the Marine Corps. I have met with him only very briefly, but I look forward to working with him. I am sure he will follow in the able footsteps of all the past United States Marines Corps Commandants, and serve the Marines and America admirably.●

MEDAL OF HONOR RECIPIENTS

● Mr. LUGAR. Mr. President, over the Memorial Day weekend, a series of events and memorial services were held in Indianapolis honoring our nation's Medal of Honor winners. Nearly 100 of all of the living Medal of Honor recipients came to Indiana to participate in the ceremonies as honored guests. In addition to paying tribute to these heroes and celebrating their remarkable accomplishments with a healthy dose of Hoosier hospitality, a new memorial to the Medal of Honor winners was dedicated. This memorial is only one of its kind in the nation. All of this was made possible by countless numbers of volunteers who worked tirelessly to carry out this program that was initiated and undertaken by IPALCO Enterprises of Indianapolis.

Following this remarkable weekend. I received a letter from Major General Robert G. Moorhead, USA (Ret.), who through his words captured the sentiments of many of my State who were a part of these historic and moving events.

At this time, Mr. President, I ask that an excerpt from General Moorhead's letter be printed in the RECORD.

The excerpt follows.

As the last days of the 20th century continue to unfold, Memorial Day weekend in the capital of Indiana was one to remember. Nearly 100 Medal of Honor recipients were guests for a series of stirring tributes. These included a solemn Memorial Service; the dedication of the only memorial to recipients of the Medal of Honor; grand marshals in the IPALCO 500 Festival Parade; an outdoor concert by the Indianapolis Symphony Orchestra; and a parade lap around the famed Indianapolis Motor Speedway oval prior to the start of the race.

As the 20th century draws to a close, many wonder if the nation has lost sight of the sacrifices which have been made to preserve freedom. After this Memorial Day weekend in Indianapolis, my heart remains swollen with pride in our land and my fellow citizens. The reception given these ordinary men who did extraordinary things can never be equaled.

I am especially proud of the untold hundreds of volunteers who gave of their time and talent to make these events possible. Memorial Day Weekend 1999 did much to convince me that our nation's freedom loving spirit is alive and well. It also underscored the true meaning of ''Hoosier Hospitality.''

Sincerely,

MG ROBERT G. MOORHEAD,
USA Ret.●

WE THE PEOPLE FINALS

● Mr. ENZI. Mr. President, I rise to recognize the outstanding achievement of the students of Central High School from Cheyenne, Wyoming in the national finals of We The People . . . The Citizen and the Constitution program. They recently made a trip to the Nation's Capital to participate in a mock congressional hearing where they played the role of constitutional experts testifying before a panel of judges. Their fellow students at Central High, their families and friends, along with the people of Cheyenne and the entire state of Wyoming are very proud of these students who spent long hours studying the Constitution and the related court cases to be able to answer detailed and complex questions about the Constitution that would normally be considered by the Supreme Court.

Guided by their teacher, Donald Morris, these students took on the difficult task of competing against 1,250 other students from across the nation. They worked together for a whole semester to master the ins and outs of the Constitution and the Supreme Court cases that set important precedents. In doing so they learned a great deal about the value of friendship and the importance of teamwork. I hope that more schools in Wyoming and around the nation take advantage of the We The People program.

When I was a Boy Scout back in Sheridan, Wyoming, I earned my Citizenship in the Nation merit badge by creating a series of charts showing the system of checks and balances contained in the Constitution. Although it did not occur to me at the time, I am sure part of me was inspired and wanted to get more involved in government and our democratic process. Now I am a part of that system that relies so heavily on the Charters of Freedom that were crafted with such diligence by our Founding Fathers. I hope that a love of the Constitution, the law and our nation's history will similarly inspire all our young people to become more involved in their government and by so doing take hold of the reins on their future.

I would like to take this opportunity to recognize these students by name. They are David Angel, Kristen Barton, Beth Brabson, Michelle Brain, Mary Connaghan, Mariah Martin, Andrea Mau, Alison McGuire, Rachel Michael, Joanna Morris, Leigh Nelson, Tiffany Price, Lydia Renneisen, Shannon Scritchfield, Erica Tonso and Katie Zaback. They are truly remarkable young adults and I extend my heartiest congratulations to them, to their teachers and principal, and their families on their remarkable success.●

REMARKS OF FORMER SENATOR HANK BROWN

● Mr. ALLARD. Mr. President, most of my colleagues in this body, I'm sure, remember my predecessor, Hank Brown. He represented me for 10 years as the Congressman from Colorado's 4th district, and I had the further privilege of working with him during my 6 years in the House. Since he retired from this body in 1996, I have relied on

his knowledge and experience. As you might know, Senator BROWN is now President Brown, the head of the University of Northern Colorado, in Greeley, the Senator's hometown.

Recently, President Brown spoke at the Colorado Prayer Luncheon in Denver. He spoke on God's love, and our role in this world. His thoughts are, as always, particularly insightful and relevant.

I ask to have these inspirational words printed in the CONGRESSIONAL RECORD.

The remarks follow.

REMARKS OF HANK BROWN, COLORADO PRAYER LUNCHEON

Ladies and Gentlemen, today is a day of renewal. It is a renewal of our commitment to our Maker as well as a renewal of our commitment to each other. The fact that so many different faiths join together in this luncheon is a sign of our commitment to each other's religious freedom.

The incomprehensible tragedy at Columbine is on all of our minds. It will reshape our lives as well as the families of the victims. Its impact will be with us for many years.

Next month it will be 46 years since my brother died in a gun accident. He was only 16—not much younger than the children who were murdered at Columbine. The other day my mother said to me that not a day goes by that she doesn't think of him and miss him. I suspect that the parents and loved ones of the victims at Columbine will be the same. The memory of those children will be with them every day for the rest of their lives.

How do we explain it? How do you reconcile the tragedy in your own mind?

We believe our God is good, we believe our God, is love, we believe our God is all-powerful and capable of controlling everything. How could something this evil be allowed to happen? It's not a new question. It's been with mankind throughout history.

A few thousand years ago, a fellow by the name of Job had the same questions. He was devout, religious and pious. He was committed to carrying on the work of his Lord, yet great tragedies were visited upon him. He lost his home. He lost his fortune. He lost his health. He even lost his beloved children. But he didn't lose his faith. And throughout it, he asked ''Why?'' Was he being tested? Was he being punished? I'm not sure we know. His friends came and talked to him, and they suggested that he must be being punished, that he must have done something wrong. And yet, of course Job hadn't. He hadn't been evil; he hadn't sinned. He'd kept the faith. The attitude of his friends perhaps is parallel to the way many of us think. It is natural to think that if we are good, if we follow the rules, if we observe the mandates, good things will happen to us. And yes, if we sin, we'll be punished. And yet, Job hadn't sinned. I don't pretend to know the answer. But I want to speculate with you this afternoon, and I want to suggest that part of the answer lies in God's purpose for our lives in this world.

What if this earthly existence is not intended to be a paradise? What if our Maker's real kingdom is not of this world? What if the purpose of our earthly existence is to train us, to prepare us, to test us—not for this world, but for the next? What if the commandments of Moses and the admonition to love each other is not a checklist for prosperity in this world, but guidance for how we'll behave when we truly accept grace? Not a way to earn grace, but what we'll do if we accept it. What if those commandments are the best advice in history on how to live a joyous life and find happiness on earth? It's a different thought, isn't it? If it's so, then our earthly existence may not be about earning our way to heaven or even enjoying a perfect life on earth. It may be about learning and preparing for the next life.

Parents face every day, something of the challenge that our Lord must experience. How do you prepare children for life? We love our children more than life itself. Do we do their homework for them? Perhaps some of you have faced that question. If you don't help them with their homework, they may fail and they may not have the chances you hope for them. But the story doesn't end there. If you do it for them, what do they learn? How do they learn that they have to prepare in advance for the next time? How have you helped them learn a lesson for life?

Growing up, I couldn't understand my mother. How could she be so tough? She never once bought the stories I brought home about how everyone did it, how it must be OK because everyone else got by with it. In fact, she was never even tempted by them. I recall a series of incidents of her forcing me to confess my sins—once to a storeowner a few blocks from here where I'd taken some gum, once to my grandmother, once at school. Those forced confessions resulted in unbelievable embarrassment. How could she do such a thing? If I wanted something, her answer was, ''I'll help you find a job.'' I worked 20–40 hours a week while I was in high school, and, in the summers I had one or two full-time jobs, depending on the summer. My parents were divorced. She worked full-time. She didn't have a lot of time to supervise me. But her strength was to keep me busy, and she kept me so busy I almost stayed out of trouble. As I look back, I wonder whether I have been near as good a parent as she was.

I will never forget the Clarence Thomas hearings, and I suspect some of you may have that feeling as well. One of the instances I recall was a question posed by a senator—a person of great integrity—who had very strong doubts about Clarence Thomas' judicial philosophy. When his turn came to ask questions, the senator said, ''Clarence Thomas, I see two Clarence Thomas's, not just one. I see one that seems so kind, generous, thoughtful and warm. And then I see one that is mean, cruel and hard. Which one are you?'' Justice Thomas responded immediately. He said, ''There is only one Clarence Thomas. And I am him. I used to wonder how my uncle could pretend to care for me so much and be so hard on me. It wasn't until later that I learned that he was the one who loved me the most.''

I wonder if our Lord has in mind to prepare us for a life to come. Could tragedies and trials in this life prepare us for the next? It's a question worth asking. The year my brother died, I was 13. My grandfather gave me a book, It was written by Woodrow Wilson. It was a wonderful little book called ''When a Man Comes To Himself.'' It had as strong an influence on me as any book I've read. Wilson, as you know, was an idealist. In the book he talks about what the real joys in life are. He observes that the real pay one gets from a job is not the paycheck at the end of the month, although that's important. The real joy comes from what you do. A bricklayer or carpenter can drive through town and see the homes they've built providing shelter and warmth for families. Others can look at the work they've done and see how it impacts lives and changes the people they know. Wilson's thesis was that you are what you do with your life. You've seen those ads where they say you are what you eat. I sincerely hope that's not true. His thesis was that you are the role you play among your fellows. If that's true, ask what your life amounts to. Wilson's thought was that we are the sum total of how we help each other and the role we play amongst others. Perhaps that's a good guide for us to evaluate what we do in life. It's also a pretty good guide to examine whether you've found the real joy in life.

I don't know the answer to Job's question. Like you, I am troubled by the events and the currents of evil in the world. I, like you, suspect that our responsibility is to do what we can to make sure the tragedy never happens again. I'm not sure there's a surefire formula to prevent disasters. But I do believe that the freedom God gives us to live our lives and make our choices surely must be designed to prepare us for another world and help us understand that we have a role in making this world better. If we learn from this, and all of us go forth determined to make a difference from this moment on, the tragedy, in one way, will have served to make our world a better one.

Thank you.●

GUIDANCE FOR THE DESIGNATION OF EMERGENCIES AS A PART OF THE BUDGET PROCESS—MOTION TO PROCEED

Mr. NICKLES. I ask unanimous consent the Senate now turn to Calendar No. 89, S. 557, regarding the budget process to which the so-called lockbox issue is pending as an amendment.

Mr. DURBIN. Mr. President, I object.

CLOTURE MOTION

Mr. NICKLES. In light of the objection, I now move to proceed to Senate bill 557, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 89, S. 557, a bill to provide guidance for the designation of emergencies as a part of the budget process:

Trent Lott, Spencer Abraham, Jim Inhofe, Kay Bailey Hutchison, Pete Domenici, Paul Coverdell, Wayne Allard, Jesse Helms, Larry E. Craig, Mike Crapo, Chuck Hagel, Mike DeWine, Michael B. Enzi, Judd Gregg, Tim Hutchinson, and Craig Thomas.

Mr. NICKLES. Mr. President, for the information of all Senators, I regret the objection from our Democrat colleagues to allow the Senate to proceed to the very vital issue of the Social Security lockbox issue. With the objection in place, I had no other alternative than to file a cloture motion on the motion to proceed. This cloture vote will occur on Thursday, 1 hour after the Senate convenes, unless changed by unanimous consent. All Senators will be notified as to the exact time of the cloture vote.

CALL OF THE ROLL

In the meantime, I ask consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. NICKLES. I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

REMOVAL OF INJUNCTION OF SECRECY TREATY DOCUMENT NO. 106–3

Mr. NICKLES. I ask unanimous consent to proceed as if in executive session.

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

Mr. NICKLES. I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 29, 1999, by the President of the United States:

1. Tax Convention with Venezuela (Treaty Document No. 106–3);

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the Government of the United States of America and the Government of the Republic of Venezuela for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, together with a Protocol, signed at Caracas on January 25, 1999. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and other developing nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 29, 1999.*

ORDERS FOR WEDNESDAY, JUNE 30, 1999

Mr. NICKLES. I ask unanimous consent that when the Senate complete its business today, it stand in adjournment until 9:30 a.m. on Wednesday, June 30. I further ask that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that the Senate then begin consideration of S. 1234, the foreign operations appropriations legislation.

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

PROGRAM

Mr. NICKLES. For the information of all Senators, Wednesday the Senate will convene at 9:30 and will begin consideration of the foreign operations appropriations bill. Amendments to that bill are expected, and therefore votes are to be expected throughout the day.

Due to the agreement reached regarding health care reform, it is hoped the Senate can complete action on a number of appropriations bills prior to the Fourth of July recess.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. NICKLES. 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 6:30 p.m., adjourned until Wednesday, June 30, 1999, at 9:30 a.m.