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Senate

(Legislative day of Tuesday, June 6, 2000)

The Senate met at 9:31 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious God, You are never reluctant to bless us with exactly what we need for each day's challenges and opportunities. Sometimes we are stingy receivers who find it difficult to open our tight-fisted grip on circumstances and receive the blessings that You have prepared. You know our needs before we ask You but wait to bless us until we ask for Your help. We come to You now honestly to confess our needs. Lord, we need Your inspiration for our thinking, Your love for our emotions, Your guidance for our wills, and Your strength for our bodies. We have learned that true peace and lasting serenity result from knowing that You have an abundant supply of resources to help us meet any situation, difficult person, or disturbing complexity. And so we may say with the psalmist, "Blessed be the Lord, who daily loads us with benefits.—Psalm 68:19. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, 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 PRESIDING OFFICER (Mr. ALLARD). The Senator from Virginia is recognized.

SCHEDULE

Mr. WARNER. Mr. President, today the Senate will resume consideration of the Department of Defense authorization bill. Under the order, there will be a total of 90 minutes on the Kerrey amendment regarding strategic forces, and the Warner second-degree amendment. Following that debate, there will be up to 2 hours of debate on the Johnson and Warner amendments regarding CHAMPUS and TRICARE. After the use or yielding back of that time, there will be up to four votes on the pending amendments. Therefore, Senators can expect votes to begin not later than 1 p.m.

Those Senators who intend to offer amendments are encouraged to work with the bill managers in an effort to complete this important legislation prior to the end of this week. Further votes can be anticipated during today's session of the Senate.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2549, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will now be 90 minutes of debate equally divided on the Kerrey and Warner amendments.

Pending:

Warner modified amendment No. 3173, to extend eligibility for medical care under CHAMPUS and TRICARE to persons over age 64.

Kerrey amendment No. 3183, to repeal a limitation on retirement or dismantlement of strategic nuclear delivery systems in excess of military requirements.

Warner amendment No. 3184 (to amendment No. 3183), to provide for correction of scope of waiver authority for limitation on retirement or dismantlement of strategic nuclear delivery systems, and authority to waive limitation.

Mr. WARNER. Yesterday, Mr. President, we made progress on this bill—not quite as much as I had hoped, but nevertheless progress was made. I wish to draw to the attention of my colleagues that late last night the ranking member and I put forth an amendment to this bill regarding the D-Day memorial. As the last act, it seemed to the distinguished Senator from Michigan and myself that it was most appropriate that the 56th anniversary of D-Day be concluded with an amendment which provides the opportunity for, first, the Senate, and hopefully the entire Congress, to participate in the raising of the needed dollars for the World War II memorial. Over 1,000 World War II veterans are dying each day. Organizers are within \$6 million of reaching that sum of money needed to complete the construction and design phases of this memorial.

I am pleased to say this amendment passed last night. I thank my distinguished colleague, Mr. LEVIN, for joining me. All the World War II veterans currently serving in the Senate were added as cosponsors. I served very briefly at the end of World War II. And the others, seven in number, were added as cosponsors together with our distinguished colleague, Senator KERREY—although not a World War II veteran, a veteran of Vietnam with greatest distinction. So I am pleased to

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



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make that announcement. Some Senators may have missed it last night.

I note Senator KERREY's presence in the Chamber. We thank the Senator for cosponsoring the amendment last night by which the Senate goes on record endorsing a contribution of \$6 million, I might add, out of nonappropriated funds. We were able to get the funding from that account.

Mr. LEVIN. Mr. President, I join my good friend from Virginia in commenting on that action last night, how appropriate it is for the heroes and heroines who served us so well in World War II, both in war and on the home front. As my dear friend from Virginia mentioned last night, there were an awful lot of heroes and heroines—obviously, veterans first and foremost, but a lot of folks here at home. And this memorial is to them. We have now nine World War II veterans remaining, I believe, in the Senate; is that correct?

Mr. WARNER. We have the number here. I will get it.

Mr. LEVIN. Every one of those were cosponsors, each one with extraordinary stories to tell. I was just delighted to be a small part of that, even though I am not a vet, just in some way to speak for the nonvets in this body about the contributions which have been made by those who served us.

Mr. WARNER. Mr. President, I want to make it very clear that this Senator, the Senator from Virginia, although his service at the end of World War II was brief, a little less than 2 years, does not put himself in the hero class with those in this body who, indeed, very humbly and rightfully earned that hero distinction. I may have served in Korea in the second engagement of our country in war but not at this particular time. Basically, the Navy educated me, for which I am grateful. The GI bill helped me, as it did all of those us who served at the time. That was probably the greatest investment the United States ever made in a bill.

Mr. LEVIN. The Senator from Virginia and I properly tipped our hats to Bob Dole last night.

Mr. WARNER. We did. I talked to him last night after we departed the Chamber. Guess what. He sat and watched us and critiqued us very carefully. We are proud of Bob Dole.

Mr. KERREY. Mr. President, if I could make a comment on that subject, very much a part of this effort to try to find a compromise on this memorial, in the beginning I opposed the design and they redesigned it. I am very pleased now to be able to support both the design and construction.

One of the things, I say to my friend from Virginia, that happened during this process was that there was a deletion made from this design that I think at some point needs to be corrected—not on this site because its too small a site to accommodate it—and that is the construction of a museum that tells the full story. And I think it has

relevance, in fact, to the debate on this bill because when George Marshall accepted Roosevelt's appointment to be Chief of Staff of the Army on September 1, 1939, the Armed Forces of the United States of America were approximately 137,000 people. Marshall had to build the Army to 8 million people in order for it to be an effective fighting force, and it wasn't just the military people who responded. There was a huge civilian effort that supported that buildup. It is a story of how dangerous it is, even though you may not see an enemy on the horizon at the moment, how dangerous it is to stack arms for the United States of America.

We had a resolution a couple of years ago, I think, on this bill to try to allocate the resources and do the study to build. There were a number of terrific places in the Senator's State right across the river that were cited. I believe this will be a wonderful memorial, but the missing piece is to tell the full story of what happened from Versailles all the way through the Second World War. There was basically an interruption for 20 years while America tried to withdraw one more time from the world. We paid a terrible price for it. I appreciate very much the Senator's willingness to allocate the money for this.

Mr. WARNER. If I can advise my distinguished colleague, the subject of a military museum embracing the chronological history of the participation of men and women of our Nation in causes of freedom beyond our shores is very much in the minds of the members of the Armed Services Committee. At the moment, I and other Senators are promoting a museum colocated with Arlington Cemetery on the ridge that overlooks where the current headquarters of the Marine Corps is located. That is due for demolition. That site seems to me and others to lend itself to the convenience of tourists visiting this Nation's Capital. It would embrace the military history of all branches of our services. We are a modest size in comparison to others, but the Senator is right.

I noticed with interest yesterday in Great Britain the Queen opened an extraordinary exposition and permanent museum devoted to the Holocaust, again, a reminder of chapters of the tragedy that unfolded on the European Continent as a consequence of Hitler and the Axis powers.

Mr. KERREY. I know that site fairly well. I think it would be a terrific site for history of the Armed Forces, but I also believe oftentimes the most important decisions aren't the decisions the military is making but that the civilians made prior to the military having to act, at least as I see the history.

In the Second World War, there were an awful lot of mistakes made in the 1920s and the 1930s that created the necessity for that terrible war. It is a very important reminder, especially today. It is something I am asked all the time when debating authorization for the military.

People say: Do we need it? Who is the enemy? We are spending more than 20 leading nations, et cetera, et cetera.

People say: Why do we need to continue to do this? The cold war is over, and so forth.

The best answer lies in that 20-year period between 1919 and 1939 during which the United States of America tried, in the face of all evidence to the contrary, to stack arms and withdraw and become isolationist.

We have talked long enough on that subject. I appreciate very much the Senator responding to former Senator Dole's request. This is the minimum that the people of the United States of America ought to do to participate in constructing this important memorial.

Mr. WARNER. One footnote to this colloquy. Yesterday Senator Dole, who is chairman of the National World War II Memorial Campaign, received a check for \$14.5 million from Wal-Mart stores. The contribution was presented by a group of World War II veterans and Wal-Mart associates during a special ceremony yesterday. That, together with the action by this Chamber which I hope will become law, are the final building blocks needed in that fundraising campaign.

Mr. KERREY. The junior Senator from Virginia and I actually sponsored legislation earlier. We have been trying to support what it is you are trying to do with this Armed Forces memorial that will tell the story of the Armed Forces of the United States of America.

Mr. WARNER. Senator ROBB is very active in that.

I yield the floor.

AMENDMENT NO. 3183

Mr. KERREY. Mr. President, the amendment before the Senate now presents to Members of the Senate a series of questions that we have to answer.

The first is, Should the Congress, under any circumstances, impose a limitation on the Commander in Chief? As it says, the Commander in Chief can't go below a certain level of strategic nuclear weapons. We imposed this for the first time in 1998. One of the strongest arguments made in 1998 and 1999 was that we needed that in order to put pressure on the Duma to ratify START II. They have now ratified START II. I think it is unwise to impose a limitation. Whether the President is a Democrat, whether the President is a Republican, I think it limits that President's ability to be able to negotiate. As a consequence, it puts the President in a weaker position when he is talking, whether to Russia or other nations—it puts that President in a weaker position and gives him less maneuverability to be able to protect the people of the United States. If we don't like the action a President takes, the Congress can intervene to act. That is question No. 1.

Do you think, under any circumstances that you can describe, we ought to pass a law that says a President cannot go below a certain level? In this case, the START I level is not only 6,000 warheads, but as the Senator from Arizona indicated earlier, we describe in the law the precise platform delivery systems for the warheads.

Mr. WARNER. The Senator posed a question. I will take responsibility to answer the question as we go along, and we can frame for colleagues where the differences are between yourself and my amendment, and then the distinguished Presiding Officer will take the second question.

Mr. KERREY. I am pleased to do that.

The first question is, Did the Congress do the right thing in 1998 and 1999, and would we be doing the right thing today or in the future to have a statute that imposes upon a President a floor, a limitation, under which that President cannot go as a consequence of our deciding that should only occur as we described in this law?

We did it in 1998 and again in 1999 and we are proposing to do it again this year.

Mr. WARNER. The answer to that question is very simple. It was first done in 1996. We repeated it in 1997, 1998, and 1999. In 2000, we made it permanent. That is the provision which the Senator from Nebraska is trying to strike.

In response to that, Congress took action and the President of the United States signed it into law one time, two times, three times, four times, five times. That should answer the question posed by the Senator from Nebraska.

The President concurred in the judgment of the Congress which said that you should not drop below those levels. What the amendment from the Senator from Virginia says is it doesn't, in my judgment, restrict the President's constitutional right to negotiate, but it says, Mr. President, you should not unilaterally, as Commander in Chief, reduce our Armed Forces in terms of those strategic levels until you do two things which have been followed by previous Presidents, and, indeed, this President when he first came to office. You make a QDR study.

For those that do not understand it, it is an entire study of the world threat situation, our force levels, force levels which are conventional, force levels which are strategic, and you do a comprehensive review of the nuclear posture.

Those two things having been done, then you can proceed to exercise your judgment as Commander in Chief to reduce certain force levels.

There it is. The President signed it five times, clearly. He could have vetoed it. He did not. He signed it into law five times. It remains the law of the land today. I will vigorously oppose the efforts of my colleague and good friend from Nebraska to repeal that law because that law very clearly says

you must take prudent actions. My amendment sets out what those prudent actions are. Then my amendment gives the President the right, after taking those actions of the QDR and the posture review of the nuclear forces, to waive the statute that has been signed five times by the President of the United States.

Mr. KERREY. Mr. President, first, Congress should be making a decision based upon what we think is right. We oftentimes pass defense authorization bills that have things the President doesn't like. My guess is that the Senator from Virginia has urged the President on many occasions: I understand, Mr. President, you don't like this particular provision, but I urge you to sign it anyway. There are many other good things in the bill. Mr. President, we hope you will sign it because we can't get it any better.

That happens all the time here.

So the fact that the President signed it does not mean the President concurs. Nor should it cause a Senator to say, just because the President signed it, that doesn't mean it is a good act. We disagree with the President all the time around here. We will get behind him when we like what he is doing, and we will get out in front of him when we do not like what he is doing. That is the appropriate way, I suspect, it ought to be done. Members of the Senate should be deciding: Do we think it is a wise thing? Do we want to restrict future President Bush or future President GORE? It is not accidental that was imposed in 1996. It has not been imposed on previous Presidents. It has been imposed only on this particular President. So whether the President signs the bill or not, in my view, is secondary to the question: Do you think it is a sound policy?

In a post-cold-war era where we have had three Presidential elections in Russia—and understand, the bulk of our strategic weapons system is for Russia. That is the bulk of our system. What would the Senator say, 75 percent or 80 percent of the SIOP is dealing with the democratic nation of Russia with whom we have relations, with whom we are trying to work to help to be successful in their democratic experiment and their experiment with free markets? The question is, Does it restrict the President and make it less likely he can begin to think in a new way—which, in my judgment, needs to occur?

So, regardless, whether the President signs it or not, my guess is the President does not support this provision. But even if he said, "I support it," I would still oppose it. I still think it is unreasonable for Congress to do. So that is question No. 1 that you have to decide. Whether the President signs it or not is secondary. My guess is a lot of folks on that side of the aisle think the President signs a lot of things they wish he would not sign, things they voted against. So it is not, to me, a very compelling argument to say we

have to do this because the President signed five previous bills that had this provision in them.

Mr. WARNER. I simply say to my good friend, I strongly disagree. This President signed this five times. We saw an example where the distinguished Senator from West Virginia and I had the Byrd-Warner amendment regarding the deployment of our troops and taking certain steps by the Congress. What happened? Not only this President but the candidates for President, both Vice President GORE and George W. Bush, communicated in various ways they believed that amendment was an encroachment on Presidential power, and we missed that by a mere three votes, is my recollection, because of that very issue. It was an abridgement of Presidential power. Nothing is fought on this Chamber floor with greater vigor than protecting the powers of the President of the United States.

Mr. KERREY. Mr. President, first of all, is our time being charged to the two of us? Is that how this is being worked?

Mr. WARNER. It seems to me that is a fair allocation in the course of a colloquy.

The PRESIDING OFFICER (Mr. AL-LARD). When the Senator from Nebraska speaks, that is charged against his time. When the Senator from Virginia speaks, it is allocated against his time.

Mr. KERREY. I do not think it is going to be persuasive to the Senator from Virginia, but this is the statement of policy on the Senate defense authorization bill:

The administration appreciates the bill's endorsement of our plan to reduce the Trident submarine force from 18 to 14 boats, while maintaining a survivable, effective START I-capable force. However, we prefer repealing the general provision that maintains the prohibition, first enacted in the FY 1998 Defense Authorization Act, against obligating funds to retire or dismantle any other strategic nuclear delivery systems below specified levels. . . .

And on and on and on.

So the President has signed it, but the President does not support this policy. Again, I do not suppose that is going to be persuasive to my colleague, but he used an argument against repealing this provision that said the President supports it, or he signed the bill which implies that he supports the provision.

I personally believe the Congress should be making the decision. The Senator's argument, with great passion, that he does not like infringing upon the prerogatives of the President—I have heard him many times down here arguing, oftentimes against Members of his own party, against efforts to do that. So I am surprised, in fact, especially now that the Russian Duma has ratified START II, that we

want to continue this policy. I think it is not good. So that is question No. 1. You have heard very eloquent argument on the other side. Question No. 1 is: Does Congress want to do that under any circumstances with or without a review?

The second question we are now going to be asked, as a consequence of the second-degree amendment, is: Do we want to delay action? Do we want to restrict the action in accordance with the second-degree amendment which basically says we have to have a nuclear force structure review and that review is submitted concurrently with the quadrennial review which is expected December of 2001?

I believe it is time for the people's representatives, elected by the people, to be having a debate about what kind of force structure we want to maintain. And it is counterproductive, it is difficult for us to reach the right decision, if we once again farm it off and say we want somebody else to figure it out. It is the civilians who send instructions to the CINC at STRATCOM. It is PDD-60 that determines what the Single Integrated Operating Plan, the SIOP, is. The targets are selected as a consequence of civilian instructions, not the other way around. It is we who have to decide, Do we have enough? Do we have too much? Or is it right? It is we who have to bring commonsense analysis to the debate and answer the question: Given the current status, given what we expect out in the future, do we have enough?

We have the statements of General Shalikashvili in 1995, as he evaluated this, that seem to indicate that lower levels are safe. But even there, General Shalikashvili is following civilian instructions.

I understand this amendment provides people an opportunity to sort of vote for this thing and we are going to have a normal review. It may in fact carry the day. It is a very complicated argument, and it may in fact be that the second-degree amendment passes. I hope not, because it is time for this Congress to take back the responsibility for targeting and answer the question: Do we have enough, do we have too little, or do we have the numbers quite right?

I urge Members to look at what we now have in the public realm, data that indicates what that targeting is. We have an analysis, public analysis now, of what happens when we have 2,500 strategic warheads after we subtract that fraction that may not be available to us for a variety of reasons. Understanding we are not shooting bullets here, these are very complicated systems, and you cannot, with 100-percent reliability, predict that they are going to arrive on target in the manner that has been described. So they are very complicated systems. It requires modernization; it requires constant analysis. The men and women at STRATCOM and others who have that responsibility are highly skilled, and

they work on that problem all the time.

This is why I think the review is not a good idea. It pushes away from us one more time the problem of just considering what these nuclear weapons can do instead of asking ourselves, with a commonsense analysis—because, again, the targeting begins with civilian instructions. It is the Presidential directive that determines what the targeting is. We have modified the targeting, certainly, to accommodate some of the changes that have occurred as a result of the end of the cold war. But I believe if you look at these things and say, oh, my gosh, what will those do, you will reach a commonsense conclusion that we have more than is necessary in order to keep the people of the United States of America safe.

That is the mission of this defense authorization bill, whether we are debating the pay for our military, whether we are debating our force structure, or readiness, whatever it is. We ought to authorize and we ought to appropriate such funds as necessary to keep the people of the United States of America and our interests and our allies safe. That is what our mission is.

But, again, on the question of the need for review, what is needed is for Congress to review it, for Congress to answer the question. We have, under what is called the minimal deterrent level, the 2,500 warheads: We have 500 100- to 300-kiloton weapons that will land on war-supporting installations in Russia, 160 on leadership, 500 on conventional forces, 1,100 on nuclear targets.

I urge, rather than doing a review, what we need to do is bring out a map of Russia and take a look and answer the question, What do 2,260 nuclear detonations of a minimum of 100 kilotons do to Russia? Remember, the war in the Pacific ended in 1945 as a consequence of two 15-kiloton detonations. I stipulated earlier my uncle died in the Philippines and my father was a part of the occupation force rather than invasion. I have a vested interest in declaring that I think Truman did the right thing. But those were two 15-kiloton detonations. We are talking about 2,260 detonations in excess of 100 kilotons. We do not need a review by professionals. The people's representatives need to do an analysis of this, and I urge my colleagues to do that kind of analysis. Imagine those kinds of detonations and ask yourself, Do we have enough?

Connected with that, do an analysis yourself, both of the command and control capability of Russia and of their ability to do warnings, because if they have mistakes made at either command and control or warning—and their capacity to do early warning not only is declining but it is declining enough so the President, in one of the few successes he had, in addition to getting an agreement to eliminate weapons-grade plutonium, got an

agreement to do a joint warning center in Moscow because the analysis says their capacity to do accurate warning is declining. What does that mean? It means if they get a false alarm, they are going to launch because their instructions are to launch on warning.

So what we are doing is, as a consequence of maintaining higher levels pending more reviews, et cetera, et cetera, we are forcing the Russians to maintain a level higher than they are able to maintain, putting us at risk. It increases the risk today. That is how the end of the cold war has changed things. Russia cannot maintain 6,000 strategic weapons. They have been begging us for years. Indeed, one of the things I said yesterday, one of the paradoxes of this whole debate, is I am not sure this administration would take action.

(Mr. WARNER assumed the chair.)

Mr. ALLARD. Will the Senator from Nebraska yield for just a moment? I would like to be able to answer his question.

Mr. KERREY. I am pleased to.

Mr. ALLARD. The Chairman made a good point. We need to run a comparison. The question the Senator asked is, Do we need to delay actions? The answer is, No, we don't want to unnecessarily delay action. But I think we need to have a responsible decision-making process set up. These are very complex issues.

There are a lot of issues involved. Hearing the Senator's comments sounds to me as if he would agree with what the committee has tried to do. They said: Look, these are complicated issues. We need to have a careful review. In fact, the Strategic Subcommittee, which I chair, has set up a process where we have two studies to review our nuclear posture of where we are and move into negotiations.

For the committee to be informed means we have to hear from the professionals who deal with these issues. They need to bring the information to the committee.

We represent the people of the United States in the Congress and the Armed Services Committee tries to represent those interests. We have to set up a process to do exactly what the Senator from Nebraska is talking about.

A lot has changed since the last posture review in 1994, and what was relevant in 1994 is not necessarily relevant today. We have new leadership, by the way, since that review. In Russia, we have new leadership. We have new leadership around the world. We have leadership that has changed even in this country. We need to reevaluate in the context of this new political environment. We need to reevaluate in the context of new technology, new positions as far as the nuclear posture is concerned.

This amendment is critical to protecting our country and stabilizing the world. We need to get the current crop of experts, military and civilian—it is proper to bring in the civilian role—to formulate recommendations given today's dynamic changes.

It seems to me the Senator from Nebraska would agree with what the committee is trying to do. We agree perhaps times have changed. As the chairman pointed out earlier, the law expressly prohibited the President. Now we are saying, with a careful Nuclear Posture Review, maybe we can move ahead and review some of these issues.

(Mr. L. CHAFEE assumed the chair.)

Mr. KERREY. I appreciate that response. I made it clear in questions yesterday posed to the Senator from Virginia and the Senator from Colorado having to do with the issue of whether or not this action could be taken prior to December of 1991, whether or not an accelerated comprehensive review could occur if it was a President Bush or a President GORE. The answer was yes, leading me to say in that situation maybe I would support the amendment because if they can do an accelerated review, so can President Clinton.

The answer then came back: No, we do not want President Clinton to do an accelerated view. We are willing to let President GORE or President Bush do it but not President Clinton. That is precisely why it is a bad provision because I believe it is there because of distrust of a single President. It is not wise, in my judgment, for the Congress to impose that kind of restriction because it does send a signal to our allies not to negotiate.

It makes it much more difficult for the President to negotiate not only arms control agreements but to take action as President Bush did in 1991 facing a problem of how do we leapfrog the arms control process.

I heard my colleagues on the other side say the old arms control process needs to be torn up. That is not inconsistent with this kind of thinking. That is exactly what Governor Bush said in his press club speech surrounded by Henry Kissinger, George Shultz, Brent Scowcroft, and Colin Powell. If those four men were part of that new administration and they came out and said we need a review in November, December, and January and we think we can go to lower levels and we want to go immediately, we can get Russia to agree to a robust missile defense, my guess is every single Member of the other side would go along with it immediately, understanding these men are qualified and they understand what is necessary to protect the United States of America.

They do not need another review, and they certainly do not need Congress imposing a limitation on where they can go. This is a limitation that has been imposed on a single President. If

it becomes policy for Congress to do it, I believe it is going to be very difficult for us to take advantage of this new post-cold-war opportunity, as the other side has done repeatedly. There are times when the President submits a budget for defense and they say it is not enough. They do not say we need a review of this for another 3 or 4 months or a long period of time. They say we have done a review; we are not ready so we have to put more money in the budget, we have to put more weapons systems in the budget that were not in the President's request.

We do not have any difficulty confronting the President. We do not ask for reviews when the President is not asking us to do something we want. This is, in my judgment, a provision that was put in here as a consequence of not trusting a particular President, and it is a mistake. It is going to hamstring the next President, whoever that President is. This amendment attempts to soften it a bit, but it still leaves it in place. Senator KYL, I understand, was speaking for how they now interpret the amendment, saying, no, the review has to be submitted concurrently with a quadrennial review whenever that occurs. Maybe it is not in December 2001. Maybe it is done in January 2002. What if you have a President Bush coming online with Secretary of Defense Colin Powell and George Shultz and Brent Scowcroft and Henry Kissinger as part of that administration, and they do a review in November and December and come to you and say: We decided we want to go to 5,000 in exchange for an agreement; is that sufficient?

Mr. ALLARD. Let me tell you what the committee was thinking, as chairman of the Strategic Subcommittee, when we looked at this and said we need to have a careful Nuclear Posture Review. The Senator is trying to imply there was a political motive with that. This committee, made up of Democrats and Republicans, said we need to have a careful Nuclear Posture Review and we need to look at the facts. We recognized that in 1994 we had a review. We need to go back.

Mr. KERREY. I am not implying a political motivation. I am rereading your answers to my questions yesterday. I saw reason I would support this amendment, and the reason I could have supported the amendment is, if you had said to me, yes, a thoughtful and thorough review can be done by civilians in less time than done by a quadrennial review that would allow President Bush or President GORE, and the answer was that would be acceptable. I then said: What if Clinton did the same thing? The answer was no. I am reading back and remembering what the exchange was yesterday.

Mr. ALLARD. In considering this issue, we need to have a careful Nuclear Posture Review. It is not going to happen quickly. What the Senator from

Nebraska wants to see happen in public policy where we would carefully evaluate where we are in comparison with the rest of the world is not going to happen in 3 or 4 months. It is going to take time. We have to have input from civilian experts. We have to have input from military experts. From a practical standpoint, it is probably not going to be an opportunity on which this President can act. Whether it is a Democrat or Republican President, whoever is in office next, I think the same policy is going to have to apply because the ultimate goal is to have a careful posture review and make sure we do not unilaterally disarm this country, that we do not make it more vulnerable than it is today.

I yield my time to the chairman of the committee.

Mr. WARNER. I will be happy to listen.

Mr. KERREY. Go ahead.

Mr. WARNER. I simply reiterate what my colleague, who is the chairman of the subcommittee, has said. This amendment, which I drew up carefully, is drawn in such a way that it does not preclude President Clinton from negotiating and, indeed, preclude him from exercising his authority as Commander in Chief to direct the Chairman of the Joint Chiefs and others in the Pentagon: This is a level to which you will drive nuclear weapons. He can do it.

We are saying it should only be done after a quadrennial review, after a nuclear posture study has been completed. From a practical standpoint, it simply, in my judgment, cannot be achieved. If it were forced to be done, it would be viewed not only by us but the Russians and all others who follow this as an imprudent, an unwise step by our President. That is it.

Mr. KERREY. May I ask the Senator a question?

Do you think that Congress made a mistake not having a similar provision in place so we could have prevented President Bush from taking his action in 1991?

Mr. WARNER. No. Fine. Let's review what President Bush did. In the final hours of the days of his Presidency, he did the START II. I understand that. But the point is, that was a process that evolved over many years. The work had been done. The studies had been done. All of it was in place ready for his signature.

I say to the Senator, that is not the case in this instance. The last posture review of importance was 1994. Why this administration sought not to bring those up to date, to bring up a current one—

Mr. KERREY. But I say to the Senator, the question directly is, Do you think Congress should have passed a similar restriction on President Bush so he could not have done what he did in 1991?

Mr. WARNER. I would say, if this situation today were of a parallel situation at the time of President Bush, I would have been the first to pass this same law. It was an entirely different factual situation, I say to the Senator. I hope those listening understand that. But you posed the question. If President Bush at that time was faced with the decision such as this to lower the numbers drastically, I would say it should not be done until the staff work and the careful work had been done by those entrusted, namely, the Chairman of the Joint Chiefs and the Joint Chiefs of Staff, to make the analysis before a President acts.

Mr. LEVIN. Will the Senator yield just for—

Mr. KERREY. I yield the floor to you.

Mr. LEVIN. I thank the Senator.

I must say, I am utterly amazed by the last answer of my good friend from Virginia. What the Senator from Virginia said is that President Bush carefully, after thorough deliberation and consideration, negotiated a START II treaty. That was done, to use my good friend's words: After the studies were done, after the work was done.

I am wondering if my friend from Nebraska would agree with what I am now going to say. The law that is on the books will not let us go down to the Bush START II level, which was so carefully negotiated.

Think about what our law is. We just heard—and I agree with the good Senator from Virginia—that President Bush carefully, thoughtfully, in the words of the Senator from Virginia, after the studies were done and the work was done, negotiated a START II treaty. I agree with that. The law on the books will not let us go to the level that President Bush negotiated. We have to stay at START I levels.

Mr. KERREY. I quite agree with that.

Mr. LEVIN. You cannot have it both ways. If President Bush thoughtfully—and he did—carefully—and he did—after work was done—and it was—negotiated a START II level—we have ratified START II—the Joint Chiefs want us to go to that level and have testified to that, that we are wasting money staying at the START I level—we have peacekeepers that we can't afford to maintain; it is wasteful—they say, please don't force us to keep to that level, but we have a law on the books which says we have to stay at the START I level of 6,000 warheads. We cannot go down to the START II level of 3,000 to 3,500 warheads because of the law on the books. You can't have this both ways.

To add insult to injury, now we are saying that the only way that can be waived, that limit, that START I requirement that we have on the books, is if there is another Nuclear Posture Review. We have had two very thoughtful, Nuclear Posture Reviews, one in 1994, one in 1997.

You will not let us implement it. This law will not let us implement the

previous careful, thoughtful Nuclear Posture Reviews. I do not have any problem with another one, by the way. I do not have any problem with the bill the way it now reads.

The problem I have is with the Warner amendment, which says that we can't do what we negotiated in START II, even though it has been confirmed by two thoughtful posture statements, unless the President—the next President, not this one—first has another Nuclear Posture Review. That is the problem.

I think the amendment that has been offered by the Senator from Virginia is aimed very clearly at this President. I think it is a mistake in terms of its approach. It is being limited to hobble this President, to force him to maintain a force structure which was negotiated to a lower level by a previous President. I think that is a mistake in terms of precedent and in terms of what we should be doing in terms of a body. It should not be aimed at one President.

But in addition to that, I must say that we are maintaining a force structure which the Joint Chiefs say we do not need, a force structure which START II—which was negotiated by President Bush—says we do not need. So we are wasting a lot of money as well as engaging, I believe, in a partisan effort to hobble the President.

That is the sad news. That is one of the problems with the Warner amendment. But there is some good news—not in this amendment, but there is some good news that should give us a little bit of comfort.

It will not work. We can waste money. We are. We can maintain a dangerous level of force structure, for the reasons which the Senator from Nebraska gave, making us less secure, not more. We can do all that. But we cannot hobble the President, although I believe the intent of this amendment is to hobble this President. I believe that is the intent because it is only aimed at this President.

The next President—whether it is a Democratic or Republican President—we have been told last night, can go through this review in a matter of months, if they want to, and then waive this statute, but not this President. So I think it is aimed at this President. But this President has the constitutional right to negotiate a treaty, should he see fit. Thank God, the Constitution is there again to save us.

Because although this language will not allow a waiver by this President to get down to the level which President Bush negotiated, and which the Joint Chiefs of Staff say is all we need to keep us secure—half of the level which the current law forces us to maintain—even though that is what this language will force us to do, it cannot stop the President from carrying out his constitutional duty to his last day in office.

He can negotiate a treaty at a lower level. If he does so, we can reject it.

The Senate has to ratify under the Constitution. But the President is nonetheless able to negotiate reductions below the START II level, as the Joint Chiefs have said he safely can.

In 1997, the Joint Chiefs said we can safely go down to 2,000, 2,500, which is about 1,000 below the START II level. They have already said that after a careful posture review. I hope the President succeeds in coming up with a treaty which allows us to deploy a limited national missile defense at a lower level of nuclear weapons. I hope he succeeds.

But I must say this amendment is not constructive. It is not something which I believe would be offered were a President of a different party in office. I do not believe that it would be offered. I think the answers last night give support to that conclusion.

It is a very sad conclusion on my part to reach that because I know my friend from Virginia is not ordinarily of that bent. We have worked together long enough so I know what his instincts usually are. But in this case, I am afraid it falls short of where we should be as a body, which should be supporting our right to ratify, supporting a force structure we need, but not maintaining a force structure we no longer need according to two careful posture reviews, for purposes which I believe are intended to restrict this President.

Before I yield the floor, I ask the Senator from Nebraska, is it not accurate that the START II level which was negotiated by President Bush was supported by a Nuclear Posture Review made by the Joint Chiefs of Staff?

Mr. KERREY. The Senator is correct. It is one reason additional review is not necessary. It is offered in good faith, but it is certainly not necessary to make this determination.

Mr. WARNER. Mr. President, if I might summarize, again, on five occasions President Clinton has signed into law actions by the Congress of the United States which state very clearly we should not go to these levels. There it is.

It is interesting, one of the reasons Congress took that action is we were not sure what the Duma would do on START II. We were right. They accepted START II, but with the following conditions on it: ABM treaty demarcation protocol, ABM treaty succession multilateralization protocol, START II extension protocol. Those protocols have not been sent to the Senate by the President. No one can refute that; they have not been sent here. They do not have his endorsement. That is why we should not undo hastily with this amendment this fabric of legislation which for 5 consecutive years has been passed by the Congress and signed by the President of the United States.

The Warner amendment does not preclude President Clinton from negotiating. It does not preclude our President from creating a QDR in the next few months, creating an updated nuclear posture. He could do it. But it would be imprudent and unwise to do it because it would run against the guidance provided by the Congress. No one should say this Congress, particularly the Senate, is not an equal partner on matters of seriousness of this nature, particularly as it relates to treaties. It is in the Constitution just as clearly as is the President's Commander in Chief role.

Mr. LEVIN. Mr. President, if I may have 1 additional minute, I will then yield the floor.

Mr. KERREY. I yield 1 minute to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. On the point of the President signing five bills, when the President signs bills—these bills are 600 pages long—he makes it very clear he doesn't agree with every single provision in every bill he signs. As a matter of fact, if that were the test, I am sure we could get a statement right now from the President indicating his opposition to this provision. I would think the Senator from Virginia would still not drop this provision, even though the President of the United States would indicate opposition to it.

The Chairman of the Joint Chiefs, speaking for the administration, I am sure, in 1995, said:

Our analysis shows that, even under the worst conditions, the START II force levels provide enough survivable forces and survivable, sustained command and control to accomplish our targeting objectives.

That is the Joint Chiefs speaking for the administration in 1995. The current law will not allow this administration to go down to the levels which General Shalikashvili and the current Joint Chiefs say are adequate. It is wasteful as well as attempting to hobble the President. But if the test is whether the President supports the language or not, I am sure we can get a quick letter from the President indicating his opposition to the Senator's amendment. I wonder whether the Senator would drop his amendment if the President indicated opposition in a letter?

Mr. WARNER. Unequivocally, no, I say to my good friend.

Mr. LEVIN. I thank my good friend.

Mr. WARNER. In quick summary, he cites what the Chairman of the Joint Chiefs said in 1995. Fine. But General Shelton and others were acting on the predicate, on the assumption, which was a fair assumption, that the Russian Duma would adopt START II as it was written and not put these conditions on it. Once they put these condi-

tions on, it was a clear signal to all of us, we had better go back and reexamine what in effect is the desire of Russia on arms control. These are conditions which they know this Chamber, as presently constituted, would never accept.

I yield the floor.

Mr. LEVIN. Mr. President, I ask unanimous consent that a statement of General Shelton be printed in the RECORD at this time, indicating that major costs would be incurred if we remain at START I levels, stating his opposition to the language which the Senator from Virginia would maintain in our law without the possibility of a waiver until next year.

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

TESTIMONY BEFORE THE SENATE COMMITTEE
ON ARMED SERVICES, JANUARY 5, 1999

RATIONALE FOR STAYING AT START I FORCE
LEVELS

Senator LEVIN. General Shelton, in your view, is there any military reason why we should freeze our strategic forces at the START I level until Russia ratifies START II?

What is the cost (a) in fiscal year 2000; and (b) through the FYDP; to maintain our forces at the START I level instead of a lower level that is required for military reasons?

General SHELTON. As a result, the force structure could undergo change. The Joint Chiefs and I are working with the Commander in Chief of our Strategic Command on a recommendation for the Secretary of Defense. There are a number of alternative force structures with fewer platforms that meet our national security needs and still provide 6,000 strategic warheads to maintain leverage on the Russians to ratify START II. The Service Chiefs and I feel it is time to consider options that will reduce our strategic forces to the levels recommended by the Nuclear Posture Review. The START I legislative restraint will need to be removed before we can pursue these options.

Major costs will be incurred if we remain at START I levels. Since our START II baseline calls for Peacekeeper to be retired by 31 December 2003, costs in fiscal year 2000 include an additional \$51 million to maintain all Peacekeeper missiles for 1 year. Overall Peacekeeper costs are approximately \$150 million per year and maintaining them over the FYDP will cost \$560 million. Keeping our SSBN force structure at START I levels (18 SSBNs) until fiscal year 2006 will cost an additional \$5.3 billion, which includes refueling, overhaul, and backfitting four Trident SSBNs with D-5 missiles.

Secretary COHEN. . . . So the answer is, I do not think we need to have the legislation, which expires, and we can maintain the same level until such time as—level of warheads that we have under START I, until such time as the Russians ratify START II, so we can achieve that particular goal.

Senator LEVIN. So, the way the legislation is framed is not helpful or necessary?

Secretary COHEN. I think it is unnecessary at this point.

FISCAL YEAR 2000 DEFENSE AUTHORIZATION ACT

Senator LEVIN. Would you oppose inclusion of a provision in the Fiscal Year 2000 Defense Authorization Act mandating strategic force structure levels—specific numbers of Trident Submarines, Peacekeeper missiles and B-52 bombers?

General SHELTON. Yes, I would definitely oppose inclusion of any language that mandates specific force levels. It is important for us to retain the ability to deploy the maximum number of warheads allowed by START I but the Services should also have the flexibility to do so with a militarily sufficient, yet cost effective, force structure.

Senator LEVIN. Are there any military requirements for the 50 Peacekeeper ballistic missiles?

General SHELTON. The Commander in Chief United States Strategic Command conducted an extensive analysis of maintaining 14 Tridents, 500 Minutemen IIIs, and 0 Peacekeepers uploaded to the approximate warhead limits of START I in our inventory and he concluded this force was militarily sufficient and I concurred with this assessment.

Senator LEVIN. I would hope they take that into account and also the fact that they are doing that because that is what we wanted them to do under the START agreements, is to move to the new kind of weapons system. But whatever you want to take into account, please respond to that for the record.

[The information referred to follows:]

The Service Chiefs and I agree it is time to reduce the number of our nuclear platforms to a level that is militarily sufficient to meet our national security needs. Specifically, we should move to the force structure levels recommended by the Nuclear Posture Review. For fiscal year 2000, this means programming for the reduction of our nuclear-powered fleet ballistic missile submarine (SSBN) force structure from 18 to 14 TRIDENTs while maintaining 50 PEACEKEEPERS. We strongly believe it is militarily prudent to review PEACEKEEPER annually. The four SSBNs will continue to operate until they reach the end of their reactor core life when they will be retired. With a strategic force of 14 TRIDENT SSBNs, 50 PEACEKEEPER and 500 MINUTEMAN III intercontinental ballistic missiles (ICBMs), and our nuclear capable bombers, we will still be capable of deploying approximately 6,000 strategic warheads as allowed by START I. The statutory provision that keeps us at the START I level for both TRIDENT SSBNs and PEACEKEEPER ICBMs will need to be removed before we can pursue these options.

Mr. WARNER. Mr. President, if I may make one observation in reply, the President's budget for 2001 includes funds to sustain our strategic forces at current levels. Why then did he send up a budget request to maintain those strategic levels, the levels you are now asking him not to knock down?

Mr. KERREY. Mr. President, the answer to that is a question back to the

Senator from Virginia. If the President is asking for these levels, why would he insist on a prohibition of his going lower? Why is he so concerned he is going to go lower, if the President is asking for these levels? Why does he need this provision?

Mr. WARNER. Mr. President, ultimately we will go lower. But we should take into consideration the actions of the Duma and the fact that we should study very carefully this nuclear posture in view of the actions taken by the Duma.

Mr. KERREY. The question the Senator from Virginia asked me was, Why did the President send up an authorization request for current levels if he was thinking about going lower? That is a good question. I am not certain the President would use his authority. The question that provokes is, Why, if the President is asking for existing levels, are this Senator from Virginia and others so concerned that he might go lower? Why do we have this prohibition on any President? It is an unnecessary and unwarranted interference, and it makes the people of the United States of America an awful lot less safe, given what is going on in Russia today.

The PRESIDING OFFICER. Who yields time?

Mr. KERREY. Mr. President, I yield 10 minutes to the Senator from Delaware.

Mr. WARNER. Mr. President, will the Chair state the allocation of the time remaining between the distinguished Senator from Nebraska and myself.

The PRESIDING OFFICER. The Senator from Nebraska has 14 minutes remaining, and the Senator from Virginia has 25 minutes remaining.

The Senator from Delaware.

Mr. BIDEN. Mr. President, the Kerrey amendment is a sensible proposal that merits bipartisan support.

The Joint Chiefs of Staff decided many years ago under the Bush administration that we could safely go below START I force levels. President Bush signed START II, and the Senate approved it in 1996.

Now the Russian parliament has approved START II. That treaty cannot enter into force yet, due to differences over the ABM Treaty, but both the United States and Russia could usefully go below START I levels.

The Joint Chiefs have consistently opposed the statutory ban on going below START I levels. As General Shelton said to Senator LEVIN in an answer for the record.

The cold war is over. . . . The Service Chiefs and I feel it is time to consider options that will reduce our strategic forces to the levels recommended by the Nuclear Posture Review. The START I legislative restraints will need to be removed before we can pursue these options.

The ban that the Kerry amendment would repeal is a hindrance to rational planning and resource allocation. It makes us maintain forces that are not needed, at the expense of more pressing needs. As General Shelton replied to

Senator LEVIN: "Major costs will be incurred if we remain at START I levels."

The Warner second-degree amendment would retain this ban for another year-and-a-half, for no good reason.

It would prevent the President of the United States from implementing strategic force reductions that are supported by our military leaders. It would also prevent his successor from implementing such reductions for nearly a year, and from deactivating any of those forces for another 30 days beyond that.

This is not just a slap in the face of our President—although it is surely that. It is also a slap in the face of the likely Republican nominee for President, Governor Bush of Texas.

Two weeks ago, Governor Bush proposed cuts in U.S. forces below the START II level—not just below START I, but below START II. Governor Bush said: "The premises of Cold War nuclear targeting should no longer dictate the size of our arsenal."

He may think that the White House is the home of cold war thinking. If the American people should ever elect Governor Bush to be our President, however, he'll find that the cold war is alive and well a couple of miles east of the White House—in his own party.

Governor Bush added, 2 weeks ago:

. . . the United States should be prepared to lead by example, because it is in our best interest and the best interest of the world. This would be an act of principled leadership—a chance to seize the moment and begin a new era of nuclear security.

Would the Warner amendment allow him to seize the moment? Not for many months.

Imagine our new President negotiating with President Putin of Russia in 2001. Putin says: "Let's do START III." President Bush (or President GORE) replies: "Heck, my Senate won't even let me go under START I. Come back next year!"

Hamstringing the President in this way is silly, and we all know that. The Joint Chiefs opposed it; the future Republican nominee for President wants to go far beyond it; and the Congressional Medal of Honor winner from Nebraska, whom the Senator from Virginia praised just last night, would never undermine our national security.

Let's stop playing games. Let's defeat the Warner amendment and support the Kerrey amendment.

Mr. President, I will respond to some of what I have heard in today's debate. My dad has an expression: Sometimes what people say is not what they mean, even though when they say it, they think they may mean it. That sounds confusing. I always used to wonder what he meant by that. I think I understand it better now.

The Senator from Virginia has an amendment that, with all due respect to him, is bad logic, bad law, and bad politics. I know him to be a much more informed fellow. I have asked myself why, why does he have this amend-

ment? What is the real reason? I am not suggesting duplicity. I am not suggesting any kind of treachery, but why? Why would you have an amendment that says a President cannot do what a previous President said was proper to do and all the military people then and since then have said we should do? Why would you do this?

It has dawned on me that we are finally getting to the place—I suggest humbly—that I predicted we would get to 18 months ago. We are finally coming out of the closet in the real debate. The real debate is whether there should be arms control any longer or not. I ask unanimous consent to print in the RECORD at the conclusion of my remarks a piece by Charles Krauthammer on this very point.

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

(See Exhibit 1.)

Mr. BIDEN. It is in the latest Time magazine. Mr. Krauthammer is a very bright fellow. The thesis of his piece is that no one really listened to what George W. had to say. Everybody misunderstood what he meant when he stood up, with Henry Kissinger and Colin Powell and George Shultz standing behind him, and laid out his position, at least his position on nuclear weapons and on national missile defense.

He said that what Governor Bush really means is that this is a new era. No more arms control, period. START I, START II, START III, START anything, START V—no more. He ends his article by saying we should make our judgments about whether to reduce our weapons or to increase our weapons, or whether to build a national missile defense, irrespective of anything other than what we believe should be done at that moment. And that dictates, he says, the end of arms control.

That is what this debate is about. Cut through all the haze here. The problem with the Senator from Delaware, the Senator from Michigan, the Senator from Nebraska, and my two colleagues on the floor now, is that we know too much about this. We are like nuclear theologians. I have been doing this for 28 years. I used to know what the PSI of the Soviet SS-18 missile silo was. That is very valuable information for someone to have to walk around with. The old joke is that we have forgotten more about these details than most people ever learned. In the process, we also forgot what this is really about.

What is the logic of the Warner amendment? The logic is that this President cannot enter into any more agreements. Really he doesn't need an agreement to go down, but what they are worried about is that he could decide, either with Russian President Putin or without Putin, to take numbers down to the START II levels, and that that will be offered as a sign of good faith to Putin that the President, in fact, is ready to go lower, which is what the Russians want in a START III agreement.

This is about arms control. Let's cut through all the malarkey. Before this next 12 months are over, in the next administration—Democrat or Republican—it will finally be out in the open. This place will be divided between those who say that arms control has a place in our strategic doctrine and those who say it has no place. We are getting there. We are getting there, inching to it. They are feeling their way, I say to my friend from Nebraska, feeling their way around this because, up until now, arms control has been the Holy Grail of both Republicans who are informed and Democrats who are informed. Nobody except the wackos has been flat opposed to any arms control. But there is a feeling emerging in the intellectual community on the right, as well, that what we should be doing as the United States of America, because of our overwhelming military political and economic superiority relative to the rest of the world, not just the Russians—is taking advantage of the luxury of dictating outcomes without consultation.

My friend from Virginia knows that a lot of his friends and my acquaintances in think tanks on the right believe what I just said. I am not saying the Senator does. But that is the genesis, the root, the cause of this debate—a legitimate debate to have. But they are just a little afraid, in this election year, to say they don't like arms control: If we are elected, no more arms control. We will adjust, or not adjust, to the levels that we choose independently, not in the context of a negotiation with anyone else. That is what this is about, with all due respect to my friends who support the amendment; even if they don't think that is what it is about, that it is just logical, rational, political purpose.

Think what you are saying. You are telling the President of the United States of America: you can't go down—although, by the way, constitutionally we probably can't do this. He is Commander in Chief. Nobody has been more aware than I of the prerogative of the Senate as it relates to the war clause and the Constitutional relationship of the authority between the executive and legislative branches relative to the ability to use force and/or control the forces we have.

The reason that there was a provision on the Commander in Chief was not to allow Presidents to go to war unilaterally. It was rather to make sure Congresses didn't tell George Washington he could or could not move troops out of Valley Forge. They had a bad experience during the Articles of Confederation. So they wrote it in saying, hey, don't tell the Commander in Chief he can't steam here with the fleet or he can't move the flanks there, or he can't move troops from one place to another. That is what somebody should do day to day. We are telling him in the law and in the Warner amendment that he cannot reduce force numbers to something that has been negotiated and that everybody says makes sense.

Let me return to the Krauthammer piece, entitled "The End of Arms Control; George W. Bush Proposed a Radical New Nuclear Doctrine. No One Noticed."

Byline: Charles Krauthammer. Concluding paragraph:

We don't need new agreements; we only need new thinking. If we want to cut our nuclear arsenal, why wait on the Russians? If we want to build a defensive shield, why ask the Russians? The new idea—extraordinarily simple and extraordinarily obvious—is that we build to order. Our order.

Read my lips. No new treaties.

That is what this is about. Whether old "W" knows it or not—and I don't know that he does; I mean that sincerely; he may know more than all of us on the floor combined; he may know as little as it appears that he knows; I don't know—this approach says "no new treaties." That is what this is about.

So I would like us to have national elections. There should be a national referendum as well. We should have a national debate on that. I urge my friends to come out of the closet completely. Let's have an up-or-down debate. It is a little embarrassing to make the case for the Warner amendment on either logical grounds or constitutional grounds or political grounds, based on the way it is now. It doesn't add up.

I thank the Chair. I see my time is up. I thank my colleagues, and I have a feeling this is only the beginning of what is going to be a big, big, long debate—not on this particular amendment, but for this Nation.

EXHIBIT 1

JUNE 12, 2000.

There have been two revolutions in nuclear theology since the doctrine of Mutual Assured Destruction became dominant four decades ago. The first came in 1983. President Reagan proposed that defensive weapons take precedence over offensive weapons. The second happened last week. It came from George W. Bush and was almost universally misunderstood. Bush was said to have proposed the primacy of defensive weapons over offensive weapons. That is old news. In fact, he did something far more important: he proposed the end of arms control.

This seems strange to us. For more than a generation we have been living in a world in which arms control is the norm. But for all of history before that, it was not: if you needed a weapon to defend yourself and had the technology to build it, you did not go to your enemy to get his agreement to let you do so.

When the world was dominated by two bitterly antagonistic superpowers, arms control made sense. Barely. The world was made marginally safer by the U.S. and the Soviet Union having a fairly good idea of, and a fairly good lid on, the nuclear weapons in each other's hands.

For the U.S. it was important because of a rather arcane doctrine called extended deterrence: we pledged to defend Western Europe not by matching the huge Warsaw Pact tank forces (which would have been outrageously costly) but by threatening nuclear retaliation against any conventional invasion.

Not a very credible threat to begin with. And as the Soviets overcame the American nuclear monopoly, it became less credible by

the year. We needed arms control to ensure that there would be enough American nuclear firepower (relative to Moscow's) to make our security guarantee to Europe at least plausible.

As I said, arcane. But then again, the whole arms race with the Soviets had a distinctly academic, almost unworldly quality. It was really a form of bean counting. Like money to billionaires, it had little intrinsic meaning; it was just a way of keeping score.

Perhaps most important, arms control gave the Soviets and us something to talk about at a time when there was very little else to talk about. We were fighting over every inch of the globe, from Berlin to Saigon. So, every few years, we would trade beans in Geneva, shake hands for the cameras and thus reassure the world that we were not going to blow it up.

But now? That late-20th century world of superpowers and bipolarity and arms control is dead. There is no Warsaw Pact. There is no Soviet Union. What is the logic of tailoring our weapons development against various threats around the world to suit the wishes of a country—Russia—that is not longer either an enemy or a superpower?

Yet that is exactly what President Clinton has been intent on doing in Moscow this week. He is deeply enmeshed in arms-control negotiations (1) to revise the treaty that radically restricts America's ability to defend itself from missile attack (the ABM treaty) and (2) to set new numbers for American and Russian offensive missiles (a START III treaty).

The parts of this prospective deal that are not anachronistic are, in fact, detrimental to American security. One of the reasons the development of an effective missile defense has been so slow and costly is that the ABM treaty prevents us from testing the most promising technologies, such as sea-based and space-based weapons. Even today, we cannot test a high-speed interceptor against any incoming missile traveling faster than 5 km per SEC, because the Russians are afraid it might be effective against their ICBMs. This is quite crazy. It means that because of a cold war relic, the U.S. has to forgo building the most effective defense it can against nuclear attack by a rogue state such as North Korea.

But Bush's idea is significant because it goes beyond questioning why we should be tailoring our defensive weapons to Russian wishes. He asks, Why should we be tailoring offensive weapons—indeed, any American military needs—to Russian wishes?

He proposes to reduce the American nuclear arsenal unilaterally. The Clinton idea—the idea that has dominated American thinking for a generation—is to hang on to superfluous nukes as bargaining chips to get the Russians to reduce theirs.

Why? Let the Soviets keep, indeed build what they want. If they want to bankrupt themselves building an arsenal they will never use—and that lacks even the psychologically intimidating effects it had during the cold war—let them.

We don't need new agreements; we only need new thinking. If we want to cut our nuclear arsenal, why wait on the Russians? If we want to build a defensive shield, why ask the Russians? The new idea—extraordinarily simple and extraordinarily obvious—is that we build to order. Our order.

Read my lips. No new treaties.

Mr. WARNER. Mr. President, I would like to pose a question or two to my very dear friend and good colleague from Delaware.

Mr. BIDEN. I will answer on the Senator's time.

Mr. WARNER. Fine. We will do that. I ask my friend to not overextend his responses.

Mr. BIDEN. I won't.

Mr. WARNER. I think the Senator has raised a legitimate question. Are we as a body in the Senate to look in a bipartisan way to future arms control or are we not? It is a fair question given the action by this Chamber, which is a proper action, on the test ban treaty. I fought hard against that. The Senator was on the other side. We rocked the Halls of this Chamber with that debate. But that is history.

I want the Senator to know that this Senator from Virginia firmly believes in an ongoing arms control process, firmly believes that this country should continue its leadership with this very important endeavor to try to make this a more safe world. But every arms control agreement that comes along is not the one we should buy into. I say to my good friend, if he says this Chamber is divided, I commit this Senator to work, so long as I am privileged to be a Senator, for arms control. But for some reason, the Russian Duma, although it is in comparison a very new legislative body, had the opportunity to take START II and accept it, just as President Bush had signed it, put it into force and effect—but how well you understand, they put conditions on and those conditions they knew would not be acceptable in this Chamber. So they intentionally blocked going into force and effect the START II treaty. I say to my friend, why did they do that?

Mr. BIDEN. I am sorry?

Mr. WARNER. Why did the Russian Duma deliberately put conditions on START II, knowing that those conditions would never survive a vote in this Chamber?

Mr. BIDEN. Well, I would respond rapidly by saying that we have enough trouble figuring what happened in this Chamber, let alone a new parliamentary body in a place called Russia. I think what they did was to put those conditions on because we had said we wanted these protocols.

We negotiated with them. They cannot anticipate that we in the Senate do not want to do what our Presidents have negotiated with them to get done. But there is a little concern by them about this Senate like we are concerned about them.

They are saying: Look, you negotiated a START II treaty with us, and you also negotiated demarcation protocols with us that you asked for. We didn't say we want new protocols to allow certain missiles to fly at certain speeds, et cetera. We didn't ask for that. You came to us and you said that.

We agree. If you are going with the whole package you negotiated with us over the years, we are in on the deal. If you are not going with the whole package you negotiated with us, we are not in on the deal, because we don't know what you are about.

I think that is what they are thinking. That is what I think. Keep in mind that the demarcation protocols the Senators are talking about are not pro-

ocols that the Russians initiated. They did not sit down and say: By the way, let's accommodate your ability to have theater missile defenses. We said: We want to be able to do that. And we went to them. They said: We don't want to do anything on the protocol. We said: You have to. So there were negotiations for several years. And they said OK. Finally, they signed it.

That is what I think. I don't know. I have enough trouble figuring out this place, let alone the Duma.

Mr. WARNER. Mr. President, in quick reply to my good colleague, he knows full well that those protocols put on by the Duma relate to the ABM Treaty. That is a subject of great controversy.

Mr. BIDEN. If the Senator will yield for just a second, those demarcation protocols to the ABM Treaty were protocols that we—not the Duma—asked for. We asked for them. We said we will not ratify the extension of START II deadlines unless you, the Russians, allow us to test these theater missile defenses, which you claim are in violation of the ABM Treaty. Unless you amend the ABM Treaty to allow us to do this and also ratify START II, we will not ratify START II extension or go to START III. Right?

Mr. WARNER. Mr. President, our President doesn't take the exact turn in the way these things are written. The Duma knew full well that in this Chamber—and, indeed, in the Congress and, indeed, in the whole of the United States—there is a very serious and important debate going on; I hope it is part of the Presidential election debates, as to whether or not this Nation should allow itself to be held hostage by Russia in terms of a critical need to defend our Nation against the growing threat of strategic intercontinental missiles. You know that, and I know that. That is what these protocols go—the ability of this Nation to defend itself. They were very clever in the Duma because they knew that was putting out, as we say in the military, a “tank trap.” We were stopped cold once those protocols were put on.

Mr. BIDEN. Mr. President, will the chairman yield for another response? I will be very brief. Let me make an analogy for the chairman.

Say we have a contract with someone on the rental of an apartment building. We say we want to renegotiate that contract to be able to rent to build 12 more units on that apartment building. We say: By the way, although parking is no part of this lease, we want to renegotiate our parking lot agreement with you as well. Before we agree to go into a new deal with you on the building, we want to get 10 more parking spaces. The guy who owns the building says: Wait a minute. I don't want to. I will only negotiate with you on the building. We say: We are not going to do it unless you give us more parking spaces.

That is what we did here. They said they want to go to START III. We said

we are not going to do that unless you give us more parking spaces—unless you allow us to do something the ABM does not allow us to do right now. You give us the ability to test these missiles at a faster speed to be able to intercept your missiles that are called theater nuclear missiles. You allow us to do that. If you do not, we are not going to renegotiate a deal on the whole building. Do the parking, or we will not even talk about the building.

That is what we said. We said allow us to amend ABM, or we are not going to go down to these levels.

That is what happened.

Mr. WARNER. Mr. President, I don't know.

I must regain the floor and control it.

I thank my colleague.

Mr. BIDEN. The Senator is welcome.

Mr. WARNER. Mr. President, I strongly disagree. I don't believe that linkage existed in these negotiations. What is clear is that our President, in good faith—I commend our President—at the summit did the best he could. I am concerned about some of the language he used in regard to the future discussions on the ABM Treaty.

I ask unanimous consent to have printed in the RECORD an article written by William Safire, which I think in a very clear and careful way points out the language about which I have a concern.

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

[From the New York Times, June 5, 2000.]

MISTAKE IN MOSCOW

(By William Safire)

WASHINGTON.—“We have agreed to a statement of principles,” President Clinton told a joint news conference in Moscow, “which I urge you to read carefully.”

Noting that the Russian and American sides disagreed on whether a limited missile defense against rogue states posed a threat to the mutual deterrence of the ABM treaty, Clinton added: “The statement of principles that we have agreed to I thought reflected an attempt to bring our positions closer together . . . let me say I urge you all to read that.”

O.K., let's read it. The central issue is whether the U.S. will allow Russia to hold us to the ABM treaty negotiated 30 years ago with the Soviet Union. We want to build defenses against the few missiles from terrorist nations, not the thousands held by Russia. President Vladimir Putin of Russia wants to make us pay for his permission by slashing our offensive missile forces in Start III down to levels our military leaders consider imprudent.

Clinton went along with the sweeping assertion that the two nations “reaffirm their commitment to that [ABM] treaty as a cornerstone of strategic stability.”

Putin then gave Clinton a little wiggle room by agreeing that the missile threat from other nations “represents a potentially significant change in the strategic situation . . .” and to “consider possible proposals for further increasing the viability of the Treaty.” That means allowing the U.S. to defend its cities against rogue nations, terrorists and accidental launches only in ways that Moscow approves.

Thrice did Clinton embrace the word viability, which means “capable of living.” He

committed the U.S. "to strengthen the ABM treaty and to enhance its viability" and agreed that we "attach great importance to enhancing the viability of the Treaty. . . ."

So here we have Clinton breathing new life into the cold-war treaty provided Putin will allow some minor amendments that may not meet future U.S. defense needs.

And then the outgoing American president stepped into the incoming Russian president's trap. He paid for Putin's permission to tinker with the ABM treaty with an enormous concession:

"They agree that issues of strategic offensive arms cannot be considered in isolation from issues of strategic defensive arms and vice versa. . . ."

Read that again to savor its import: that is the principle of linkage. It's what Putin's military wanted and what Clinton never should have given.

"Issues of strategic offensive arms" means Start III: the reduction of the massive U.S. and Russian arsenals. The issue there is how far to cut: our military says our strength would be sapped at fewer than 2,000 missiles, while the Russians—who can't afford to keep that many nukes—want us to weaken our worldwide missile forces by 25 percent more.

"Issues of strategic defensive arms" means ABM and our national missile defense against dictators who could threaten us with nuclear blackmail and against a possible Chinese threat. By mistakenly linking reductions in Start III (our missile offense) to the minor modification of ABM (our missile defense), Clinton played into Russian hands, making future arms negotiation more difficult for his American successor.

Now here comes the strange part. Putin must know the substantial difference in approach between candidates Al Gore and George W. Bush. Gore goes along with Clinton and presumably will embrace his ABM-Start III linkage. Bush wants a free hand with a limited anti-missile system and would set our offensive missiles at a level to suit our deterrent needs, inviting the Russians to reciprocate. Huge policy difference.

And yet Putin said, "We're familiar with the programs of the two candidates . . . we're willing to go forward on either one of these approaches."

Did he mean to ad-lib that? Was he misinterpreted? Having won his linkage with Clinton-Gore, is the inexperienced Putin willing to toss that advantage aside with Bush? Is a puzzlement.

Despite Clinton's policy error, he neither embraced the K.G.B.'s man nor called him "Volodya." Our president's demeanor remained coolly correct, and we can at least be thankful for that.

Mr. WARNER. Mr. President, it is very clear that the next President of the United States must be given every possible bit of leverage he can have as he readdresses in good faith, as did President Clinton, this issue of the ABM Treaty. It could well be that the levels we are debating right here in this amendment are the levels of those arms reductions which we all know as a certainty will be done at some point in time.

We believe, of course, in accordance with the Warner amendment, that it should be done after careful analyses and steps have been taken. In any event, we will come down to those levels. We know that.

But should not that next President have in his negotiating strategy the ability to do those negotiations of lower levels as a part of the essential

requirement to get some reasonable modification to the ABM Treaty that enables this country, as George W. Bush said in his statement, to rightfully defend itself? That is what this is all about. Don't take away a possible negotiating bit of leverage he has with regard to the levels of these weapons.

Will the Chair advise us with regard to the time remaining.

The PRESIDING OFFICER. The Senator from Nebraska has 4 minutes, and the Senator from Virginia has 15 minutes.

Mr. WARNER. Mr. President, I see my distinguished colleague, the chairman of the subcommittee, rising. I see other distinguished colleagues.

I yield the floor.

Mr. ALLARD. Mr. President, I would like to take a moment to point out that the START II agreement is not a unilateral agreement, it is a bilateral agreement. It takes the approval of both the Duma and the Russian leadership, as well as the United States.

Also, to clarify the record, in 1997 the Quadrennial Defense Review didn't include a Nuclear Posture Review. I think it is entirely appropriate that we have a Nuclear Posture Review. Since 1994, a lot of leadership has changed. A lot of technology has changed. Certainly I would like to see us move forward with disarmament. But it needs to be verifiable. It shouldn't be unilateral. I think those are two very important conditions as we move forward on the disarmament discussion.

I congratulate the chairman because I think he is moving forward with this amendment pretty much with the strategic committee; that is, we need a very careful Nuclear Posture Review. It should involve civilians as well as the military.

This is not going to happen quickly. It is going to take time. This should happen no matter who the President of the United States is. We shouldn't rush into these agreements until we fully understand where we stand and where our posture is.

I know we have some Members on the floor who may want to speak. But I say to the chairman that I think perhaps at this time we ought to have a little bit of review as to what has been happening here in the debate. I would like to take the time to do that and to clarify some statements that have been made in this debate.

Since fiscal year 1996, Congress has passed, and the President has signed, legislation prohibiting the retirement of strategic nuclear delivery systems—bombers, intercontinental ballistic missiles, and strategic submarines—until the START II agreement enters into force. This provision was designed to put pressure on Russia to actually ratify the START II agreement.

The idea was not that they were going to send back a counterproposal to the United States. Again, it would have to be considered by this Congress. This was not an inflexible position.

I point out that, for example, last year the law was modified to allow the

Navy to retire 34 Trident strategic submarines. Moreover, the law has been and continues to be consistent with the administration's own policy.

We have heard quite a bit about the statement made by Gov. George W. Bush relating to U.S. strategic forces. What has been overlooked in his focus on the need to have a comprehensive review of our strategic guided forces is the statement that originally was made by Governor Bush. He said, "As President, I will ask the Secretary of Defense to conduct an assessment of our nuclear force posture." Then he goes on to say, "the exact number of weapons can only come" after this careful assessment.

I think we are very much in step with what the committee has been saying, what George W. Bush would like to see happen, and what I hear the chairman of the Armed Services Committee saying he would like to see happen.

I would like to again review where we are with the Warner amendment.

The Warner amendment substitute would include additional items to be considered in the review required by section 1015, including whether reductions can be conducted in a balanced and reciprocal manner, whether changes in our alert posture would enhance our security and strategic stability, and whether U.S. strategic reductions could adversely impact our conventional delivery systems, such as the B-52 bomber.

The Warner substitute amendment provides authority for the President to waive the limitations in current law regarding the retirement of the strategic nuclear delivery systems once the Secretary of Defense has completed the Nuclear Posture Review required by section 1015.

The amendment by the Senator from Nebraska, on the other hand, would not be consistent with a policy enunciated by Governor Bush, nor would it satisfy the concerns Congress has raised for the last 5 years. It could lead to misguided and uninformed reductions rather than a forced posture review based on careful review of all of our strategic requirements and how they relate to overall national military strategy.

I thank the chairman for his leadership. I pledge that I will continue to work with the Senator for disarmament, move towards disarmament, but it has to be bilateral and verifiable.

Mr. WARNER. I thank my colleague. He has served this committee very well in his chairmanship. I think he has stated very clearly the issues in this amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I have enjoyed the debate very much. I wish there was more opportunity to examine the subject. I ask unanimous consent to have two documents printed in the RECORD.

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

U.S. NUCLEAR FORCES (APPROXIMATE)

Type	Name	Launchers/ SSBNs	Year deployed	Warheads x yield (kil- oton)	Total warheads
ICBMs					
LGM-30G	Minuteman III:				
	Mk-12	200	1970	3 W62 x 170(MRV)	600
	Mk-12A	300	1979	3 W78 x 335(MRV)	900
LGM-118A	MX/Peacekeeper	50	1986	10 W87 x 300(MRV)	500
Total		550			2,000
SLBMs					
UGM-96A	Trident I C-4	192/8	1979	8 W76 x 100(MRV)	1,538
UGM-133A	Trident II D-5	216/10			
	Mk-4		1992	8 W76 x 100(MRV)	1,536
	Mk-5		1990	8 W88 x 475(MRV)	384
Total		408/18			3,456
Bombers*					
B-2	Spirit	21/16	1994	ALCM/W80-1 x 5-150	400
B-52H	Stratofortress	76/56	1961	B61-7/-11, B83 bombs	950
				ACM/W80-1 x 5-150	400
Total		97/72			1,750
Non-strategic forces					
Tomahawk SLCM		325	1984	1 W80-0 x 5-150	320
B61-3, -4, -10 bombs		n/a	1979	0.3-170	1,350

* First bomber number reflects total inventory. Second bomber number is "primary mission" number which excludes trainers and spares. Bombers are loaded in a variety of ways depending on mission. B-2s do not carry ALCMS or ACMS. The first 16 B-2s initially carried only the B83. Eventually, all 21 bombers will be able to carry both B61 and B83 bombs. B53 bombs have been retired and were replaced with B61-11s.

ACM—advanced cruise missile; ALCM—air-launched cruise missile; ICBM—intercontinental ballistic missile (range greater than 5,500 kilometers); MIRV—multiple independently targetable reentry vehicles; SLCM—sea-launched cruise missile; SLBM—submarine-launched ballistic missile; SSBN—nuclear-powered ballistic missile submarine.

Why does the Pentagon Say We Need 2,500 Warheads?

Vital Russian Nuclear Targets

	Amount
Nuclear	1,110
Conventional	500
Leadership	160
War-Supporting Industry	500

Total 2,260

Damage Expectancy Levels = 80%

80% of 2,260 targets = 1,800 warheads necessary to achieve damage expectancy in an attack against Russia.

Additional targets in China, Iran Iraq, and North Korea have been assigned to U.S. strategic nuclear forces.

In total, a minimum of 2,500 U.S. warheads are needed to fulfill the SIOP.

Mr. KERREY. Mr. President, in 1968 I had the good fortune, or misfortune, to be given the chance to go down to Fort Benning and go through Army Ranger School. We had a little joke that was keying in on a line from a John Wayne movie. We looked out in the darkness and said: It sure is quiet out there. Somebody else would come back with a punchline: Too quiet.

That is precisely my instinct when it comes to strategic nuclear weapons. There is a real danger. For some reason, we understand the danger if it is North Korea maybe getting nuclear weapons or Iraq maybe getting nuclear weapons or Iran maybe getting nuclear weapons.

Russia has 7,000 strategic nuclear weapons and 12,000 tactical. These are not inaccurate, unreliable systems. These are very accurate, reliable, and deadly systems. They have more than they need, and we have more than we need. Instead of pressing the President to go to lower levels, the current language of law and this amendment says we want further delay; we want to push the President in the opposite direction. We are pushing this President in the wrong way. We should be pushing the President to go to lower levels because it keeps America safe if we do.

Why does it keep America safe? Not only is it sort of odd to be negotiating

with Putin on all sorts of things at the same time that we have 160 nuclear weapons aimed at Russian leadership, but in addition, the Russian economy simply doesn't generate enough income to enable them to be able to sustain the investments necessary to control their community system and most importantly, their warning system.

So what happens? We are pushing the President to go slow, we are asking for more studies.

Mr. President, we don't need more studies. We can make this debate about more and more studies, but for gosh sakes, this is one subject on which we don't need more studies. This has been examined up one side and down the other. We have studies coming out the wazoo. We need decisions. Looking at the current situation, one can reach no other conclusion than that we are requiring the Russians, as a consequence of current law, to maintain a level beyond what they can safely control, increasing the risk far beyond the risk of rogue nations such as Iraq or Iran or North Korea, far beyond that. If there is an accidental or unauthorized launch that occurs as a consequence of a mistake made because of a warning failure, they are not going to send a couple. It will be a couple hundred or a couple thousand.

I smell danger. I am glad we have had this debate, but we are pushing the President in the wrong direction both with the amendment of the Senator from Virginia and the existing law. I hope that enough colleagues on the other side of the aisle have listened to this debate and will vote against the Warner amendment. I believe quite seriously that it increases the risk to the people of the United States of America.

Mr. WARNER. Mr. President, this has been a good debate. It is on a very important issue. I express my gratitude to so many colleagues who have participated.

In summary, I simply say this body, five times, has passed the statute

which my good friend desires to have repealed. Do not repeal this statute. Do not, I say to my colleagues, in good faith, repeal a statute which was signed into law five times by the President. I ask my friend, what has changed to justify repealing it? He says the ratification of START II by the Duma. Had that ratification been in accordance with the way this Chamber ratified it, I would say it is time to let the statute go. But they did not do it. They put protocols on that treaty which pose a great problem to the next President—indeed, to this President—as he saw when he went to the summit.

And nyet, nyet, nyet, nyet, time and time again when our President tried in a very rational way to determine the flexibility that Russia might have on the ABM Treaty, which flexibility is essential for this Nation to provide for its own defense. Nyet, nyet, nyet. Those are the only changes since five times this Chamber has adopted that law; five times the President has signed it. The only change is a ratification of START II by the Duma, with impossible conditions put on it, which not only the Senate would not accept but nor would this Nation accept.

Mr. LEVIN. Any time remaining?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. LEVIN. I ask unanimous consent the portion of the 1997 QDR saying that the 1994 posture review still applied and was adequate be printed in the RECORD.

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

NUCLEAR FORCES

Our nuclear forces and posture were carefully examined during the review. We are committed to reducing our nuclear forces to START II levels once the treaty is ratified by the Russian Duma and then immediately negotiating further reductions consistent with the START III framework. Until that time, we will maintain the START I force as mandated by Congress, which includes 18 Trident SSBNs, 50 Peacekeeper missiles, 500

Minuteman III missiles, 71 B-52H bombers, and 21 B-2 bombers. Protecting the option to maintain this force through FY 1999 will require adding \$64 million in FY 1999 beyond the spending on these forces contained in the FY 1998-2003 President's budget now before Congress.

Mr. LEVIN. That posture review supported the START II levels. Our Joint Chiefs of Staff support the START I levels. They want to be able to go to the START II levels. It has nothing to do with the ratification by the Duma. It has to do with what we no longer need in our force structure, which the law requires them to maintain, and costs dollars that could be better used elsewhere, including for perhaps health care.

Mr. WARNER. I regain 30 seconds of my time. I simply say at the time that was done, they did not foresee the Duma would put these conditions on the START II treaty. That is the essence of this debate.

Mr. LEVIN. Mr. President, I am a co-sponsor of the Kerrey amendment and urge the Senate to adopt this important amendment.

Current law prohibits the U.S. from reducing its strategic nuclear delivery systems below START I levels. This law requires the U.S. to stay at START I levels—to maintain 6000 nuclear warheads, until START II enters into force. This law was enacted, in 1996, just 16 months after the START II treaty was signed. The amendment offered by Senator KERREY will repeal this law which is neither needed or helpful.

The START II treaty allows the U.S. to reduce the number of nuclear warheads to 3000-3500, but the law requires that we maintain 6000 warheads. We do not need 6000 thousand warheads and we do not need this law.

The Department of Defense has consistently argued that the law is not necessary. When asked his view about this provision, the Chairman of the Joint Chiefs of Staff, General Shelton, was clear: "I would definitely oppose inclusion of any language that mandates specific force structure levels." General Shelton made it clear that the Chiefs also oppose this provision: "The Service Chiefs and I feel it is time to consider options that will reduce the strategic forces to the levels recommended by the Nuclear Posture Review. The START I legislative restraint will need to be removed before we can pursue these options. Major costs will be incurred if we remain at START I levels." We have already spent millions staying at the START I, 6000 warhead level. For instance, we are unnecessarily spending to maintain the 50 Peacekeeper ICBMs.

The Nuclear Posture Review, conducted in 1994, reaffirmed that the U.S. did not need 6000 warheads and that the START I level of 3000-3500 warheads was adequate. General Shalikashvili stated, in 1995, in testimony before the Armed Services Committee that "Our analysis shows that even under the worst conditions the START II force

levels (3000-3500 warheads) provide enough survivable forces, and survivable, sustained command and control to accomplish our targeting objectives."

It is ironic that Governor Bush criticizes the Clinton administration for "remain(ing) in a Cold War mentality" and for failing "to bring the U.S. force structure into the post-Cold War world" when it is this law, put in place by Congress, that requires staying in the Cold War mentality.

If this law is not repealed now, it will tie the hands of the next President, the next Secretary of Defense, as well as the Chairman of the Joint Chiefs.

The Warner second degree amendment would require the U.S. to stay at the START I 6000 warhead level for at least another 18 months. Even though there is general agreement that we need to go below the START I level of 6000 warheads, the Warner amendment would keep the U.S. at this high warhead level, even though the 3000-3500 START II level has been reviewed and validated repeatedly and continually since 1992 when the START II Treaty was signed.

In 1994 the DOD conducted a comprehensive Nuclear Posture Review that validated the START II force structure levels—3000-3500 warheads. The 1997 Quadrennial Defense Review carefully reviewed and affirmed that the START II nuclear force structure was appropriate to protect U.S. national security requirements. In 1997, in preparation for discussions in Helsinki between the United States and Russia, the DOD and the Joint Chiefs again reviewed nuclear force structure levels and determined that an even lower force structure level at the proposed START III level of 2000-2500 warheads was adequate.

Just last month, in extensive testimony before the Armed Services Committee, the Chairman of the Joint Chiefs and the Commander of the Strategic Command testified that the 2000-2500 warhead level proposed for START III level was adequate to meet U.S. military requirements. Only Congress is still stuck at a START I force structure levels.

In light of the nuclear force structure reviews that have been conducted since START II was signed, it is clear that force structure levels will be at or below START II levels of 3000-3500 warheads. Why do we have to wait another 18 months to go below the START I force structure level—a level that no one seriously argues should be maintained?

Mr. President, the Kerrey amendment is a simple amendment to repeal a law whose time and usefulness has past. I urge its adoption.

Mrs. FEINSTEIN. Mr. President, I rise today in strong support of the Kerrey motion to strike the Section 1017 of the Defense Authorization Act regarding U.S. strategic nuclear force levels.

I do not believe that the restrictions that this bill contains, which prevents

the Department of Defense from reducing U.S. strategic nuclear delivery vehicles—warheads—below START I levels until START II enters into force, is necessary or, given the current international security environment, needed.

Striking this provision does not mandate any cuts in U.S. nuclear forces: It merely makes it possible, now that the Russian Duma has ratified the START II treaty, for the U.S. to make further cuts below START I levels.

In fact, I believe that it is important that the President, the Joint Chiefs, and the Secretary of Defense have the flexibility to determine the appropriate force level and alert status for U.S. nuclear forces based on military and security need.

In fact, the original reason for including this provision in the Defense Authorization bill in 1998 was not based on military or security need per se, but rather to encourage the Russian Duma to ratify START II. Well, now they have, and the U.S. should be prepared to reduce our nuclear forces below START I levels, consistent with our national security needs, if and when Russia moves to reduce its forces below START I levels in a verifiable manner. That is what the Kerrey Amendment will allow.

Before I conclude, I would also like to take a few minutes today to speak to some of the larger issues raised by this debate.

We no longer live in the world of the superpower nuclear arms race of the 1950s, 1960s, 1970s or 1980s.

During the Cold War the threat of nuclear war was omnipotent, and the size and configuration of the U.S. nuclear arsenal was very much a function of the Cold War international security environment and the needs of nuclear deterrence with the Soviet Union.

But the Soviet Union is gone. The Berlin Wall came down over ten years ago. Poland, Hungary, and the Czech Republic are now members of NATO. The world in the year 2000 is not the same as the world of twenty, thirty, or forty years ago. And I believe that our nuclear weapons policy should reflect these new realities.

We live in a transformative moment for international politics: The security structures and imperatives that guided our thinking during the Cold War have either melted away or are malleable to change. Both AL GORE and George W. Bush recognize that. Why should the U.S. Senate remain captive to the thinking of the Cold War, or to the nuclear weapons counting arithmetic of the Cold War?

The world has changed, yet as Dr. Bruce Blair, President of the Center for Defense Information, has pointed out, the Single Integrated Operating Plan (SIOP) which guides our nuclear weapons targeting, has been growing steadily since 1993, and grew over 20 percent in the last five years alone. It includes over 500 weapons aimed at Russian factories in a country whose economy is all but defunct and which produced almost no armaments last year, and over

500 Russian conventional military targets for an army of a country that can not even successfully invade itself.

Something is amiss. Clearly we need to retain a force capable of robust deterrence. But we can not allow ourselves to pursue an outdated policy that dictates an arsenal far larger than new, current-day reality suggests we need or is advisable.

I strongly believe that deterrence can remain robust with a smaller nuclear arsenal. Analysis by Dr. Blair and others suggests that with a force of 10 Tridents, each with 24 missiles, 300 Minuteman III land-based missiles, 20 B-2 bombers and 50 B-52 bombers we can assure the destruction of between 250 and 1,000 targets worldwide in retaliation for any strike against the United States. If this sort of retaliatory capacity does not deter any adversary, than it is hard to imagine what would.

I also believe that it is critical, as we move into this new world, for the United States to review our own nuclear alert status and those of other nuclear capable-states. Right now the U.S. maintains 2,300 warheads on launch-ready alert: 98 percent of the Minuteman III and Peacekeeper land-based force on 2-minute launch readiness and 4 Trident submarines, two in each ocean, on 15 minute launch readiness. The Russians, likewise, maintain their forces on hair-trigger alert. Keeping these forces on hair-trigger alert is a potential accident waiting to happen, with devastating consequences if it does.

In January 1995 a commercial space-launch off the coast of Norway in the middle of the night was almost misinterpreted by Russia as a U.S. Trident missile launch, despite the fact that we had pre-notified them about the launch. As I understand it, Russia prepared for a nuclear retaliatory strike. It was only at the last minute that the Russians realized that this was a commercial launch headed for space, not a nuclear weapon headed for Moscow and stood-down their forces.

These risks—these needless risks which do nothing to add to our security but, just the opposite, make the world a less safe, stable, and secure place—need to be addressed.

And they need to be addressed in a way that will allow us to embrace the challenge of the new century, not be held captive to the grim math of the old. As Governor Bush pointed out on May 23, "These unneeded weapons are relics of dead conflicts and they do nothing to make us more secure."

Mr. President, I think that it is important to point out that the Kerrey Amendment does not mandate that we cut U.S. nuclear force levels. It merely gives the President, the Secretary of Defense, and the Joint Chief the flexibility to determine whether, if and how lowering U.S. force levels below the START I limits would be a net-plus for U.S. national security and, if it is, to do it.

As Senator KERREY has argued, by mandating force levels higher than are

needed or desired for national security needs, we actually run the risk of undermining our security interests. If we force the Russians to maintain at hair-trigger status more nuclear weapons than they can safely control we run the risk of an accidental or unauthorized launch. If we maintain our own nuclear arsenal at high levels when it is unnecessary to do so, we encourage rouge nations to pursue their own nuclear weapons programs.

A decade after the end of the Cold War, and on the cusp of the twenty-first century, I believe that it is critical that the United States Senate show a willingness to engage in the serious business of forging a new strategic vision. We must do so with no preconditions or preconceived notions about how many, or how few, nuclear weapons are necessary. If an objective review of our national security needs dictate that we should maintain an arsenal at START I levels, then I will be second to none in this body in insisting that our arsenal remain at that size. But if, as Governor Bush has suggested, deeper cuts are advisable, then I do not believe that artificial barriers to achieving this goal should be put in place by this legislation.

I urge my colleagues to support the Kerrey Amendment and strike Section 1017 of this bill.

The PRESIDING OFFICER. All time is yielded back on both sides.

Under the previous order, amendments numbered 3183 and 3184 shall be laid aside, and the Senate will resume consideration of the Warner amendment, No. 3173. Under the previous order, amendment 3173 shall be laid aside, and the Senator from South Dakota is recognized to offer a similar amendment.

Mr. LEVIN. What is the time agreement on the upcoming two amendments?

The PRESIDING OFFICER. Under the previous order, there are 2 hours equally divided for the two amendments.

The Senator from South Dakota is recognized.

AMENDMENT NO. 3191

(Purpose: To restore health care coverage to retired members of the uniformed services)

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

The PRESIDING OFFICER (Mr. BURNS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. JOHNSON], for himself, Mr. MCCAIN, Mr. BINGAMAN, Mrs. MURRAY, Mr. REID, and Mr. JEFFORDS, proposes an amendment numbered 3191.

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

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

The amendment is as follows:

On page 241, strike line 17 and all that follows through page 243, line 19, and insert the following:

SEC. 703. HEALTH CARE FOR MILITARY RETIREES.

(a) FINDINGS.—Congress makes the following findings:

(1) No statutory health care program existed for members of the uniformed services who entered service prior to June 7, 1956, and retired after serving a minimum of 20 years or by reason of a service-connected disability.

(2) Recruiters for the uniformed services are agents of the United States government and employed recruiting tactics that allowed members who entered the uniformed services prior to June 7, 1956, to believe they would be entitled to fully-paid lifetime health care upon retirement.

(3) Statutes enacted in 1956 entitled those who entered service on or after June 7, 1956, and retired after serving a minimum of 20 years or by reason of a service-connected disability, to medical and dental care in any facility of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.

(4) After 4 rounds of base closures between 1988 and 1995 and further drawdowns of remaining military medical treatment facilities, access to "space available" health care in a military medical treatment facility is virtually nonexistent for many military retirees.

(5) The military health care benefit of "space available" services and Medicare is no longer a fair and equitable benefit as compared to benefits for other retired Federal employees.

(6) The failure to provide adequate health care upon retirement is preventing the retired members of the uniformed services from recommending, without reservation, that young men and women make a career of any military service.

(7) The United States should establish health care that is fully paid by the sponsoring agency under the Federal Employees Health Benefits program for members who entered active duty on or prior to June 7, 1956, and who subsequently earned retirement.

(8) The United States should reestablish adequate health care for all retired members of the uniformed services that is at least equivalent to that provided to other retired Federal employees by extending to such retired members of the uniformed services the option of coverage under the Federal Employees Health Benefits program, the Civilian Health and Medical Program of the uniformed services, or the TRICARE Program.

(b) COVERAGE OF MILITARY RETIREES UNDER FEHBP.—

(1) EARNED COVERAGE FOR CERTAIN RETIREES AND DEPENDENTS.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8905, by adding at the end the following new subsection:

"(h) For purposes of this section, the term 'employee' includes a retired member of the uniformed services (as defined in section 101(a)(5) of title 10) who began service before June 7, 1956. A surviving widow or widower of such a retired member may also enroll in an approved health benefits plan described by section 8903 or 8903a of this title as an individual."; and

(B) in section 8906(b)—

(i) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting "paragraphs (2) through (5)"; and

(ii) by adding at the end the following new paragraph:

"(5) In the case of an employee described in section 8905(h) or the surviving widow or widower of such an employee, the Government contribution for health benefits shall be 100 percent, payable by the department from which the employee retired."

(2) COVERAGE FOR OTHER RETIREES AND DEPENDENTS.—(A) Section 1108 of title 10, United States Code, is amended to read as follows:

“§ 1108. Health care coverage through Federal Employees Health Benefits program

“(a) FEHBP OPTION.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to provide coverage to eligible beneficiaries described in subsection (b) under the health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5.

“(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An eligible beneficiary under this subsection is—

“(A) a member or former member of the uniformed services described in section 1074(b) of this title;

“(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G);

“(C) an individual who is—

“(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

“(ii) a member of family as defined in section 8901(5) of title 5; or

“(D) an individual who is—

“(i) a dependent of a living member or former member described in section 1076(b)(1) of this title; and

“(ii) a member of family as defined in section 8901(5) of title 5.

“(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes any dependent of the member or former member who is a family member for purposes of such chapter.

“(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D)) as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under this section.

“(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

“(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

“(6) An eligible beneficiary who enrolls in the Federal Employees Health Benefits program under this section shall not be eligible to receive health care under section 1086 or section 1097. Such a beneficiary may continue to receive health care in a military medical treatment facility, in which case the treatment facility shall be reimbursed by the Federal Employees Health Benefits program for health care services or drugs received by the beneficiary.

“(c) CHANGE OF HEALTH BENEFITS PLAN.—An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change health benefits plans and coverage in the same manner as any other Federal Employees Health Benefits program beneficiary may change such plans.

“(d) GOVERNMENT CONTRIBUTIONS.—The amount of the Government contribution for

an eligible beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section may not exceed the amount of the Government contribution which would be payable if the electing beneficiary were an employee (as defined for purposes of such chapter) enrolled in the same health benefits plan and level of benefits.

“(e) SEPARATE RISK POOLS.—The Director of the Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 to maintain a separate risk pool for purposes of establishing premium rates for eligible beneficiaries who enroll in such a plan in accordance with this section.”.

(B) The item relating to section 1108 at the beginning of such chapter is amended to read as follows:

“1108. Health care coverage through Federal Employees Health Benefits program.”.

(C) The amendments made by this paragraph shall take effect on January 1, 2001.

(c) EXTENSION OF COVERAGE OF CHAMPUS.—Section 1086 of title 10, United States Code, is amended—

(1) in subsection (c), by striking “Except as provided in subsection (d), the”, and inserting “The”;

(2) by striking subsection (d); and

(3) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

Mr. JOHNSON. Mr. President, I am pleased to be joined by Senators MCCAIN, BINGAMAN, MURRAY, REID, and JEFFORDS in offering an amendment dealing with military retiree health care. I first want to thank Senators WARNER and LEVIN for their continued hard work in the Armed Services Committee in attempting to address this critical and urgent issue.

Last year, the Senate began to address critical recruitment and retention problems currently facing our nation's armed services. The pay table adjustments and retirement reform enacted with my support in the fiscal year 2000 Department of Defense authorization bill were, frankly, long overdue improvements for our active duty military personnel.

However, these improvements did not solve our country's difficulty in recruiting and keeping the best and the brightest in the military. In order to maintain a strong military for now and in the future, our country must show that it will honor its commitment to military retirees and veterans as well.

Too often, military health care is treated as an afterthought rather than a priority. That's why on the first day of this legislative year, I introduced the Keep our Promise to America's Military Retirees Act, S. 2003. This legislation currently has 32 bipartisan cosponsors including 18 Republicans and 14 Democrats.

Companion legislation in the House has over 300 bipartisan cosponsors. The bill also has the strong support of military retirees across the country and organizations including the Retired Enlisted Association, the Retired Officers Association, the National Association of Uniformed Services, and the Disabled American Veterans.

The amendment I offer today is the same language as that contained in S.

2003. This legislation honors our nation's commitment to the men and women who served in the military by keeping our Nation's promise of health care coverage in return for their service and selfless dedication.

In doing so, it also illustrates to active duty men and women that our country will not abandon them when their military career ends.

Our country must honor its commitments to military retirees and veterans, not only because it's the right thing to do, but also because it's the smart thing to do.

We all know the history: For decades, men and women who joined the military were promised lifetime health care coverage for themselves and their families. They were told, in effect, if you disrupt your family, if you work for low pay, if you endanger your life and limb, we will in turn guarantee lifetime health benefits.

Testimony from military recruiters themselves, along with copies of recruitment literature dating back to World War II, show that health care was promised to active duty personnel and their families upon the personnel's retirement.

In fact, Chairman of the Joint Chiefs of Staff, General Henry Shelton, testified before the Senate Armed Services Committee and said:

Sir, I think the first thing we need to do is make sure that we acknowledge our commitment to the retirees for their years of service and for what we basically committed to at the time that they were recruited into the armed forces.

Defense Secretary William Cohen also testified before the Senate Armed Services Committee and said:

We have made a pledge, whether it's legal or not, it's a moral obligation that we will take care of all of those who served, retired veterans and their families, and we have not done so.

Prior to June 7, 1956, no statutory health care plan existed for military personnel, and the coverage which eventually followed was dependent upon the space available at military treatment facilities.

Post-cold war downsizing, base closures, and the reduction of health care services at military bases have limited the health care options available to military retirees.

That's right: Many of the people who helped us win the cold war have lost their health care because the cold war ended.

Some military retirees in South Dakota and other rural states are forced to drive hundreds of miles to receive care. Furthermore, military retirees are currently kicked off the military's TRICARE health care system when they turn 65.

This is a slap in the face to those men and women who have sacrificed their livelihood to keep our country safe from threats at home and abroad.

My amendment honors the promise of lifetime health care coverage. It does so in two ways:

First, it allows military retirees who entered the armed services before June 7, 1956 (the date military health care for retirees was enacted into law) to enroll in the Federal Employees Health Benefits Program (FEHBP), with the United States paying 100 percent of the costs.

Second, military retirees who joined the armed services after space-available care was enacted into law on June 7, 1956 would be allowed to enroll in FEHBP or continue to participate in TRICARE—even after they turn 65. Military retirees who choose to enroll in FEHBP will pay the same premiums and fees—and receive access to the same health care coverage—as other Federal employees.

In my own family, my oldest son is in the Army and currently serves as a sergeant in Kosovo. I fully appreciate what inadequate health care and broken promises can do to the morale of military families.

This stress on morale not only effects the preparedness of our military units, but also discourages some of our most able personnel from reenlisting, making recruitment efforts more difficult.

I have long contended that all the weapons and training upgrades in the world will be rendered ineffective if military personnel and their families are not afforded a good “quality of life” in our nation’s armed forces. I have been a strong advocate of better funding for veterans health care, military pay, active duty health care, education and housing.

The Johnson amendment continues these efforts led by Senator WARNER, Senator LEVIN, and others to address these important quality of life issues.

Senator WARNER’s modified amendment incorporates an important part of S. 2003—the extension of TRICARE to Medicare-eligible retirees and dependents. I applaud the Senator for his work.

However, only my amendment fulfills the promise of health care for military retirees while illustrating to current active duty personnel that our country supports its commitments to men and women in the military.

I am also concerned that Senator WARNER’s modified amendment terminates in 2004. This could leave military retirees once again wondering where their health care will come from. The Johnson amendment does not terminate.

I understand the rationale for Senator WARNER’s amendment. I am going to support the amendment of Senator WARNER. It is a good-faith effort to do the best that can be done on the health care issues, within the context of the budgetary marching orders that have been imposed on Senator WARNER’s committee. I understand that. I understand he is doing the best he can within the fiscal envelope that he has been afforded.

But it frustrates me, as I know it frustrates tens of thousands of military retiree and active duty personnel, that

for years and years we have been told: Yes, we know we have a commitment to you for health care but we can’t afford it. The Nation’s budget is in the red. We are running deficits. We simply cannot afford to live up to those promises.

That was never entirely true. In fact, in the context of a \$1.5 trillion budget, we could have reoriented priorities, I believe, in such a way that we could have kept our promises to military personnel and retirees. But there was an element of truth to the fact that we were running red ink and we were running massive deficits.

Those days are gone for a lot of different reasons. We have had much debate on this floor as to why we now find ourselves running significant budget surpluses over and above that attributable to Social Security and why those surpluses, projected out 10 years from now, will run in the \$3 trillion range, some \$700 billion to \$1 trillion over and above what is required for Social Security because we are certainly in agreement we are not going to dip into anything that is attributable to Social Security. That is off the table, and rightfully so. There is the question about what will we do with the \$700 billion to \$1 trillion budget surplus that is being projected by both the White House and by the congressional budget experts.

The amendment pending is an expensive amendment. I understand that. It could run around \$3 billion next year and \$9 billion a year after that, according to our friends at the Congressional Budget Office. That is a significant expense. What I am asking is if this is not a time when we can afford to live up to our promises to our military retirees and our military personnel, then when will that time ever occur?

There are those who see other uses for that \$700 billion to \$1 trillion surplus over and above Social Security. I have other things I would like to do as well, including some tax relief. There are those who want tax relief in the range of essentially the entire surplus. I am suggesting there is room for tax relief, there is room for paying down the debt, there is room for education, and a number of other things. If we do this right, this is a once-in-a-lifetime opportunity to utilize some of that projected surplus to, in fact, finally—finally—live up to our commitment to our military personnel and retirees, many of whom, frankly, have gone to their graves without the benefits they were promised. We do have that once-in-a-lifetime, unique opportunity this year to do something constructive, to make a commitment that we will fund this, not out of military readiness, not out of active duty budgets, but, in fact, out of this projected surplus that the CBO and OMB people tell us is headed our way.

Military retirees and veterans are our Nation’s most effective recruiters. Unfortunately, poor health care options make it difficult for these men

and women to encourage the younger generation to make a career of the military. In fact, in Rapid City, SD, which is outside of Ellsworth Air Force Base, a very significant B-1 military base in my State, I was talking to military personnel and talking to retirees who are as loyal and as patriotic, who have paid a price second to none for our Nation’s liberty, and they told me: Senator, I can’t in good faith tell my nephews, my children, young people whom I encounter, that they ought to serve in the U.S. military, that they ought to make a career of that service because I see what the Congress has done to its commitment to me, to my family, to my neighbors. The health care promises were never lived up to, and we don’t think you ever will live up to them. You have no credibility with us. It has gone decades, it has gone generations, and you have not lived up to the health care obligations and responsibilities that you said, if we put our lives in danger, we would have. How can I in good faith tell these young people they ought to make a career of the military, that it is a distinguished professional option they ought to consider, when you treat us shabbily?

That is the message I hear from active duty as well as retired military personnel in my State. It is the same in the mail and e-mail I get from all across the country saying: 2003 is the only legislative option we see that truly lives up to Congress’ obligations.

No more excuses. The money is there. The only question is, Is the political will there? Is this a priority or is it not? I am pleased we are having this debate.

Mr. DORGAN. Will the Senator from South Dakota yield?

Mr. JOHNSON. I yield to my colleague.

Mr. DORGAN. Mr. President, Senator JOHNSON has been working on this issue for a long while. I ask unanimous consent to be added as a cosponsor.

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

Mr. DORGAN. Mr. President, this amendment addresses a critical need. I ask him if he sees in South Dakota what we know and see in North Dakota with respect to the veterans’ health care system. The system is not working. We have a fellow in north central North Dakota who went to Vietnam and took a bullet in the brain and is severely disabled for life. Because of that, he has muscle atrophy and a range of other health problems and had to have a toe removed.

The VA system said to his father: Haul him over to Fargo, ND, and we will do that in the VA system.

In other words, take this severely disabled person, put him in a car, drive him nearly 200 miles to the east and have this procedure done—not a major procedure—and then drive him 200 miles back, and that is the only way we will cover that expense.

The father said: Is this the way to treat a son who served his country in

Vietnam and was shot in the head and is now consigned to a very difficult life? Is this a way to treat him? It is not. The health care system is not working. The VA system is not able to meet the needs.

I ask the Senator from South Dakota, is it not the case, in his opinion, that the cost of veterans' health care is part and parcel of the cost of defending this country? It ought to be part of the cost of defense because it is a promise we made and have not kept to veterans in this country when we said: Serve your country, and we will provide you a health care system that works for your needs.

Mr. JOHNSON. Mr. President, the Senator is exactly right. We have a problem both on the VA health care side and on the military retiree side; that is, those who have served their 20 years in the military and rely on TRICARE currently, previously CHAMPUS, for their health care needs in both instances.

These people who have served this Nation in such an extraordinary fashion have, in all too many instances, not received the quality, the accessibility, or the affordability of health care they deserve. It is doubly difficult in rural States, such as our own, but it is a problem everywhere.

It is suggested as a compromise that we simply extend TRICARE to those who are age 65 and older. That is an additional option which I applaud, but that does not extend the Federal Employees Health Benefits System to either people prior to 65 or older and, frankly, up until now, TRICARE is not viewed in my State with great enthusiasm by many of our military retirees. I understand it is a new program, and it may improve as time goes on. Simply doing that alone falls far short of living up to the obligations Congress made during times of war when we were not sure if our Republic was going to survive World War II, when we did not know what would happen and we called these people into service, followed with Korea, Vietnam, and other conflicts, with people dying for our liberty. We were quick to make promises at that time: If you help us out, if you work for almost nothing, disrupt your families and serve this Nation, we will provide you with quality health care.

They did their share. They came home and we said: Wait a minute, this is a little more costly than we thought, and we have decided to forget about it.

We are not going to live up to those obligations. That is what this Congress has said through administrations of both political parties over the years.

We have an opportunity now to bring that, at last, to a halt and to deal with our military retirees with a spark of integrity, at last. That is what this amendment is about.

Mr. DORGAN. Will the Senator yield for a last question?

Mr. JOHNSON. Yes.

Mr. DORGAN. I appreciate the indulgence of the Senator from South Dakota.

I assume he agrees with me we are not in any way attempting to denigrate the wonderful men and women who work at the VA health care centers around the country. Many of them do an extraordinary job. But they are not funded well enough. We do not have the resources to do the job we should.

I just want to mention, on a Sunday morning some while ago, I was at a VA hospital presenting medals that had been earned, but never received by an American Indian. His family came, but also at this VA hospital, the doctors and the nurses came into his room. I pinned those medals on the pajama tops of this man named Edmund Young Eagle. He died 7 days later. He was very ill with cancer. But it was an enormously proud day for him because he served his country in Africa and Europe in World War II. The fact is, this man served this country around the world. He never complained about it.

The day I pinned the medals on his pajama tops, you could see the pride in his eyes. I appreciated the fact that at this VA hospital the doctors and nurses came around and were part of that small ceremony.

But there are so many people such as Edmund Young Eagle and others who served their country, have never asked for much, but then need health care, only to discover that the system for delivering that health care is not nearly funded well enough, while in the Congress, somehow we are more eager to say that defense relates to the things in the Defense Department and that the VA health care system is somehow not part of that obligation. It is part of that obligation. That is why I am pleased to support this amendment.

As I mentioned, I say to Senator JOHNSON, he has been working on these issues for a long while. I hope the Congress will embrace this approach now so that we can be as proud of what we are doing for veterans and for their health care needs as Edmund Young Eagle was proud that day of serving his country.

Isn't it the case that we have dramatic needs—underfunding in these facilities—and that the Senator's approach to dealing with this would say it is a priority in this Congress to address the health care needs of veterans and we believe the health care needs of veterans are part and parcel of this country's defense requirements?

Mr. JOHNSON. I think the Senator from North Dakota raises an excellent point. He himself has been a champion for veterans and military retirees.

Obviously, when we come to the point of the VA-HUD appropriations issues, we will do the very best we can within the VA context, while at the same time trying to address the military retiree issues. They go hand in hand. They are both very much part and parcel of our overall effort towards military recruitment, retention, and readiness. They are part of that same package. I certainly commend the Senator from North Dakota for his leadership in that regard.

Mr. WARNER. Will the Senator yield?

Mr. JOHNSON. I certainly yield to the Senator from Virginia.

Mr. WARNER. I want very much for the Senator to have a full opportunity to present his viewpoints, of course, in the time remaining. But at some point I think it would be very helpful to the other Senators following this debate to frame exactly what the differences are between the Senator's approach and the approach I have in my amendment. If he could indicate in the course of his presentation when we can bring that into sharp focus for the benefit of our colleagues, I would like then to get into a colloquy, on my time for such portion of the colloquy as I expend in my statements.

Mr. JOHNSON. The chairman, the Senator from Virginia, has a very constructive suggestion. I certainly will not put words in his mouth relative to the interpretation of his legislation. I applaud him for his legislative efforts. But I will draw some distinctions as to his pending amendment and my amendment.

I intend to vote for both amendments. My amendment is farther reaching and, as I am sure the distinguished Senator from Virginia would note, is more costly. Because of that, it runs into additional parliamentary issues perhaps. But I will attempt, in closing, to draw some distinctions between what it is we are trying to do.

Mr. WARNER. If the Senator would indicate such time it would be convenient for him to proceed to questions, then I would seek recognition.

Mr. JOHNSON. Very good.

The opponents of S. 2003, in my amendment, again would claim that it simply costs too much; roughly \$3 billion in fiscal year 2001, and, over 10 years, CBO estimates an average cost of \$9 billion a year to fulfill our promise of health care for military retirees. This does not come cheaply. I am very up front on that fact. However, we are talking about a \$200 billion budget surplus—\$9 billion here; \$200 billion surplus—\$800 billion to \$1 trillion over 10 years. That is a conservative estimate.

So if we look at the larger scheme of things, in terms of where this ought to be within our budget, and also with the possibility of some reprioritization of the existing budget, I believe the argument that we simply can no longer afford to live up to our promises to military personnel who sacrificed so much, including families of those who have died defending our right to be here debating this issue today, simply no longer holds.

We invest billions of dollars each year to build new weaponry, and rightfully so. But all the weapons in the world will be rendered useless or less useful without the men and women in uniform and without the high-quality, qualified personnel we need to operate them.

I believe a promise made should be a promise kept. We owe it to our country's military retirees to provide them

with the health care they were promised. The effort behind this amendment has been 100-percent driven by military retirees taking action on the benefits to which they are entitled. It is the right thing to do. No more tests; no more demonstration projects; no more experiments.

I think we need to act now on a program that works, building on the Federal Employees Health Benefits Plan system. On average, 3,784 military retirees are dying each month. The time to act is now. These retirees have mobilized in a grassroots lobbying campaign throughout the country to fight for lifetime health care.

I hope we do not leave this floor today without giving true access to health care to these soldiers, sailors, and airmen who have patriotically served our country. We have a long way to go. I will continue to work with Senators WARNER and LEVIN, and my colleagues, to be sure that our country's active-duty personnel, military retirees, and veterans receive the benefits they deserve.

Senator WARNER has suggested we draw some clear distinctions between the amendments. I think that is a very constructive suggestion. I am sure he will elaborate on the differences.

A difference, as I understand it, is that my amendment would allow those who retired before June 7, 1956, to have fully paid participation in the Federal Employees Health Benefits Plan. That is the plan in which all Federal employees, including Members of this body, participate. Frankly, it is a very successful and very popular health system. Ask any Federal employee. They will tell you the Federal Employees Health Benefits Plan is an excellent one. It provides every citizen with an option, a menu, from a "Cadillac" to lower-priced option, depending on how extravagant they feel in relation to their share of premiums in the health care plan.

For those who retired before 1956, we will say, if you want to continue to participate in TRICARE, you certainly can, but your other option is to move over to the Federal Employees Health Benefits Plan, like other Federal employees and like your Senator. What is good for your Senator is good for you.

For those who retired after the magic date of June 7, 1956, we say, you, too, have the option of participating in the Federal Employees Health Benefits Plan, or you can continue to use TRICARE. You will, however, pay premiums similar to what Federal employees pay.

It is not entirely free, but you will have this additional option, and you may continue to stay there post age 65 in retirement.

Our plan builds on utilization of the Federal Employees Health Benefits Plan, fully premium paid for those older military personnel with premiums for the somewhat younger personnel, optional. And it is perpetual. This is not a pilot project. This is not

an experiment. We will not take this away from you 2 years down the road because we ran out of money. This is a commitment. You have to decide what your retirement plans are. You have to plan for that. We don't want to be jerking the rug out from under you. We have a plan. It is there. You choose it, if you choose it. No more demonstration projects that apply to some parts of the country and not other parts or it is in for a couple years and then we will assess it and decide whether to continue it or not. We are not interested in that.

The Warner amendment, which I think is certainly a step ahead of where we are now, does move the health care benefits down the road in a constructive way. I applaud the Senator for that. But as I understand the Senator's amendment, it essentially allows those who are 65 and older, rather than to be pushed out of TRICARE on to Medicare, to continue their participation in TRICARE health care services post 65. That is an additional option. I am all for options. I think that is a good thing.

It does cost some money. Senator WARNER's amendment does fit within the current budget resolution, but in order to get it within the budget resolution, it would terminate in 2004. It may be, if this is successful, there will be additional revenue, and maybe we will continue it post-2004. But there is no certainty to that within the legislation. It fits within the current budget resolution because it has been chopped short in fiscal year 2004. So while TRICARE works better for some people than for others, it has not worked terribly well in my home State. My State is a rural State, which may be a bit different. Trying to make managed care work in my State is a little more difficult than it might be in other areas. I certainly concede that. But in my area, even if we gave people a continued TRICARE option, I am not sure they would beat a path to it particularly. Some may. Again, I certainly applaud the option.

That is the basic difference between Senator WARNER's amendment, which is constructive and does give an additional option to those who are post 65, and my plan, which builds on the Federal Employees Health Benefits Plan, applies both to pre-56 and post-56—pre-56 with premiums paid—and on into retirement, and gives people those options.

Frankly, most people I talked to, if they had a choice between TRICARE and the Federal Employees Health Benefits Plan, they would run as fast as they can go to the Federal Employees Health Benefits Plan, the plan their Senators and Congressman have, and, for that matter, all Federal employees in their hometown have.

As I see it, put very shortly and perhaps not with as much detail towards the plan of the senior Senator from Virginia, that is the basic difference from which we have to choose. They

are not inconsistent necessarily, but I do believe that 2003 is a far, far more expansive and permanent approach to the urgent crisis we have for military retiree health care.

The distinguished Senator from Virginia has suggested that he may want to comment at this stage on his amendment. I think it is appropriate that we discuss both of them in this context.

Mr. President, I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. I advise my colleagues that at an appropriate time someone from the Budget Committee on this side of the aisle will make a point of order.

Mr. President, we are almost parallel in thought here, certainly parallel in thought for the need to help the retirees. I have been privileged to be in this institution 22 years. This is the first time, I say to my colleague, we have ever taken a step to provide for retirees. No one can refute that. If I may say, to push aside a little humility, it came from this side of the aisle. It was not in President Clinton's budget. It hasn't been in any of his budgets. We took the initiative. We have done it carefully step by step. I commend my colleague for his leadership on this issue. Indeed, it is the interest in his bill which has been garnered across our land that has helped our committee to, step by step, begin to increase these provisions.

I see my colleague wishes to make a point.

Mr. LEVIN. I wonder if the Senator will yield for one quick comment?

Mr. WARNER. I will.

Mr. LEVIN. The provision in the bill that provides the prescription drug benefit for retirees was a bipartisan effort in our committee.

Mr. WARNER. Absolutely, Mr. President.

Mr. LEVIN. I think the Senator said it came from a certain side of the aisle. It was not in the President's budget, but it was a bipartisan effort in committee which I now believe the President supports.

Mr. WARNER. Mr. President, once we took the initiative on our side of the aisle in the committee, we had bipartisan support across the board. The Senator is absolutely right. The point is where we are. We are faced with constraints in military spending, as we are in all other avenues. Let's make it clear—let's see if the Senator and I can agree—the CBO, in costing out my bill, said it would be about \$40 billion over 10 years. Will the Senator agree with that?

Mr. JOHNSON. That is as I understand it.

Mr. WARNER. The CBO, looking at the Senator's bill, said it would cost about \$90 billion over 10 years.

Mr. JOHNSON. Nine billion per year.

Mr. WARNER. Correct. So the difference between the two approaches is very significant in terms of dollars. In fact, the distinguished Senator's bill would cost along the following lines: He said \$3 billion in fiscal year 2001; \$5.7 billion in 2002; up to \$8.3 billion in 2003; \$9.4 billion in 2004; and going out to 2010, \$12 billion. So those are the figures. I think we are in agreement as to the dollar consequences of the two bills.

Yesterday, my distinguished colleague, the ranking member of this committee, when I raised the amendment, said that a point of order would rest. The inference was clearly that it would be brought against my amendment. Whereupon, I thought it imperative that I take my amendment and amend it, which I did, to just go out to the year 2004. By so doing, the expenditures under my bill, as they flow out through these years, bring it within the Senate budget resolution and, therefore, does not make it subject to a point of order.

I think we can agree on that point.

Mr. JOHNSON. I am in agreement with the Senator on that issue.

Mr. WARNER. But my distinguished colleague proposing this amendment has decided not to try to take a similar action with regard to his amendment. Am I correct in that?

Mr. JOHNSON. The Senator is correct.

Mr. WARNER. The retiree community, in particular, following this, will say to the Senator from Virginia: Why did you cut short to 2004? I simply say: Because the likelihood of getting 60 votes was in doubt, and I didn't want to have that doubt. I wanted to make sure we got started on some major incremental series of benefits for retirees. That is why I did it. I made that calculation. I take full responsibility for having done it.

Now, let's see if we can narrow the differences between the approach of my colleague and the one I take. I summarize it as follows: I have provided in my bill, albeit only through 2004, every provision the Senator has. Particularly, I commend him for waiving the 1964 law—not waiving it, but taking it off—which was essential. We did that together.

The main difference is the coverage that is given to these retirees under the Federal Employees Health Benefits Program; would I be correct in that?

Mr. JOHNSON. I believe that is a key difference. Also is the fact that this legislation of mine does address the issue of free medical care.

Mr. WARNER. But my point is, had it been able to go out 10 years, we continue to use that baseline. I am absolutely confident that this issue of retiree health care will be injected into the Presidential campaign. Each candidate will be asked what position he wants to take on that. I am certain they will. And should my amendment be adopted by the Senate and become

the law of the land, and given that it has to stop in 2004, the first question I would ask the candidates is, Are you going to support rewriting the Warner amendment such that it goes out in perpetuity? I forewarn the candidates to be prepared to answer that question.

I support, of course, that action by the Congress, with the support of the next President, to make it in perpetuity. But going back to the Senator's point, coverage under the Federal Employees Health Benefits Program is what takes my bill from \$40 billion to yours to at \$90 billion; are we correct on that? Let's address the situation.

We passed—I believe it was 2 years ago—a program to allow the retirees to decide whether or not they wanted to go into this Federal health program. Interestingly, we allowed up to 66,000 to enter under that experimental test program. Mr. President, astonishingly, only 2,500 of those eligible opted to do it, indicating to our committee that they felt if they could get the full benefits offered to them when they were on active duty in their retired status, they preferred to have that rather than to go into the Federal health program. What clearer evidence could there be? We offered 66,000 a chance to do it and only 2,500 accepted.

Mr. JOHNSON. If the Senator will yield on that point, apart from the fact that the military retiree organizations themselves are telling us in no uncertain terms that they prefer the Federal Employees Health Benefits Plan coverage, I think the following points need to be made. First, relative to this 66,000 test program, there was, in fact, I am told, a lack of timely delivery of accurate, comprehensive information about the Federal Employees Health Benefits Test Program. Some of those surveyed claimed that townhall meetings sponsored by the Department of Defense to promote the test were poorly planned and publicized. Many retirees noted the inability to get accurate information and forms from the Department of Defense call center.

Frankly, there has been a fear of the unknown with the test program. Retirees are being asked to change health programs for a test program that ends in 2002. Many retirees are worried they would have to simply change back at the end of the test period. One retiree responded to the military coalition survey by saying, "I just could not risk having to try to get insurance at age 73 should the demonstration fail to be renewed." That may have been a misperception, but it was one that skewed the results of the 66,000-member test. There is no doubt about that.

Mr. WARNER. I say to my good friend, clearly some of that may have taken place. It is better that retiree organizations should certainly have tried to give them the information and explain it. They have done a magnificent job in explaining what my colleague is offering in his amendment.

I wish to return to the following. Here we go. We are now taking the re-

tirees who are given only Medicare, and the Warner bill now restores them to the full rights they had when they were on active duty in terms of health care. My good friend, Senator JOHNSON, wants to offer them also the chance to go into the Federal program, and the cost of that is largely borne by the Federal Government. That raises his amendment up to twice the cost of mine, using the 10-year average. But we are giving them both.

At the same time, I project that the Congress is going to be called upon, should the Warner amendment or the Senator's amendment become law, to begin to add funds for the existing military health care program so that it can absorb back this community. That is not an insignificant expenditure. Now, having done that, which we have to do under either amendment, then to offer them the chance to go into the Federal program, you put the infrastructure in place, they don't avail themselves of it, they go into the Federal employees program, and you have built a big medical program that will not be fully utilized.

Mr. JOHNSON. If the Senator will yield for a moment, one of the benefits of the Federal Employees Health Benefits Plan is it doesn't require a large, new infrastructure to be set up. People simply choose the insurance policy of their wish and they go to whomever they wish, whether managed care or fee for service, and you are not left with trying to create a new Federal bureaucracy or structure.

Mr. WARNER. The Senator is correct. But am I not also correct that if we mandate by law that the existing military health program has to absorb back into it this class of retirees, they will have to augment doctors, nurses, perhaps modest increase in facilities, and all of the other infrastructure that is necessary to give these people fair, good quality health care; am I not correct?

Mr. JOHNSON. I am not sure I understand the Senator's point on this. In fact, it would seem to me that more military retirees will have their own personal health care services taken care of, and there would be less reliance on the existing military health care structure.

Mr. WARNER. Mr. President, the number of retirees over 65 is roughly 1.4 million persons. Under the Warner amendment, as well as the Johnson amendment, they are now taken back into the existing infrastructure that cares for active duty and under-65 persons. Anyone would know that with 1.4 million now given the opportunity to come back in, you would have to augment and refurbish that system. This will be a justifiable issue before the Congress very quickly. I am certain the Secretary of Defense—the next Secretary—in the posture statement of the next President will say: All right, Congress; you said we are to take them back. We are happy to take them back, but give us the funds to refurbish and

augment that system. That will be done.

That system will be prepared to take back these people, and at the same time, you are saying to these people while we put the infrastructure in place, you may decide not to use it and go off here and avail yourself of other taxpayer dollars—namely, paying a premium of 70-plus percent, in most cases, to go into the private sector. Of course, there is no augmentation to the private sector. The private sector could probably absorb this class. There could be a competition between the private sector and the military infrastructure. But the military infrastructure has to be put into place. As you say, very little would have to be done in the private sector to absorb them.

So that is the reason, I say to my colleagues, no matter how laudatory the amendment would be. I suggest we go a step at a time in treating these people fairly. And we have taken the initiative to do it. Let's do it a step at a time and first refurbish the existing military system to accept them back and give it a period of several years under my amendment to see how it works before we take the next leap and put on the American taxpayers double the amount of money that my amendment would cost.

Mr. LEVIN. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. LEVIN. This is to clarify the differences between the approaches. I understand there is another difference between the two, which is that TRICARE would be available to all over 65 under both proposals, but under the proposal of the Senator from Virginia, TRICARE would only be available for those who pay Part B.

Mr. WARNER. He is accurate in his statement.

Mr. LEVIN. Whereas, under the Johnson proposal, Part B would not have to be paid for by retirees in order to have TRICARE provided to them.

Mr. JOHNSON. The Senator is correct.

Mr. LEVIN. I believe the Senator indicated before that TRICARE was available to all retirees under both proposals, that this would be one difference in that regard, and that under your proposal, Part B would not have to be paid for by the retiree; whereas, under the proposal of the Senator from Virginia, it would have to be. I am not arguing the merits or demerits, but factually that is a difference; is that correct?

Mr. JOHNSON. The Senator is correct.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 23 minutes.

Mr. WARNER. Mr. President, would you give both times?

The PRESIDING OFFICER. The Senator from Virginia has 46 minutes remaining.

Mr. WARNER. Mr. President, I yield such time as the distinguished Senator from Arkansas may require.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, I join Chairman WARNER in expressing my gratitude to Senator JOHNSON for his leadership on this issue. He made some very salient points on which I hope to reflect in my comments in support of the Warner-Hutchinson amendment.

The question here is not one of sentiment. It is not one of seeing the problem. It is not one of wanting to act and to act now. The question is, What is the realistic way?

The fact that the Johnson amendment will cost over \$90 billion and will be subject to a budget point of order, which Senator LEVIN saw fit to raise in regard to the underlying Warner-Hutchinson amendment which would have made this permanent but has not seen fit to raise against Senator JOHNSON, but undoubtedly that is going to happen, that is a huge barrier, as we know, and a big problem.

I think we have to do something this year. That is why I am glad to rise and join Senator Warner in introducing the Warner-Hutchinson amendment for the national defense authorization bill for fiscal year 2001.

I want to comment also on Senator DORGAN's points concerning the VA health care system; that it was this Congress last year that increased VA medical care spending by over 10 percent, the largest single increase in VA health care spending in over a decade; that, indeed, with our veterans, as well as with our military retirees, our credibility is in tatters when it has been this Congress that has been determined to take the steps necessary to restore that credibility and to restore that confidence—with the pay raise last year, with the 10-percent increase in VA medical spending, far above the President's budget request, and now with this enormous step. Let us not, in comparing it with Senator JOHNSON's broad amendment, try to minimize the significance of the step that will be taken under the Warner-Hutchinson amendment. I am glad to be a sponsor of this amendment in introducing it.

In my experience as the Armed Services Committee Personnel Subcommittee chairman, and in my experience as a member of the Veterans' Affairs Committee—I have served on the House and in the Senate since I came to Congress—I visit regularly with retired military personnel on a broad range of topics.

Time and time again when speaking with military retirees, or responding to letters of concern, the subject of adequate health care coverage comes up. Senator JOHNSON is absolutely right about the feelings expressed by our military retirees and their concerns since we have broken our commitment and our promise to them.

The citizens of our country who have served proudly in the armed services prefer to be doing other things than

spending their time petitioning Members of the Senate. They are mature, humble, and they are patriotic by nature. But in this situation, they simply must speak out. These fine Americans have been slighted as the years have passed. They have seen benefits erode. They have seen promises broken or the fulfillment of promises delayed.

No issue causes more distress than the lack of comprehensive medical care as part of their retirement benefits. Military retirees are annoyed. They are more than annoyed. They are distressed. They feel betrayed. They have witnessed bureaucratic stalling through trial programs and tests that serve no purpose and simply nibble around the edges of the problem. They do not provide the kind of permanent and tangible fixes to the inadequacies and shortfalls of the medical care system.

I want to share a couple of quotes from several of the thousands of heartfelt letters I have received on the subject of military retirees in my home State of Arkansas. These letters from Arkansans who have served faithfully in our Nation's Armed Forces are a mere representation of the sentiments expressed by military retirees all across the Nation.

Col. Bob Jolly, of Hot Springs, AR, echoes the feelings of many others when he writes:

Thousands of military retirees are dying each month while denied the health coverage our government willingly gives all other federal retirees. We older retirees, now in our sixties and seventies, cannot wait for your Senate colleagues to prescribe years of tests to receive the care we were promised and have earned through decades of fighting our nation's wars.

Then, in a letter Mr. Stewart Freigy, a retired Air Force pilot from Hardy, AR, writes:

My decision to make a career of the Air Force was based on two things. First a sense of patriotism instilled in me as a child. The second factor was a promise by my government that if I served twenty years, I would receive half of my base pay plus free medical and dental care for myself and my dependents for the rest of my life. By the time I retired, the dental benefits were already gone. Since then I have watched the erosion of my benefits through Champus and then through Tri-Care. In short, like many other military retirees, I feel I have been deceived by a government that I served faithfully.

Mr. President, it is time we let retired military personnel know that the Senate hears their plea for justice and equity. How we handle this issue will not only send a message to these Americans that correction is on the way, but it will also send the proper message to those on active duty and to those young people who are considering whether or not they want to enter the Armed Forces or whether they want to make a career of the military.

I have heard from recruiters time and time again since I assumed the position as chairman of the Personnel Subcommittee that the most important pool from which to attract military recruits is the children of those who had

careers in the military. When their parents feel betrayed, it becomes increasingly less likely that they are going to make the choice to go into the military themselves. It is important that Congress and the American people demonstrate that we are going to honor our promises to our military personnel.

The Warner-Hutchinson amendment will permit military retirees to be served by the military health care system throughout their lives regardless of age and active duty or retirement status. That is an incredibly huge and important step for this Congress to take. Under our proposal, the current age discrimination will be eliminated. No one will be kicked out of the military health care system just because they turn 65.

Let us not minimize and let us not underestimate the dramatic step of the Warner-Hutchinson proposal: No more age discrimination, no more kicking military retirees out of the health care system and forcing them to leave the doctors and the system with which they have been served for many years and with which they are familiar. Beneficiaries will continue their health care coverage in a system with which they are comfortable and will not be forced to pay the high cost of supplemental insurance premiums to ensure their health care needs are adequately provided. Medicare will pick up what Medicare pays for, and TRICARE will be the supplemental plan to pick up the remainder.

It is a dramatic, important, and positive step and commitment we are making. This initiative will act as a statement of our absolute commitment to the promises made to those who have faithfully served the United States of America in our Armed Forces.

As Senator WARNER stated, improving the military health care system has been the top priority of the Senate Armed Services Committee this year.

Last year, we did the pay raise. Personnel chiefs tell me that has made an enormous difference in their ability to go out and recruit. It has improved morale in the Armed Forces. This is the next big step: Improving the health care system both with the prescription drug component as well as this very major step we are taking for our retired military. Hearings have been held on this issue, and input from retirees has been received and has been heard loud and clear.

Time and again, our extensive review of the situation has highlighted the importance of retiree access to the health care system and to pharmaceuticals, with pharmaceuticals and prescription drugs being the No. 1 concern for retirees. This already addresses the issue of pharmaceutical actions by providing a pharmacy benefit with no enrollment fee for both the retail and mail order programs. On a bipartisan basis, that has been included. It is an important provision with overwhelming support.

The Warner-Hutchinson amendment complements that pharmacy benefit

and continues the efforts of the committee to provide a comprehensive solution to the issue of health care for America's deserving military retirees. By adopting this amendment the Defense authorization bill will provide a comprehensive health care benefit for all of our country's military retirees.

As chairman of the Personnel Subcommittee, I am well aware of the other legislative alternatives that have been proposed. There has been a very positive, productive colloquy and debate on the floor on these alternatives. However, I believe strongly that the Warner-Hutchinson amendment provides the most effective and realistic remedy in a fiscally responsible manner. America's military retirees were promised a health care benefit. They served our country and we, as a nation, need to fulfill our duty by honoring the commitments made to them. This amendment does that.

I applaud Senator WARNER and his leadership on this issue, his willingness to take this bold step. I believe this amendment will pass with overwhelming support. I appreciate Senator JOHNSON's continued leadership. I know this will be a debate that continues in the years to come. It should not preclude first taking this step. I urge my colleagues to support this amendment. I yield the floor.

Mr. JOHNSON. I applaud the work the Senator from Arkansas and the Senator from Virginia have done.

Mr. LEVIN. If the Senator will yield.

Mr. JOHNSON. I certainly yield to the ranking member.

Mr. LEVIN. I assure my friend from Arkansas, when I inquired yesterday about whether or not the amendment of the Senator from Virginia was subject to a point of order, that was the only amendment that was at the desk to which I could make such an inquiry to which the Parliamentarian could respond.

Now that the Johnson amendment is there, I ask the same question: Is the Johnson amendment subject to a point of order?

The PRESIDING OFFICER (Mr. HUTCHINSON). In the opinion of the Parliamentarian, it is.

Mr. LEVIN. While we are on the subject, there is now apparently some indication that there may still be a point of order problem with the Warner amendment which we are trying to assert.

Mr. WARNER. At this time, I will address that issue. In the course of our floor consideration, we frequently ask the CBO for their estimates. They gave me estimates yesterday which they have now revised this morning.

AMENDMENT NO. 3173, AS FURTHER MODIFIED

Mr. WARNER. I ask unanimous consent that the Senator from Virginia may modify his amendment. I have sent to the desk such an amendment, which reduces the year of my amendment from 2004 to 2003.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object, and I will not, so we are all very clear, because there has been some discussion as to the differences between the two amendments, if this modification is made, the length of time that the Warner provision would be in effect, then, would be the years 2002 and 2003 instead of 2002, 2003, and 2004. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. I have no objection. I think it is important everyone understand.

Mr. WARNER. I thank my colleague from Michigan. We all have to rely on these estimates.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3173), as further modified, is as follows:

Strike sections 701 through 704 and insert the following:

SEC. 701. CONDITIONS FOR ELIGIBILITY FOR CHAMPUS UPON THE ATTAINMENT OF 65 YEARS OF AGE.

(a) ELIGIBILITY OF MEDICARE ELIGIBLE PERSONS.—Section 1086(d) of title 10, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) The prohibition contained in paragraph (1) shall not apply to a person referred to in subsection (c) who—

“(A) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.); and

“(B) in the case of a person under 65 years of age, is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)) or section 226A(a) of such Act (42 U.S.C. 426-1(a)).”; and

(2) in paragraph (4), by striking “paragraph (1) who satisfy only the criteria specified in subparagraphs (A) and (B) of paragraph (2), but not subparagraph (C) of such paragraph,” and inserting “subparagraph (B) of paragraph (2) who do not satisfy the condition specified in subparagraph (A) of such paragraph”.

(b) EXTENSION OF TRICARE SENIOR PRIME DEMONSTRATION PROGRAM.—Paragraph (4) of section 1896(b) of the Social Security Act (42 U.S.C. 1395ggg(b)) is amended by striking “3-year period beginning on January 1, 1998” and inserting “period beginning on January 1, 1998, and ending on December 31, 2001”.

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on October 1, 2001.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(d) ADJUSTMENT FOR BUDGET-RELATED RESTRICTIONS.—Effective on October 1, 2003, section 1086(d)(2) of title 10, United States Code, as amended by subsection (a), is further amended by striking “in the case of a person under 65 years of age,” and inserting “is under 65 years of age and”.

Mr. WARNER. My amendment is now modified so it is not subject to a point of order.

Our distinguished colleague is subject to a point of order, and at an appropriate time he will raise that point of order.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 3191

Mr. JOHNSON. Mr. President, I make a clarification relative to my amendment. There may have been some confusion earlier. I wish to make it very clear that under my amendment those who entered the armed services prior to June 7, 1956, would be eligible for Federal employee health benefit plan coverage with the Government paying 100 percent of the premiums. Those who entered the armed services after June 7 of 1956 can choose Federal employee health benefit plans with premiums or TRICARE. I want to make sure that point is very clear.

There has been reference to points of order, and the Senator from Virginia is very correct that a point of order will be raised on my amendment. My amendment does cost more. It does more and it costs more. It is perpetuating. It is not a 2-year commitment.

A point of order, while not taken up lightly, is simply an opportunity to determine whether 60 votes in this body believe the issue at hand is of sufficient importance that it ought to have that first level of concern, that priority.

The question is, Are we going to pass or waive a point of order with 60 votes and invade surplus dollars that otherwise are available for tax cuts or are we going to put our money where our mouth is? Do we have the 60 votes to say we will use those dollars, at least that part of it that is required, that \$90 billion out of the \$800 billion or so that is available, for this purpose?

One of the things that makes this debate interesting, and the parliamentary process interesting, I don't know if we have the 60 votes to waive the order or not. After all these years of Veterans Day and Memorial Day rhetoric about how important our veterans are, this at last will be an opportunity for every Member of this body to stand up and be counted. Is that rhetorical support or are you willing to put these priorities ahead of other budget priorities, including tax relief? Are you willing to waive the Budget Act and make this happen or not? If you are not, I respect your views. Members can go home and explain that. That is certainly your prerogative.

It is long overdue. We have an opportunity for some accountability for the American public to understand who is willing to truly make this a budget priority and who is not. If you are not, then you have those justifications that you can make. That is what the nature of this is. This is not because it is more costly, that this is an impossible program. It will require 60 votes, assuming that the point of order is raised, rather than the 50 votes of the Senator from Virginia.

It will allow the Senate to make a determination in this body whether these priorities are ahead of other priorities that people have, a thousand other things for which they want to use the budget surpluses. No doubt almost all of them are worthy causes. But is this only one of many, many causes,

one that we are going to cut short after only 2 years, and then provide less than the full level of commitment to the promises made to our veterans or is this, in fact, a first priority and we are complying with our promises, albeit belatedly, but a full commitment permanently, and in order to do that invade into surpluses dollars that no doubt other people on both sides of the aisle have other purposes for which they can use the dollars? That is the question with which ultimately we have to contend.

My colleague from New York has come to the floor and has a 1 minute request on an unrelated issue. I ask unanimous consent the Senator from New York be permitted 1 minute.

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

Mr. WARNER. Mr. President, let's have clarified the amount of time remaining under the control of the Senator from South Dakota and the amount of time under my control.

The PRESIDING OFFICER. The Senator from Virginia has 33 minutes. The Senator from South Dakota has 17 minutes.

Mr. WARNER. That is 17 and 33. I say to my friend, I am prepared to yield back a considerable amount of my time because I think our caucuses are about to meet. It is very important. If he would give me some estimate of what he desires, and I will just do basically half that time remaining and do a quick wrapup?

Mr. JOHNSON. Mr. President, I say to the distinguished Senator from Virginia, we have no additional speakers on my side. I agree we ought to expedite this debate at this point, unless the Senator has other speakers to whom I would choose to respond.

Mr. WARNER. No, I am ready.

Mr. JOHNSON. I will be open to conveying back my time.

Mr. WARNER. At this point?

Mr. JOHNSON. Yes.

Mr. WARNER. Fine. Let's clarify one other thing. Senator LEVIN brought up the points of order.

Mr. President, I ask unanimous consent at this time that it be in order for the Senator from Virginia to raise a point of order that the Johnson amendment, No. 3191, violates section 302(F) of the Budget Act, and that would take effect after my vote. Then there would be a point of order, and the Senator could, at this time, ask for the waiver.

Mr. JOHNSON. Mr. President, I move to waive the point of order. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. So at the conclusion of the brief remarks from my colleague, say not more than 2 minutes on my behalf, we then proceed to the votes as they have been ordered previously? That order, of course, is we will vote—I think the Presiding Officer should state the order of votes.

The PRESIDING OFFICER. The first vote will be on the Warner amendment No. 3173, followed by a vote on the waiver of the budget point of order. If the waiver vote is successful, that is to be followed by a vote on the Johnson amendment. If it is not successful, the vote will be on the Warner amendment, No. 3184, followed by a vote on the Kerrey amendment.

Mr. WARNER. I thank the Chair.

Does the Senator have anything further? Otherwise, I will just say two words.

Mr. JOHNSON. It is my understanding, then, the Johnson amendment, the waiver vote on the Johnson amendment, will be the first vote? If that is successful—

The PRESIDING OFFICER. That will be the second vote, following the vote on the Warner amendment.

Mr. JOHNSON. The Warner vote then is the first vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSON. Followed by the point of order on the Johnson amendment?

The PRESIDING OFFICER. The waiver.

Mr. JOHNSON. Yes. And we would each be permitted 2 minutes apiece at that time, at the time of that vote—that is my understanding—if that is acceptable?

Mr. WARNER. Mr. President, I will follow my colleague with maybe 2 minutes of remarks if he has any concluding remarks before we proceed to the sequence of votes.

Mr. JOHNSON. That is satisfactory.

Mr. WARNER. At this time, you yield such time under your control?

I am prepared to yield my time, reserving a minute and a half.

The PRESIDING OFFICER. Time is yielded back.

Mr. WARNER. I simply say once again I thank the Senator from South Dakota. He has been a leader on this issue. Indeed, his amendment has been widely supported throughout the retirement community.

I have come in with the second-degree simply to say we should take these steps incrementally, one after another. Let us bring the retirees back into the fold of the military health care system. Let us build the infrastructures necessary to take care of them and try that out in the light that only 2,500 ever opted for the Federal program out of 66,000 eligible. Let us try that out for the 2 or 3 years my program would be in effect.

The next President will have to address this situation. The next Congress will address this situation. But we will have made enormous progress if the Senate will adopt the Warner amendment. Indeed, it represents well over two-thirds of the amendment by our distinguished colleague from South Dakota.

The only thing remaining is whether or not we should give both at this point in time, which would double the cost over a 10-year period. It would double

the cost if we gave them the option of the Federal program in addition to what we are giving them under the Warner amendment; namely, now back into the system which has taken care of them for the period of their active duty and that period between the termination of their active duty and retirement up to age 65.

Mr. BYRD. Mr. President, the Senate is making important strides in working to improve health care benefits for our military retirees. A case in point is the Defense Authorization measure before the Senate today, which includes significant improvements in pharmacy benefits for military beneficiaries as well as several demonstration projects intended to evaluate long range health care solutions for military retirees.

But more needs to be done. We recognize that, and we are working to remedy the current situation. Senator WARNER's proposal to permit military retirees aged 64 or older to remain under CHAMPUS and TRICARE by requiring these plans to be secondary payers to Medicare is a good step in the right direction, a responsible step, and I strongly support it.

I also commend Senator JOHNSON for the laudatory goal of his amendment, but absent a plan to pay for such a sweeping reform, I fear that we are getting ahead of ourselves. The Senate has not set aside any money to pay for this proposal, and without a sure source of funding, we are offering our military retirees little more than an empty promise. For this reason, I am opposed to waiving the budget point of order against the Johnson amendment.

The Senate has been moving toward improved medical benefits for all members of the military, active and retired, over the past several years. Health care benefits remain a top priority. Senator WARNER's proposal to provide specific enhanced health benefits for older retirees for a three-year period while continuing to explore, test, and evaluate a long term solution is a prudent course of action. It gives us the opportunity to address the immediate health care needs of military retirees, while also giving Congress needed time to assess the best long-term solution, and to provide the necessary funding for whatever solution we reach.

Mr. DASCHLE. Mr. President, the Senate has just spoken on one of the most important national security issues facing this Nation today—the quality of health care services we provide for those who have so selflessly served this Nation. As pointed out during this debate, we promised millions of Americans lifetime, quality healthcare as partial compensation for their service to this country. Sadly, for far too many of America's veterans, this promise remains unfulfilled.

The amendments just voted on by the Senate represent efforts by their supporters to keep that commitment. These measures adopted a fundamentally different approach toward solving this problem. And although I had some

reservations about each, I supported both.

I would like to briefly discuss my reasons for doing so. However, before getting into the specifics of these very different amendments, I would like to commend the efforts of Senators JOHNSON and WARNER. As a result of their hard work, we are much closer than ever before to keeping our health care commitment to this Nation's veterans. They are both to be commended for keeping this issue alive and forcing the Senate to deal with it on the bill currently before us.

Under current law, military retirees under the age of 65 are eligible to enroll in TRICARE Prime or to use TRICARE's insurance programs. Those who use TRICARE's insurance may also seek care at a military treatment facility, MTF, on a space-available basis. Once retirees turn 65, they are no longer eligible to use TRICARE, though they may continue to seek care at an MTF when space is available. The same eligibility rules apply to survivors of veterans. Unfortunately, the shortcomings of the current system are well known to thousands of America's veterans. I receive letters virtually every week describing the failures of TRICARE.

Senator JOHNSON's amendment would address some of these failures and increase health insurance benefits for retirees. Specifically, retirees who entered military service before June 7, 1956 and their spouses would be able to use military health insurance and enroll in the Federal Employees Health Benefits Program, FEHBP. Those enrolling in FEHBP would pay no out-of-pocket premiums. Military retirees who entered the service after June 7, 1956 and their spouses would be eligible for increase coverage regardless of their age. They could either enroll in FEHBP or use TRICARE's insurance program.

Senator JOHNSON's amendment clearly would provide better health care coverage for millions of veterans. My concerns with it are twofold and both are cost-related. First, I am somewhat troubled by the overall cost of this proposal. Although I believe no price is too high to keep our commitment to America's veterans—and Senator JOHNSON's amendment certainly represents a giant step in that direction—I wonder whether there may be a more cost effective means of doing so. Second, I am concerned that for those retirees who entered service after 1956 and who choose FEHBP, the Government would only pick up about 70 percent of the premium. Retirees and their families would be expected to pick up the remaining 30 percent. Depending on the plan chosen, this could represent an annual out-of-pocket expense of \$2,000 or more—not an insignificant expenditure for many.

Senator WARNER's amendment also has merit as well as one fundamental flaw. Under the Warner amendment, all Medicare-eligible retirees would be al-

lowed to remain in TRICARE. In other words, TRICARE would be a second-payer to Medicare, covering certain costs above and beyond those covered by Medicare. This change would greatly improve the quality of health care provided to our Nation's veterans. Unfortunately, in order to comply with a flawed Republican budget resolution, Senator WARNER was forced to sunset this new benefit in 2003. In other words, the Warner amendment provides veterans a new health benefit with one hand and, two years later, takes it away with the other.

As I said at the outset, I supported both of these amendments despite the flaws I have just discussed. I did so because I believe it is important we focus on the forest and not the trees and because both of these amendments would bring us closer to keeping this Nation's commitment to its military retirees. And I did so because I believed it was the right thing to do. I commend Senators WARNER and JOHNSON for their work on behalf of our veterans and look forward to working with them to fulfill the promise we made to those who sacrificed so much to serve this Nation.

Mr. KENNEDY. Mr. President, I support the amendment by the distinguished Chairman of the Armed Services Committee, Senator WARNER. It takes the next step toward honoring the promise of lifetime health care for our military retirees. It removes the Title 10 provision that limits eligibility for military health care benefits to retirees under the age of 65.

The amendment expands health care benefits for Medicare-eligible military retirees by removing the age limitation on who qualifies for military health care programs. It gives all military retirees one consistent health care benefit, with TRICARE supplementing Medicare after the retiree reaches the age of 65. This is the right thing to do for our retirees.

I also support the amendment offered by Senator JOHNSON. It corrects an inconsistency in access to the Federal Employees Health Benefits Program. Currently, our retired service members do not have the opportunity to participate in this program. While the out-of-pocket costs for some health plans offered under FEHBP may make this approach less attractive to senior military retirees, they should be given the option to join. Again, this is only fair. One, consistent health care program for all beneficiaries makes sense and is the right thing to do.

I commend Senator WARNER and Senator JOHNSON for their leadership in this important area. I support their amendments, and I urge my colleagues to approve them.

This year is, indeed, the Defense Department's "Year of Health Care!" In the Armed Services Committee, we began the year considering how to improve health care for active duty service members and their families, and to address the well-documented health

care needs of military retirees, especially those over the age of 65.

The Administration's budget request was a major positive step for active duty service members and their families. It proposed to expand TRICARE Prime to the families of service members who live far from military hospitals. It also proposed to eliminate the co-payments by active duty service members' families for medical care by civilian health care providers in TRICARE Prime.

We heard testimony from Secretary Cohen, General Shelton, the Service Secretaries, and each of the Service Chiefs, that the availability of health care for senior military retirees is a serious problem. They are conducting a variety of TRICARE demonstration programs to find the best way to address it. We also heard from retirees and the organizations that represent them that the problem is urgent, and that Congress needs to act now.

A promise of lifetime health care was made to our service members at the time of their enlistment. We have an obligation to meet that commitment. It is wrong that service men and women who have dedicated their lives serving and defending our country should lose their military health care benefits when they reach the age of 65. We must fix this injustice, and we must do it now.

The pending DOD Authorization Bill takes a first step towards honoring this promise by giving military retirees a retail and mail-order pharmacy benefit. Almost a third of them already have this benefit. 450,000 military retirees over the age of 65 have a pharmacy benefit under the base closing agreement. It provides a 90-day supply of prescription drugs by mail for an \$8 co-payment, or a 30 day supply of prescription drugs from a retail pharmacy network for a 20 percent co-payment. The pending Defense Authorization Bill expands this benefit to all 1.4 million Medicare-eligible retirees. It makes sense, and it is fair that all military retirees over 65 have the pharmacy benefit, not just those affected by the base closing process.

This pharmacy benefit addresses one of the most important concerns of the military retiree community—the high cost of prescription drugs.

All of us are pleased that the Senate is taking this step to make good on our promise of health care to military retirees. But we should not forget the millions of other senior citizens who need help with prescription drugs too.

It's long past time for Congress to mend another broken promise the broken promise of Medicare. Medicare is a guarantee of affordable health care for America's senior and disabled citizens. But that promise is being broken every day because Medicare does not cover prescription drugs. It is time to keep that promise.

When Medicare was enacted in 1965, only three percent of private insurance policies offered prescription drug cov-

erage. Today, ninety-nine percent of employment-based health insurance policies provide prescription drug coverage—but Medicare is caught in a 35-year-old time warp.

Fourteen million elderly and disabled Medicare beneficiaries—one-third of the total have no prescription drug coverage today. The most recent data indicate that only half of all senior citizens have drug coverage throughout the entire year.

The only senior citizens who have stable, secure, affordable drug coverage today are the very poor, who are on Medicaid. The idea that only the impoverished elderly should qualify for needed hospital and doctor care was rejected when Medicare was enacted. Republicans say they want to give prescription drugs only to the poor. But senior citizens want Medicare, not welfare.

Too many seniors today must choose between food on the table and the medicine they need to stay healthy or to treat their illnesses.

Too many seniors take half the pills their doctor prescribes, or don't even fill needed prescriptions—because they cannot afford the high cost of prescription drugs.

Too many seniors are paying twice as much as they should for the drugs they need, because they are forced to pay full price, while almost everyone with a private insurance policy benefits from negotiated discounts.

Too many seniors are ending up hospitalized—at immense cost to Medicare—because they aren't receiving the drugs they need at all, or cannot afford to take them correctly.

Pharmaceutical products are increasingly the source of miracle cures for a host of dread diseases. But millions of Medicare beneficiaries will be left out and left behind if Congress fails to act. In 1998 alone, private industry spent more than \$21 billion in conducting research on new medicines and bringing them to the public. These miracle drugs save lives—and they save dollars too, by preventing unnecessary hospitalization and expensive surgery.

All patients deserve affordable access to these medications. Yet, Medicare, which is the nation's largest insurer, does not cover outpatient prescription drugs, and senior citizens and persons with disabilities pay a heavy price for this glaring omission.

The ongoing revolution in health care makes prescription drug coverage more essential now than ever. Coverage of prescription drugs under Medicare is as essential today as was coverage of hospital and doctor care in 1965, when Medicare was enacted. Senior citizens need that help—and they need it now.

So I say to my colleagues—while we are making good on broken promises, it's long past time to cover prescription drugs under Medicare for all elderly Americans. If we can cover military retirees, we can cover other senior citizens too.

Elderly Americans need and deserve prescription drug coverage under Medi-

care. Any senior citizen will tell you that—and so will their children and grandchildren. It is time to make this need a priority as well.

Mr. MCCAIN. Mr. President, I rise today to voice my support for the need for responsible military health care reform.

There is a critical need for real military health care reform. I am concerned that if this amendment passes today, that this body, as well as the lower chamber, will wipe their hands of this problem and move on to other issues. Our servicemembers past, present, and future deserve a world class military health care delivery system, and the Congress should accept no less.

When the defense bill before us today came out of committee, I voted against it for several reasons. One of the most pressing reasons was that the health care legislation included in the defense authorization bill did not address the broken "promise" of lifetime medical care, especially for those over age 65. Voting for its passage would have been an abrogation of my responsibility as a Senator to let our declining military health care system continue without a responsible legislative remedy.

One of the areas of greatest concern among military retirees and their families is the "broken promise" of lifetime medical care, especially for those over age 65. While the Committee included some key health care provisions, they failed to meet what I think is the most important requirement, the restoration of this broken promise.

This week, we recognize the anniversary of the invasion of the European continent to free hundreds of millions of people from the grasp of a tyrannical dictator. Our servicemembers have served courageously in Korea, Vietnam, the Persian Gulf, and other locations throughout the world. We owe our servicemembers, past, present, and future a health care delivery system that adequately supports those who have served with honor and courage throughout the years.

Today, our military health care delivery system is facing some very difficult and costly challenges. One of these is how best to reconfigure the military health care delivery system so that it might continue to meet its military readiness and peace-time obligations at a time of continuous change for the armed forces. In the process of deciding how to proceed, I have met with and heard from many military family members, veterans and military retirees from around the country. I have been inundated with suggestions for reform.

In every meeting and in every letter, I encountered retired service men and women who have problems with every aspect of the military medical care system—with long waiting periods, with access to the right kind of care, with access to needed pharmaceutical drugs, and with the broken promise of lifetime health care for military retirees and their spouses. I heard these

concerns expressed as I have traveled across the United States over the past year. I was proud to introduce S. 2013, the Honoring Health Care Commitments to Service Members Past and Present Act of 2000.

S. 2013 was drafted with the help of the Military Coalition and the National Military and Veterans Alliance. The Military Coalition has strongly endorsed S. 2013, stating, "We applaud your leadership in introducing comprehensive legislation aimed at correcting serious inequities in the military health care benefit." I am proud of the work on S. 2013, and I was prepared to re-introduce key provisions of this bill as an amendment to the defense authorization bill.

However, the Warner amendment, and the more comprehensive Johnson, Coverdell, and McCain amendment, are coming up for a vote today, and I would like to comment on their attributes and my concerns.

I would like to commend my colleagues, Senators JOHNSON and COVERDELL, whose amendment fully restores the "broken promise" to our military retirees and their families. I am proud to be an original cosponsor of this amendment, as well as their companion bill, S. 2003.

This amendment fully restores the "broken promise" by providing free military medical health care to military retirees and their spouses. I am a strong proponent of this amendment, because it gives the retirees what they were promised, military medical health care for life. This health care would be provided through the Federal Employees Health Benefits Program (FEHBP). I urge my colleagues to vote for this amendment. Our service members deserve our support, and we have an obligation not to renege on a promise made to them many years ago.

As I have mentioned, I was prepared to offer an amendment today—a version of S. 2013—that builds on the limited health care improvements provided in the defense authorization bill. However, I have decided to withhold my amendment at this time to fully support the Johnson amendment, as well as vote for the Warner amendment. The Warner amendment provides a substantial increase in the health care benefit provided to over-65 military retirees and their families that current law and the Armed Services Committee-reported bill, S. 2549, have failed to address. The Warner amendment is not a perfect solution, but it is a step in the right direction.

Mr. President, I commend my colleagues for their efforts to address many of these important military health care challenges. Not lost on any of us is the urgent need to address the over-age-65 issue, since there are reportedly 4,000 World War II, Korean and Vietnam War-era military retirees dying every month. It is imperative that as changes are made to our nation's armed forces, Congress not only stay focused on bringing health care

costs under control, but that steps be taken to retain the health care coverage so critical to our nation's active duty personnel, their families, retirees, and survivors.

Make no mistake, retiree health care is a readiness issue as well. Today's servicemembers are acutely aware of retirees' disenfranchisement from military health coverage, and exit surveys cite this issue with increasing frequency as one of the factors in members' decisions to leave service. In fact, a recent GAO study found that "access to medical and dental care in retirement" was a significant source of dissatisfaction among active duty officers in retention-critical specialties.

Mr. President, this year will be, in the words of the Joint Chiefs, the year of health care reform. Whether we are successful or not will depend on several factors: Congress' ability to realize real health care reform and provide the necessary resources, the Pentagon's ability to work with private industry to control costs on pharmaceuticals and health insurance plans, and the military retirees who utilize the system coming together and galvanizing support for the future of military health care.

VOTE ON AMENDMENT NO. 3173, AS FURTHER MODIFIED

Mr. WARNER. Mr. President, I ask for the yeas and nays on the Warner amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 3173, as further modified.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) is necessarily absent.

The PRESIDING OFFICER (Mr. ENZI). Are there any other Senators in the Chamber who desire to vote?—

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—96

Abraham	Collins	Hagel
Akaka	Conrad	Hatch
Allard	Coverdell	Helms
Ashcroft	Craig	Hollings
Baucus	Daschle	Hutchinson
Bayh	DeWine	Hutchison
Bennett	Dodd	Inhofe
Biden	Dorgan	Inouye
Bingaman	Durbin	Jeffords
Bond	Edwards	Johnson
Boxer	Enzi	Kennedy
Breaux	Feingold	Kerry
Brownback	Feinstein	Kohl
Bryan	Fitzgerald	Kyl
Bunning	Frist	Landrieu
Burns	Gorton	Lautenberg
Byrd	Graham	Leahy
Campbell	Gramm	Levin
Chafee, L.	Grams	Lieberman
Cleland	Grassley	Lincoln
Cochran	Gregg	Lott

Lugar	Robb	Snowe
Mack	Roberts	Specter
McCain	Rockefeller	Stevens
McConnell	Roth	Thomas
Mikulski	Santorum	Thompson
Moynihan	Sarbanes	Thurmond
Murkowski	Schumer	Torricelli
Murray	Sessions	Voinovich
Nickles	Shelby	Warner
Reed	Smith (NH)	Wellstone
Reid	Smith (OR)	Wyden

NAYS—1

Kerrey

NOT VOTING—3

Crapo

Domenici

Harkin

The amendment (No. 3173), as further modified, was agreed to.

Mr. COVERDELL. Mr. President, the Senate just conducted two very significant and unprecedented votes—unprecedented in the respect that, as the good chairman of the Senate Armed Services committee has pointed out, this is the first time that the Congress has taken steps to provide health care equity for our Nation's military retirees. This effort was not led by the White House. It was led by Congress and by military retirees across the country.

I have been deeply involved in this issue for many years now. As my colleagues know, I am the lead cosponsor of S. 2003, Senator JOHNSON's bill to restore the broken promise of lifetime health care made to military retirees. The mere presence of this bill, as Chairman WARNER noted, drove the debate on military retiree health care this year and moved us to the point where we are today—on the verge of enacting the first comprehensive solution to the military retiree health care issue. This is a matter of fairness for military retirees, but our goal must be accomplished without destroying the fiscal discipline that has made this day possible.

As a result, even though I am the lead cosponsor of S. 2003 and fully support its objectives, I could not vote to waive the budget point of order raised against the amendment today. The Senate has budget rules that must be protected if we want to ensure, year-in and year-out, that all of the Nation's priorities are fairly and appropriately funded. These are the fiscal rules of the road that have enabled us to balance the budget, to create unprecedented surpluses for the first time in decades, and to contemplate any funding for a military health care proposal such as this. Once the rules are broken, fiscal discipline will evaporate. Deserving long-term priorities would be pitted against the politically popular causes of the moment in a rush to tap the surplus dollars first.

We must also remember that we are working with the fourth consecutive balanced budget that protects Social Security—a tremendous exercise in fiscal restraint that the Senate must not abandon. Preserving Social Security has been a priority for the American people for a long time and it took the Congress many years to make it a reality. If we begin our fiscal work by

eviscerating the budget rules, we will put the Social Security surplus and the retirement benefits for millions of senators at great risk.

I could have taken the politically expedient route, the easy route by casting my vote to waive the budget rules. But that vote would not have changed the outcome or brought us closer to passage of S. 2003. Had the motion to waive the budget rules prevailed, it would have set a dangerous precedent and ultimately would make it more difficult to protect the funding needed to restore the broken promise. My vote today to preserve the budget rules, notwithstanding my strong support for military retirees, represents my view that the work of the Nation must move forward and that it will not unless the Senate works responsibly within the budget process in order to balance competing demands for funding.

There is no doubt in my mind that the gains on this issue today would not have been achieved without the introduction of S. 2003. At the beginning of this Congress, we were at ground-zero on this issue—the same place as in every previous Congress. We made headway this year in the Armed Services Committee and with our colleagues on the Budget Committee. Today, Senator WARNER's amendment, while not everything we wanted, did take an important step forward by giving military retirees one part of what they deserve—the ability to keep their military health benefits when they reach Medicare eligible age. I believe the Senate has demonstrated a new found commitment to our Nation's military retirees and I look forward to continuing our work to restore the broken promise in full.

AMENDMENT NO. 3191

Mr. WARNER. We are ready for the vote on a point of order.

I ask unanimous consent, on behalf of the two leaders, that the next two votes be limited to 10 minutes.

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

There will be 2 minutes of debate equally divided.

Mr. WARNER. Mr. President, a point of order has been raised on the amendment of the Senator from South Dakota. I would like to have Senator GRAMM of Texas recognized to argue that point of order and that his name replace my name on having made it. He is on the Budget Committee. I simply made it on behalf of the Budget Committee. He makes it in his own right, my name to be deleted.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me remind everyone that 4 years ago we moved to justice to correct an injustice in military medicine, and the injustice was that if you served in the military for 20 or more years, you received a commitment, at least in your mind and I believe in reality, that you and your dependents would have access to military medicine for the rest of your life.

When Medicare came in and the federal government started making the military pay Medicare payroll taxes, it stopped allowing retirees over 64 to use military medicine. That was a breach of faith. Then we started an experiment 4 years ago to allow them to use their Medicare coverage to obtain treatment at base hospitals again. The Warner amendment we just adopted will allow people who served a career in the military to get treatment at base hospitals from military doctors, and have Medicare pay the cost. It is a good idea and I strongly support it.

Now, Senator JOHNSON has offered an amendment that on its face has merit, and that is to put military retirees into FEHBP. Maybe in the long run that is the answer to the problem. But the problem with Senator JOHNSON's amendment today is that it busts the budget by \$92 billion. So I urge my colleagues, whether they support the FEHBP solution or not, to not bust the budget today. Let's stand with the taxpayers today, and let's also complete the Medicare subvention experiment, and let's take up Senator JOHNSON's proposal when we know how to pay for it. I thank the chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I join Senator McCain and the other cosponsors in support of this legislation. We have a fundamental question before us, and that is whether the military retirees of this Nation deserve to have the same kind of health care system that Members of this body have, or other Federal employees, through the Federal Employees Health Benefits Plan. That is the amendment that the military retiree organizations are asking to have and we can, once and for all, be done with the question about whether we are going to live up to our commitment to our military personnel in terms of the medical care that they were promised and which they deserve.

I think there is an across-the-board agreement in this body that if we are truly going to live up to this obligation, this legislation is what we have to pass. It would involve a waiver, and the fundamental question we have, then, is whether we have 60 votes in this body to get into the surplus dollars, or whether those surplus dollars will remain available for tax cuts and other purposes.

If you believe that military health care is a first priority, ought to come first, rather than the crumbs that come after we have made other budget decisions, you will support the Johnson-McCain amendment.

Mr. WARNER. Mr. President, we had a very good debate on this. I see it slightly different. What we are doing in the Johnson amendment is giving two health care programs to military retirees. We are giving them the military health care program and then asking the taxpayers to add on the tax burdens of the Federal program. So it is not the same as we get; we do not get

the military program. I have to correct the Senator. There are two systems if you vote for that. That is why his is \$90 billion over 10 years versus the Warner amendment, which is \$40 billion.

Mr. JOHNSON. Mr. President, given Senator WARNER's observation, I ask unanimous consent for 10 seconds.

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

Mr. JOHNSON. Saying our military retirees would beat a path to the Federal system offering TRICARE as an alternative—frankly, that is an unpopular option. This Johnson amendment is what the military retirees want and deserve.

Mr. GRAMM. Mr. President, the issue before us is whether we are going to waive the budget point of order. I insist on the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to waive the Budget Act. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—52

Abraham	Edwards	Moynihan
Akaka	Feinstein	Murray
Ashcroft	Gorton	Reid
Bayh	Grams	Robb
Bennett	Harkin	Rockefeller
Biden	Hatch	Roth
Bingaman	Hollings	Santorum
Boxer	Jeffords	Sarbanes
Breaux	Johnson	Schumer
Bryan	Kennedy	Shelby
Burns	Kerry	Smith (NH)
Cleland	Kohl	Snowe
Collins	Landrieu	Thomas
Conrad	Leahy	Torricelli
Daschle	Lieberman	Wellstone
DeWine	Lincoln	Wyden
Dorgan	McCain	
Durbin	Mikulski	

NAYS—46

Allard	Graham	Mack
Baucus	Gramm	McConnell
Bond	Grassley	Murkowski
Brownback	Gregg	Nickles
Bunning	Hagel	Reed
Byrd	Helms	Roberts
Campbell	Hutchinson	Sessions
Chafee, L.	Hutchison	Smith (OR)
Cochran	Inhofe	Specter
Coverdell	Inouye	Stevens
Craig	Kerrey	Thompson
Dodd	Kyl	Thurmond
Enzi	Lautenberg	Voinovich
Feingold	Levin	Warner
Fitzgerald	Lott	
Frist	Lugar	

NOT VOTING—2

Crapo	Domenici
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The PRESIDING OFFICER. On this question, the yeas are 52 and the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained.

Mr. GRAMM. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. It is my understanding we are now to turn to the amendment by the distinguished Senator from Nevada, Mr. REID, after the next two votes.

The PRESIDING OFFICER. There are 2 minutes equally divided on the amendment of the Senator from Virginia.

Mr. WARNER. Following that, after the two votes, if two votes are necessary, the Senator from Nevada is recognized.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. After the amendments of the Senator from Nevada are disposed of, I ask unanimous consent to be recognized as the manager of the bill.

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

AMENDMENT NO. 3184

Mr. WARNER. Mr. President, for 5 consecutive years, the Senate has put language into law with the President's signature reserving these numbers, which the distinguished Senator from Nebraska now wishes to strike from 5 years of consecutive law signed by the President.

The Warner amendment simply says that the President, whether it be President Clinton or the next President, should follow a very careful procedure before changing the numbers, of strategic systems; namely, to do a QDR process which takes into consideration not only the strategic weapons but the conventional weapons and then do an updated posture statement regarding exclusively the strategic.

Those are prudent steps that should be taken. In essence, this Chamber recognized that in the 5 consecutive years we have kept this language in.

Given the nyet—no, no, no—that our President received in Moscow on the ABM issue, he may well need the leverage given by the 5 consecutive years of law. My amendment gives the President the right of waiver, but it imposes on him the need to take a prudent managerial course of action before any decision is made.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, with great respect to the Senator from Virginia, both the underlying law and his amendment push the President in the wrong direction. Both Russia and the United States have more nuclear weapons than we need. This has been studied to death. There are plenty of studies, plenty of reviews, plenty of evaluation. Gov. George W. Bush, with Henry Kissinger, with George Shultz, with Brent Scowcroft, and with Colin Powell, has it right. It requires new thinking. We will not only be pushing President Clinton in the wrong direction, but if Governor Bush wins, we push him in the wrong direction. We are forcing the Russians to maintain nu-

clear weapons in excess of what they can control. As a consequence, we are increasing the risk, threat, and danger to the people of the United States of America.

I urge my colleagues, in as strong a language as possible, to vote against the Warner amendment.

The PRESIDING OFFICER. All time has expired. The yeas and nays have not been ordered on the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 3184.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 51, nays 47, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—51

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Conrad	Inhofe	Stevens
Coverdell	Kyl	Thomas
Craig	Lott	Thompson
DeWine	Lugar	Thurmond
Enzi	Mack	Voinovich
Fitzgerald	McCain	Warner

NAYS—47

Akaka	Feingold	Lieberman
Baucus	Feinstein	Lincoln
Bayh	Graham	Mikulski
Biden	Harkin	Moynihhan
Bingaman	Hollings	Murray
Boxer	Inouye	Reed
Breaux	Jeffords	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee, L.	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Daschle	Kohl	Smith (OR)
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden
Edwards	Levin	

NOT VOTING—2

Crapo	Domenici
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The amendment (No. 3184) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. L. CHAFEE). The question is on the underlying amendment, as amended. The yeas and nays have been ordered.

Mr. WARNER. Mr. President, I ask unanimous consent to vitiate the yeas and nays.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3183) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we have worked out, hopefully, a mutually agreed upon unanimous consent request. I will slowly propound it.

I ask unanimous consent that the previous order for Senator WARNER to be recognized to offer an amendment on working capital be laid aside to recur following the disposition of the BRAC amendment.

I further ask that on the Reid amendment, it be limited to 1 hour, with 45 minutes under the control of Senator REID and 15 minutes under the control of Senator WARNER, and no second-degree amendment in order prior to the vote in relation to the amendment.

I further ask consent that following the disposition of the Reid issue, Senator KENNEDY be recognized to offer his HMO amendment, and that there be 2 hours equally divided prior to a vote in relation to the amendment, with no second-degree amendments in order prior to the vote.

I further ask that following the disposition of the Kennedy issue, Senators MCCAIN/LEVIN be recognized to offer their amendment, re: BRAC, on which there will be 2 hours equally divided, under the same terms as outlined above; namely, an hour under the control of Senators MCCAIN and LEVIN, and 1 hour under the control of Senator WARNER.

I further ask that following the disposition of the Warner amendment, Senator WELLSTONE be recognized to offer his amendment, re: Child soldiers, on which there will be 30 minutes equally divided in the usual form and under the same terms as outlined above.

I further ask consent that during the debate today or tomorrow, the following Members be recognized for debate only: JOHN KERRY for up to 60 minutes and Senator FEINGOLD for up to 12 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, I appreciate the distinguished chairman and his interest in accommodating the many colleagues who want to offer amendments. I think we are almost there. I don't think we are quite able to reach agreement yet on this side. I wonder if it would be appropriate, given the fact that we could not yet agree to that sequencing, if we might proceed with the amendment to be offered by the Senator from Nevada, and while that amendment was being considered, address the other parts of the unanimous

consent request just propounded by the Senator from Virginia. If he would be interested in pursuing that approach, we might be able to find some final resolution to the other elements of the proposal he suggested.

Mr. WARNER. Mr. President, I certainly respect the contribution by our distinguished minority leader. I don't have any other recourse.

Mr. LEVIN. 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. WARNER. 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. WARNER. Mr. President, the other side has advised Senator WARNER that the unanimous consent can be accepted provided that paragraph 3 relating to Senator KENNEDY be taken out. I agree to that.

Mr. LEVIN. Mr. President, reserving the right to object—I will not—we agreed that Senator KENNEDY would have an amendment or amendments sequenced at a later time.

Mr. WARNER. That is correct.

Mr. BIDEN. Mr. President, reserving the right to object—I am not sure I will—I ask for a continuation of the quorum call for another 3 minutes, if I may. 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. WARNER. 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. WARNER. Mr. President, I again propound the amended unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3198

(Purpose: To permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. REID), for himself and Mr. INOUE, Ms. LANDRIEU, Mr. JOHNSON, Mr. DASCHLE, Mr. MCCAIN, Mr. DORGAN, and Mr. BRYAN, proposes an amendment numbered 3198.

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

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

The amendment is as follows:

At the appropriate place in title VI, insert the following:

SEC. ____ CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION FOR RETIRED MEMBERS WITH SERVICE-CONNECTED DISABILITIES.

(a) CONCURRENT PAYMENT.—Section 5304(a) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(3) Notwithstanding the provisions of paragraph (1) and section 5305 of this title, compensation under chapter 11 of this title may be paid to a person entitled to receive retired or retirement pay described in such section 5305 concurrently with such person's receipt of such retired or retirement pay.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and apply with respect to payments of compensation for months beginning on or after that date.

(c) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits shall be paid to any person by virtue of the amendment made by subsection (a) for any period before the effective date of this Act as specified in subsection (b).

Mr. REID. Mr. President, 109 years ago, for reasons no one can quite understand, a law was passed that prevented someone who had a service-connected disability from drawing disability at the time they were drawing retirement pay from the U.S. military.

If someone is injured, for example, in combat, they are eligible for a disability pension. If they have military service for 20 or 30 years, they are eligible for retirement. But under a quirk in the law that has been around for 109 years—let's assume the disability is \$200 a month, and the retirement is \$500 a month—the person who has been injured in combat must either waive his entire disability or take \$200 from retirement to receive the \$200 of disability.

To say the least, this is certainly not an incentive for someone to stay in the military, in addition to its basic unfairness. For example, someone can retire from the Forest Service or the Department of Energy or the Department of Treasury—any executive office—and have a disability from the military. They could draw both retirements. But if you retire from the military, you can't. Certainly this is a nonincentive to stay in the military.

If an individual leaves the military and begins a career in the executive branch, that person may receive both entitlements, but not if they choose to serve our country in the U.S. military.

It seems unusual to me at a time when the military is having difficulty retaining personnel. This is, to say the least, ridiculous. This amendment will encourage improvement and retention for armed services.

This bill has been introduced in its substantive form in this body. There is a similar measure in the House of Representatives that has approximately 250 sponsors.

In effect, this amendment will permit retired members of the armed services who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

The original law was passed in 1891 to prohibit concurrent receipt. It is time

we eliminate this unfair law that has been an injustice for 109 years. This law discriminates against military men and women who decide to serve their country as a career, whereas a civil service retiree's pension may be received in its total in addition to the disability from the U.S. military.

Totally unfair.

This discriminates unfairly against disabled career soldiers. In effect, they must pay their own disability as a result of this quirk in the law. Military retirement pay and disability compensation are earned and awarded for entirely different purposes: One is for having served your country for a specific period of time; the other is for having been injured while you were a member of the U.S. military.

Retirement with service disability compensation for injury incurred in the line of duty certainly is deserved. This amendment represents an honest attempt to correct an injustice that existed for far too long. It affects approximately 437,000 disabled military men and women. Each day, this great country of ours loses 1,000 patriots who served as military combatants in World War II. Every day, there are 1,000 deaths of World War II veterans. Each day we delay the passage of this legislation, thousands of men and women are denied their benefits.

Some say this is too expensive. I say no amount of money can equal the sacrifices these military men and women have made. Yesterday, in this Senate, STROM THURMOND, who is approaching 100 years of age, spoke eloquently of his feelings about World War II. Following his statement, Senator DURBIN of Illinois gave a very compelling statement regarding STROM THURMOND. STROM THURMOND is an example of the sacrifices people made in World War II. Even though he was over the age where people would normally go into the armed services, he went into the armed services as a combat military man and, in a glider, went into Europe where he was injured and still suffers some disability from his injuries.

In this Chamber there are many others who sacrificed significantly as a result of World War II: Senator DAN INOUE, who I am happy to say is going to receive a Congressional Medal of Honor for his valiant service in Italy; Senator FRITZ HOLLINGS served valiantly in World War II; Senator WARNER served toward the end of World War II, as he stated on the floor today. This amendment recognizes the people who served in World War II, the Korean conflict, Vietnam, and the other skirmishes we have had since then. People who have been injured and have service-connected disability who have been able to finish their full term in the U.S. military deserve both benefits. That is what this amendment is all about.

Recently, the Congressional Budget Office reported a budget surplus of about \$160 billion. A few of those dollars should be used to take care of this

anomaly in the law. The best use of the budget surplus is to support this concurrent receipt legislation. Our veterans earned this. Now is our chance to honor their service to our Nation. It comes a little late for many of these service-connected veterans.

This amendment is supported by veteran service organizations: the Disabled Veterans, the American Legion, and the Paralyzed Veterans of America.

The interesting thing about this law that prevents this concurrent receipt now is that nobody knows why it originally was passed. There is a lot of conjecture. Maybe it was to relate to the fact that we didn't have large standing armies in 1891; maybe it was that only a small portion of what we did have in the military consisted of career soldiers. We don't know. What we know now, 109 years later, is it is unfair. It is unfair that a person who served this country, was discharged honorably, and has a service-connected disability, can't draw both benefits. That is what this amendment does.

The present law discriminates against career military men and women, when you consider when they retire from some other branch of our Government they can draw both benefits.

I respectfully request of the managers of this legislation that this amendment be accepted. I am happy to have a vote, if that is what is required. I think if there were ever an example of where we should send this to the House by unanimous vote, this is it. This is fair. This amendment is supported by many veterans organizations; to name only a few, the Disabled American Veterans, American Legion, and Paralyzed Veterans of America. They and the American public deserve to have this injustice corrected.

I yield the floor.

How much of the 45 minutes have I used?

The PRESIDING OFFICER. The Senator from Nevada used 9 minutes and 20 seconds of the 45 minutes.

Mr. WARNER. Mr. President, the amendment by the distinguished minority whip, the Senator from Nevada, is one I intend, as manager of the bill, to accept because it has in it some provisions we have studied for many years. I think it is important we study it in the context of the conference. I am strongly in favor of a number of the concepts the Senator has raised.

At the appropriate time I will indicate the acceptance of the measure.

Mr. REID. If I could ask the Senator, would it be appropriate, then, if the Senator accepts my amendment, that following accepting this amendment, the Senator from Wisconsin have 12 minutes and the Senator from New Jersey have 10 minutes?

Mr. WARNER. Fine. If I might inquire, for the purpose of addressing the Senate—not for putting in an amendment?

Mr. REID. For debate.

Mr. WARNER. It is 12 minutes and 10 minutes. That falls within the period the Senator has reserved. We will put that in the form of a unanimous consent request.

I thank the Senator for reference to those who served in World War II. I don't want to put myself in any category of the heroism displayed by Senator INOUE. I was a simple sailor serving in training command, waiting for the invasion of Japan. I always want to be careful.

Mr. REID. I only say to my friend, we are all aware of the work the Senator has done and the love the Senator has for the military, having been one of our Secretaries.

Yesterday was a very moving day, to see our President pro tempore step down here and speak with the strong voice that he has, recognizing the sacrifices made by others. He didn't, of course, mention his own name, but he is an example of what has made our country great.

Mr. WARNER. I thank the Senator for that reference to Senator THURMOND. Indeed, he crossed the beaches in a glider and crashed and was wounded. He got out and took right on his duties.

Also, late last night, Senator CARL LEVIN and I put in an amendment which was accepted, was cosponsored by all the veterans of World War II who are now in the Senate, some eight or nine, and it provided \$6 million toward the memorial that is being constructed on The Mall.

Earlier that day, our former distinguished majority leader and colleague, Robert Dole, accepted a \$14.5 million contribution. Together with the \$6 million of the Senate, and my understanding from Senator Dole, with whom I spoke late last night, that brings within completion the budget they had for design, construction, and otherwise for that memorial.

It was a historic day.

Mr. REID. I ask unanimous consent, following the acceptance of my amendment, the Senator from Wisconsin, Mr. FEINGOLD, be recognized for 12 minutes on general discussion, not to offer an amendment; following that statement, the Senator from New Jersey, Mr. TORRICELLI, be recognized for 10 minutes to speak on an unrelated subject and not to offer an amendment.

Mr. WARNER. Reserving the right to object, and I will not object, I want to advise Senators that was in the time-frame allocated to the distinguished Senator from Nevada for the purpose of his amendment. That is how this time was freed up. Otherwise, Senator LEVIN and I are anxious to keep this bill moving.

Following presentations by two distinguished colleagues, we should proceed, then, to the McCain-Levin amendment on base closure.

Mr. REID. I say to my friend, he is absolutely right. The only reason we are doing it this way is just to make the process a little more orderly.

Mr. WARNER. I understand that.

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

Mr. REID. Has my amendment been accepted then?

Mr. WARNER. I urge adoption of the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3198) was agreed to.

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

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

The motion to lay on the table was agreed to.

THE ZIMBABWE DEMOCRACY ACT OF 2000

Mr. FEINGOLD. Mr. President, I rise today to speak in favor of the Zimbabwe Democracy Act of 2000. I am very pleased to join my colleague, Senator FRIST, in cosponsoring this legislation and sending an unambiguous signal to the current government of Zimbabwe that the international community will not passively stand aside while that country's great promise is squandered; the United States will not remain silent while the rule of law is undermined by the very government charged with protecting a legal order; this Congress will not accept the deliberate dismantling of justice and security and stability in Zimbabwe.

Since the ruling party lost the outcome of a February referendum, in which voters rejected a new constitution which would have granted President Robert Mugabe sweeping powers, a terrible campaign of violence has gripped the country. Veterans of Zimbabwe's independence struggle and supporters of the ruling party have invaded a number of farms owned by white Zimbabweans. When the courts ordered the police to evict the invaders, President Mugabe explicitly continued to support the invasions, and called on the police force to ignore the court. Predictably, confusion and violence have ensued, and the rule of law, the basic protections upon which people around the world stake their safety and the safety of their families, has been seriously eroded.

This is not a race war. Let me repeat that—this is not a race war. Race is not the critical issue in Zimbabwe today. And no one need take my word for that. One need only look at the facts on the ground. One need only observe the disturbing frequency with which members of the opposition have been the targets of violence. It is the Movement for Democratic Change, an opposition party that has been rapidly gaining the support of the disillusioned electorate, that is the real target of President Mugabe's campaign. It is the electorate that rejected the ruling party's proposed constitution that is suffering, and this is not unprecedented. In the early 1980s, supporters of a rival political faction were brutally slaughtered in Matabeleland—a dark period

in the young country's history for which there is still not a satisfying public account. So we must not be intimidated by the scape-goating of the power-hungry. Once there was a struggle against a terrible system of oppression, grounded in racial discrimination, in the country now called Zimbabwe. But that is not the heart of the matter today.

Nor is this crisis really about land tenure reform, although there is no question at all that land tenure reform is desperately needed and long overdue in Zimbabwe. But the government's past efforts at land reform have too often involved distributing land to key supporters of the ruling party, not the landless and truly needy. Fundamentally, land reform is about improving quality of life for the people of Zimbabwe—something that is utterly undermined by the violent tactics of the ruling party today.

So while this is not about race and it is not, at its core, about land, what this is about is an increasingly discredited President, who, watching his legacy turn increasingly into a source of shame rather than celebration, has hatched a desperate campaign to cling to power, even though this campaign, if successful, would render him the leader of an utterly broken country. Runaway government spending has led to high inflation and unemployment. Corruption infects the state. And, at this time of economic strain and hardship, the Government of Zimbabwe is spending over \$1.5 million a month on its participation in the Congo conflict.

The Zimbabwe Democracy Act indicates that the U.S. will have no part of the terrible campaign of violence now compounding Zimbabwe's troubles. The bill suspends U.S. assistance to Zimbabwe while carving out important exceptions—humanitarian relief, food or medical assistance provided to non-governmental organizations for humanitarian purposes, programs which support democratic governance and the rule of law, and technical assistance relating to ongoing land reform programs outside the auspices of the government of Zimbabwe. And it articulates clear conditions for ending this suspension of assistance—including a return to the rule of law, free and fair parliamentary and presidential elections, and a demonstrated commitment on the part of the Government of Zimbabwe to an equitable, legal, and transparent land reform program.

The bill also offers assistance to the remarkable forces working within Zimbabwe in support of the rule of law, in support of democracy, and in support of basic human rights for all of Zimbabwe's citizens. It establishes a fund to finance the legal expenses for individuals and institutions challenging restrictions on free speech in Zimbabwe, where the latest campaign has also included a media crackdown. The fund would also support individuals and democratic institutions who have accrued costs or penalties in the

pursuit of elective office or democratic reform.

I had the chance to be in Zimbabwe in December, and I do not believe that I have ever encountered a more dynamic, committed, and genuinely inspiring group of civil society leaders than the group I met in Harare a few months ago. These forces must not be abandoned in Zimbabwe's time of crisis.

And, very responsibly, this legislation recognizes that Zimbabwe will need the assistance of the international community when it seeks to rebuild once the crisis has passed. It authorizes support for ongoing, legally governed land tenure reforms, and authorizes an innovative approach to facilitating the development of commercial projects in Zimbabwe and the region.

I urge my colleagues to support this legislation, and I commend Senator FRIST and his staff for their efforts on this matter. Right now a country of great promise and a people of tremendous potential are enduring a terrible campaign of lawlessness and oppression. Right now, one of the most important states on the African continent, economically and politically, is in crisis. To write off Zimbabwe, to lose this opportunity to speak and act on the matter, would be a terrible mistake.

States descend into utter chaos in stages. Let us move to arrest Zimbabwe's descent today, not next year, when the problems will be more complex and more deeply entrenched, and not after 5 years of crisis, when Afro-pessimists will undoubtedly ignore the country's proud history and cynically assert that Zimbabwe cannot be salvaged. Let us be far-sighted, let us act now, pass this legislation, and stand firmly behind the forces of law, of democracy, and of justice in Zimbabwe.

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

CAMPAIGN FINANCE REFORM

Mr. TORRICELLI. Mr. President, this Senate has been engaged in more than a decade of discussion about reforming the campaign finance system in the United States. Indeed, the Senate has not only debated the issue but has focused attention on McCain-Feingold, attention that brought about a national debate about how to change this system. The Senate may be on the verge of yet another discussion in the coming days.

I take the floor today because, while I praise Senator MCCAIN and Senator FEINGOLD and, indeed, once again pledge my vote for their reform legislation, I believe it is a disservice for the Senate to believe there are no other contributions that can be made to solving the campaign finance dilemma.

McCain-Feingold, and the former comprehensive legislation, would be the best answer. It is not the only an-

swer. There are a variety of very real problems to enacting this legislation that begin with legitimate constitutional problems, decisions by the Federal courts, legitimate differences on philosophical questions about how to conduct elections in America, and some real political problems. The reality is that whether I believe in McCain-Feingold or not, whether the entire Democratic caucus votes for it or not, it is not going to be enacted. That leads many to believe that simply, then, nothing will happen; there can be no change because there are not enough votes.

I believe that is not necessary, that does not have to be the final word.

Yesterday's primary election in the State of New Jersey, now setting a record of \$31 million in expenditures in a single partisan primary, again focuses the Nation on the problem. Our campaign finance laws in the United States are recognized in the breach. There is no national governing system of campaign finance laws. They are misunderstood, violated, contradictory, and incomplete. Regrettably, there is a failure to look at the contributions that others can make and the alternatives that exist in law given the current deadlock in this Senate acting on campaign finance.

Indeed, to listen to the network anchors each evening—Mr. Rather, Mr. Brokaw, and Mr. Jennings—one would believe there are no other answers; this is simply a case of political candidates raising as much as can be raised in a complete vacuum of other considerations.

I believe that until this Congress acts and there is a majority for campaign finance reform, there are things that others can do and, indeed, it begins with the media itself. The costs of these campaigns are staggering, but I have never met a candidate for political office who wanted to raise money beyond what was actually required to win the race. It is not only a question of how much is being raised; it is how much the campaigns cost.

As my friend, MITCH MCCONNELL, has pointed out on a variety of occasions, America is not suffering from too much political discussion. There is not too much debate. Campaigns are simply too expensive. That begins with an analysis of where the money is going.

In New York City today, a 30-second prime time advertisement can cost \$50,000. In Chicago, the same advertisement is \$20,000. A 30-second ad on the late news in New York is \$6,000; in Chicago, \$4,500. The effect of this is obvious.

Year in and year out, the networks charge more money for the same advertisements for the use of the public airwaves, and an endless spiral of costs is driving campaign fundraising in America. Indeed, the same network anchors who rail against campaign fundraising almost every night are the principal beneficiaries of the campaign fundraiser. I do not know any candidate in

America who wants to raise this money voluntarily if they had a choice. There is no other means of communicating with the American people but to buy network television advertising, and I have never seen the cost of advertising go down.

The New York Times estimates that the 2000 elections in the United States will cost \$3 billion. That is a 50-percent increase over 1996. Mr. President, \$600 million of that advertising, or 20 percent, will be spent directly on network television advertising. That is a 40-percent increase over what the networks absorbed only 4 years ago.

Isolating the Presidential campaign in 1996, President Clinton and Senator Dole spent \$113 million on television ads. Half of all the money they spent went to network television. This is done for a reason. It is not only the spiraling cost of network advertising far beyond the rate of inflation; far beyond the rate of increase of the cost of anything else in political campaigns is the networks themselves. They are the principal generating force in the rising cost of campaign finance.

They are part of the problem not in one dimension but in two. From Labor Day through election day in 1998, ABC, CBS, and NBC aired 73 percent fewer election stories than they did in the same period in 1994. The amount of advertising is going up and the cost is going up because candidates' ability to communicate with the American people through legitimate news stories is going down. It is not going down marginally; it is not going down significantly; it is going down overwhelmingly. There is a 73 percent reduction in the amount of legitimate news stories aired over the public airwaves to inform the American electorate.

What, Mr. Rather, Mr. Jennings, and Mr. Brokaw, are candidates for elective office in the Democratic and Republican Parties to do? The amount of legitimate free news stories to inform the electorate is in a state of collapse. The number of Americans reading newspapers is declining. There is a similar reduction in the amount of newsprint for legitimate news stories, and your rates are skyrocketing.

The result is clear: Costs of campaigns are soaring. Indeed, there is a solution. The most obvious solution is we could change the national campaign finance laws. For constitutional reasons, philosophical reasons, and political reasons I have suggested, that is not about to happen. I suggest the networks, therefore, look at themselves and their own ability unilaterally to reduce the cost of advertising on the public airwaves. After all, the public airwaves are not their own province. It is not something for which they paid and own exclusively. These are the public airwaves, licensed to ABC, CBS, and NBC, with a public responsibility to the American people, a responsibility they do not meet.

No other democracy in the Western world allows private corporations to

use the public airwaves exclusively for their own benefit charging candidates for national office what approach commercial rates to communicate with the people themselves. Use the people's airwaves, charge exorbitant rates to candidates for public office to communicate in a national election—it would not happen in Canada, and it does not happen in Britain, Germany, Italy, or France. It happens nowhere, but it happens here.

While we wait for this Congress to act, I challenge the network executives: Be part of the solution, not the principal cause of the problem. Act unilaterally until this Congress can act. But they do not.

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

Mr. TORRICELLI. Will the Senator from Nevada yield me an additional 5 minutes?

Mr. REID. According to Senator WARNER, we have 45 minutes. We have used 31. That will be appropriate. I ask unanimous consent that the Senator from New Jersey be allowed to speak for another 5 minutes.

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

Mr. TORRICELLI. I thank the Senator for yielding.

One can recognize why the networks are in this extraordinary hypocrisy. They are for campaign finance reform. They are against spending in national political campaigns increasing. Indeed, we all share that concern, but they are also the principal beneficiaries.

In 1998, automotive ads were 25 percent of all national advertising. Retail sales were 15 percent. Political advertising was 10 percent of all revenues. They are offended at the cost of national political campaigns, but it is the third largest source of their funding.

Similarly, it is not a stable problem. Political ads are a rapidly rising, indeed, the largest increasing, source of network revenues, from 3 percent in 1990 to approaching 10 percent of all network revenues in the year 2000. What an extraordinary hypocrisy.

But it gets worse. They are for campaign finance reform, but they want the advertising revenues. What could be worse? The National Association of Broadcasters last year spent \$260,000 in PAC money and soft money, often supporting candidates who are against campaign finance reform, and hundreds of thousands of dollars lobbying to protect their right to use the public airwaves at retail costs for people who need to communicate with the American electorate.

I applaud Senator McCain and Senator Feingold for coming to this floor and fighting for campaign finance reform. I applaud my colleagues who have the courage to stand for it and fight for it. I always will. But changing the American political system in America to reduce money in the equation is not our fight; it is everybody's fight.

I could understand it if the networks were to be neutral, but to engage in

this headlong daily criticism of the process while they profit by it is inexcusable.

My friends in the networks, join the fight. Help us reform the system. Lead by example. Reduce the costs of the public airwaves for the public good. Allow candidates to communicate ideas without exorbitant costs. And meet your public responsibilities by dedicating more—not less—time to discussions of the issues. Make that a legitimate discussion of real choices before the American people—not horse races, an accounting simply of expenditures in races. Be positive, be responsible, and be part of the process of change.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001—Continued

Mr. WARNER. Mr. President, I express my gratitude to the distinguished ranking member and to the distinguished minority whip.

We are endeavoring to ascertain the remainder of the amendments that could be brought before the Senate in connection with this bill. There are strong initiatives on this side. We are going to put out a hotline on our side. We are urging Senators to contact the respective cloakrooms and to indicate—in the event they have a desire to have a matter covered on this bill by amendment—their desire to speak in relation to this bill or other procedural steps so that we can try to project the conclusion for this bill. We hope by 6 o'clock tonight is to get a unanimous consent request to lay down a list of amendments to be considered for the remainder of time on this bill.

Mr. LEVIN. Mr. President, I support the request for our colleagues to contact the cloakrooms about their intentions relative to amendments and speaking on the bill. It will help us to organize the rest of the time we will need on the bill.

I particularly thank Senator REID. He has been working hard on our side. I know that kind of effort is being made also on the Republican side to see if we cannot come up with a finite list at the end of the day of amendments that Members intend to offer.

Mr. REID. Mr. President, I think we have made progress. Sometimes it has been painfully slow. But this is a very big and important bill. We have a number of Senators on the minority side who expressed their desire to offer some amendments. We have a hotline

going out from our cloakroom asking that we try to develop a finite list of amendments. Once that is done, we will be in a better position to determine approximately how long it will take to complete this bill.

I should say to both managers of this bill that the minority is desirous of having this bill completed as quickly as possible.

As the managers of this bill know, in the past this bill has taken a long time. We are going to try to move it more quickly than in the past. But we still have a lot of amendments. But by the end of the day, I hope we will be in some kind of position to indicate to the managers of the bill how many amendments we have on this side. We hope the majority will tell us how many amendments they have.

Mr. WARNER. Mr. President, I certainly appreciate the expression from our distinguished leader on the minority that it is the minority's desire to move this bill to completion. That is very reassuring.

Mr. REID. Mr. President, we have a pending unanimous consent request. We are not in a position at this time to agree to that. We are getting very close. As soon as that is possible, we will notify the manager of the bill and enter into that unanimous consent agreement to take care of some things tomorrow.

Mr. WARNER. Mr. President, I assure our distinguished leadership on this side that Senator LOTT, I, and others believe very strongly that this bill is essential for the United States and essential for the men and women in the Armed Forces. I think considerable bipartisanship has prevailed up to this moment. I hope it continues and we can complete this bill.

Mr. LEVIN. Mr. President, my staff just handed me some interesting statistics, since we have a moment. Over the last 10 years, we have averaged 5½ days on the Defense authorization bill and 116 amendments, on average. We are actually doing pretty well. We are making some progress. We may beat the average even. We never know.

Mr. REID. Especially considering the fact that we didn't start this bill until late yesterday afternoon. We have only been on this bill a little more than one day.

Mr. WARNER. Mr. President, a hotline will be going out to both cloakrooms. I thank my colleagues. We are still awaiting the arrival of Senator McCain, at which time we will proceed to the McCain-Levin amendment, which is described in detail in the unanimous consent request.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3197

(Purpose: To authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 and 2003 and 2005)

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

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself and Mr. LEVIN, Mr. ROBB, Mr. VOINOVICH, Mr. REED, Mr. DEWINE, and Mr. WYDEN, proposes an amendment numbered 3197.

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

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

The amendment is as follows:

On page 530, after line 21, add the following:

SEC. 2822. AUTHORITY TO CARRY OUT BASE CLOSURE ROUNDS IN 2003 AND 2005.

(a) COMMISSION MATTERS.—

(1) APPOINTMENT.—Subsection (c)(1) of section 2902 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (B)—

(i) by striking “and” at the end of clause (ii);

(ii) by striking the period at the end of clause (iii) and inserting a semicolon; and

(iii) by adding at the end the following new clauses (iv) and (v):

“(iv) by no later than January 24, 2003, in the case of members of the Commission whose terms will expire at the end of the first session of the 108th Congress; and

“(v) by no later than March 15, 2005, in the case of members of the Commission whose terms will expire at the end of the first session of the 109th Congress.”; and

(B) in subparagraph (C), by striking “or for 1995 in clause (iii) of such subparagraph” and inserting “, for 1995 in clause (iii) of that subparagraph, for 2003 in clause (iv) of that subparagraph, or for 2005 in clause (v) of that subparagraph”.

(2) MEETINGS.—Subsection (e) of that section is amended by striking “and 1995” and inserting “1995, 2003, and 2005”.

(3) STAFF.—Subsection (i)(6) of that section is amended in the matter preceding subparagraph (A) by striking “and 1994” and inserting “, 1994, and 2004”.

(4) FUNDING.—Subsection (k) of that section is amended by adding at the end the following new paragraph (4):

“(4) If no funds are appropriated to the Commission by the end of the second session of the 107th Congress for the activities of the Commission in 2003 or 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in either of those years such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.”.

(5) TERMINATION.—Subsection (l) of that section is amended by striking “December 31, 1995” and inserting “December 31, 2005”.

(b) PROCEDURES.—

(1) FORCE-STRUCTURE PLAN.—Subsection (a)(1) of section 2903 of that Act is amended by striking “and 1996,” and inserting “1996, 2004, and 2006.”.

(2) SELECTION CRITERIA.—Subsection (b) of such section 2903 is amended—

(A) in paragraph (1), by inserting “and by no later than December 31, 2001, for purposes of activities of the Commission under this part in 2003 and 2005,” after “December 31, 1990.”;

(B) in paragraph (2)(A)—

(i) in the first sentence, by inserting “and by no later than February 15, 2002, for purposes of activities of the Commission under this part in 2003 and 2005,” after “February 15, 1991.”; and

(ii) in the second sentence, by inserting “, or enacted on or before March 31, 2002, in the case of criteria published and transmitted under the preceding sentence in 2001” after “March 15, 1991.”; and

(C) by adding at the end a new paragraph:

“(3) Any selection criteria proposed by the Secretary relating to the cost savings or return on investment from the proposed closure or realignment of a military installation shall be based on the total cost and savings to the Federal Government that would result from the proposed closure or realignment of such military installation.”.

(3) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c) of such section 2903 is amended—

(A) in paragraph (1), by striking “and March 1, 1995,” and inserting “March 1, 1995, March 14, 2003, and May 16, 2005.”;

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

“(4)(A) In making recommendations to the Commission under this subsection in any year after 1999, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

“(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan and final criteria otherwise applicable to such recommendations under this section.

“(C) The recommendations made by the Secretary under this subsection in any year after 1999 shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to an installation covered by such recommendations. The statement shall set forth the reasons for the result.”; and

(D) in paragraph (7), as so redesignated—

(i) in the first sentence, by striking “paragraph (5)(B)” and inserting “paragraph (6)(B)”;

(ii) in the second sentence, by striking “24 hours” and inserting “48 hours”.

(4) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of such section 2903 is amended—

(A) in paragraph (2)(A), by inserting “or by no later than July 7 in the case of recommendations in 2003, or no later than September 8 in the case of recommendations in 2005,” after “pursuant to subsection (c).”;

(B) in paragraph (4), by inserting “or after July 7 in the case of recommendations in 2003, or after September 8 in the case of recommendations in 2005,” after “under this subsection.”; and

(C) in paragraph (5)(B), by inserting “or by no later than June 7 in the case of such recommendations in 2003 and 2005,” after “such recommendations.”.

(5) REVIEW BY PRESIDENT.—Subsection (e) of such section 2903 is amended—

(A) in paragraph (1), by inserting “or by no later than July 22 in the case of recommendations in 2003, or no later than September 23 in the case of recommendations in 2005,” after “under subsection (d).”;

(B) in the second sentence of paragraph (3), by inserting “or by no later than August 18

in the case of 2003, or no later than October 20 in the case of 2005," after "the year concerned,"; and

(C) in paragraph (5), by inserting "or by September 3 in the case of recommendations in 2003, or November 7 in the case of recommendations in 2005," after "under this part,".

(c) CLOSURE AND REALIGNMENT OF INSTALLATIONS.—Section 2904(a) of that Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in each such report after 1999 only if privatization in place is a method of closure or realignment of the installation specified in the recommendation of the Commission in such report and is determined to be the most-cost effective method of implementation of the recommendation;".

(d) RELATIONSHIP TO OTHER BASE CLOSURE AUTHORITY.—Section 2909(a) of that Act is amended by striking "December 31, 1995," and inserting "December 31, 2005,".

(e) TECHNICAL AND CLARIFYING AMENDMENTS.—

(1) COMMENCEMENT OF PERIOD FOR NOTICE OF INTEREST IN PROPERTY FOR HOMELESS.—Section 2905(b)(7)(D)(ii)(I) of that Act is amended by striking "that date" and inserting "the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV)".

(2) OTHER CLARIFYING AMENDMENTS.—

(A) That Act is further amended by inserting "or realignment" after "closure" each place it appears in the following provisions:

- (i) Section 2905(b)(3).
- (ii) Section 2905(b)(5).
- (iii) Section 2905(b)(7)(B)(iv).
- (iv) Section 2905(b)(7)(N).
- (v) Section 2910(10)(B).

(B) That Act is further amended by inserting "or realigned" after "closed" each place it appears in the following provisions:

- (i) Section 2905(b)(3)(C)(ii).
- (ii) Section 2905(b)(3)(D).
- (iii) Section 2905(b)(3)(E).
- (iv) Section 2905(b)(4)(A).
- (v) Section 2905(b)(5)(A).
- (vi) Section 2910(9).
- (vii) Section 2910(10).

(C) Section 2905(e)(1)(B) of that Act is amended by inserting ", or realigned or to be realigned," after "closed or to be closed".

Mr. MCCAIN. Mr. President, the amendment I propose today is one which we have attempted on several occasions in the past. It authorizes two rounds of U.S. military installation realignments and closures to occur in the years 2003 and 2005—in other words, BRAC, or Base Realignment and Closure.

I am pleased to join Senators LEVIN, ROBB, VOINOVICH, REED, DEWINE, and WYDEN as cosponsors.

We have heard for the last several years of the severe problems that exist in the military. We addressed one of those problems, food stamps, earlier in the proceedings on this legislation. We have heard in the Senate Armed Services Committee repeated testimony of plunging readiness and modernization programs that are decades behind schedule and quality-of-life deficiencies so great that we can't retain or recruit quality personnel necessary

to defend this Nation's vital national security interests.

Statistics are sometimes numbing but sometimes interesting also. The Air Force will be 2,000 pilots short by the end of next year, the Navy SEALs are losing two-thirds of their officer corps, and the Army is struggling to retain its captains. In the last few weeks, there was a well publicized study conducted by the Army which shows an unprecedented exodus of Army officers at the rank of captain from the U.S. Army.

The consequences of losing the majority of your junior officers at that rank are indeed disturbing and even alarming. Equipment is falling in disrepair. The Marine Corps spends more time fixing broken equipment than it does training on it. And the Air Force is discovering that its F-16 fleet is only safe to fly for 75 percent of its original planned service life. The Army is in need of new engines for its entire M-1 tank fleet.

Modernization of our military equipment has all but ceased for the very large and risky programs such as the Joint Strike Fighter, Comanche helicopter, and excessively expensive ship and submarine programs of questionable design and questionable requirement.

There is no doubt that many of the woes of our military can be addressed in areas other than the budget, but more judicious use of the military by the national command authority and reduced operational tempo will help with personnel retention.

Any person in the military will tell you today that our military personnel, both active duty as well as Guard and Reserve forces, are being deployed all too frequently at the expense of their lifestyles, their family lives, and ultimately their desires to continue to serve the country in the uniform of the military.

Streamlined training and greater attention to exercise management will result in less strain on our service members and their equipment. But ultimately we must pay for the last 7 years of chronic underfunding of our military. Finding these dollars at a time when we must also carefully attend to the health of our Social Security system and other much needed social benefits will be absolutely difficult.

It is against this backdrop that we should acknowledge the absolute requirement to close unneeded military bases. The armed services is carrying the burden of managing and paying for an estimated 23-percent excess infrastructure costing at least \$3.6 billion a year. Let me point out again, Mr. President, keeping these bases open is not without significant cost. In fact, about \$3.6 billion every year could be saved when these unnecessary bases are ultimately closed.

By the year 2003, these costs will grow to a total of over \$25 billion. If Congress allows the military to

streamline its infrastructure, these costs can be realized as real savings that can be used to address the military's readiness shortfalls. Many have heard strong testimony supporting further BRAC rounds from the service chiefs, all the service Secretaries, and the Secretary of Defense. Potential savings are dramatic. The savings in 1 year alone would more than pay for the proposed personnel pay benefits—including health care, buy over 36 new F-22 strike fighters for the Air Force, fully fund our Nation's ballistic missile defense program, or pay for 75 percent of the next generation aircraft carriers.

Savings over the next 4 years are conservatively estimated to reach \$25 billion. The annual net savings from previous BRAC rounds have grown from \$3 billion in 1998 to \$5.6 billion to \$7 billion a year by 2001. That is an important statistic because so many of the opponents of a base-closing round argue that money is not only not saved but spent because of the cleanup costs that are associated with base closings.

There are two points to be made. One is that these cleanups, although lengthy and difficult sometimes, depending on the type of operations that took place on that military base, have now been completed to a large degree, and the money is being saved. As I mentioned, between \$5.6 to \$7 billion will be saved next year. Also, it should disturb us if these bases are not cleaned up anyway, whether they are open or closed. It is an expense that probably will continue to grow. To say that we shouldn't close bases because of the cleanup costs then, I guess, using a certain logic, would mean we would want areas that are hazardous to ourselves and our children's health to remain unaddressed.

These savings are, as I said, real. They are coming sooner and they are greater than anticipated.

The GAO recently noted that in most communities where bases were closed, incomes were actually rising faster and unemployment rates were lower than the national average. In my own home State of Arizona there was great wailing and gnashing of teeth as Williams Air Force Base appeared on the base-closing list several years ago. It is now called Williams Gateway Airport and it is generating sizably more revenue for the community and the State of Arizona than it was when it was a military installation. That is true at bases throughout the Nation.

There is a provision in this bill that allows for the no-cost transfer of property from the military to the community in areas affected by closures. This amendment authorizes two additional rounds of base closure in 2003 and 2005. The amendment is similar to that introduced last year except the rounds are 2003 and 2005 instead of 2001 and 2003. Why did we change the date from 2001, which would then obviously mean it would take action well into the next administration? Due to the justifiable mistrust, particularly on this side of

the aisle, about this President's nonpoliticization of the process. There are credible arguments that the last base-closing round, as far as Kelly Air Force Base in Texas and McClellan up in Sacramento, were politicized.

Last year, when Senator LEVIN and I and others brought this amendment up, the distinguished chairman of the committee said: There will be immediately "acting" in the bowels of the Pentagon to somehow politicize this process. I say to my friend from Virginia, the distinguished chairman of the committee, they won't be acting in the bowels of the Pentagon, at least until the year 2003, under this proposal.

So we are talking about an evolution that would not take place. The round would not take place for 3 years, 3 years from now, and then obviously those recommendations would not be implemented until beginning with the final determination of the base-closing commission and approval by the President and the Congress.

Additionally, under this proposed legislation, privatization in place would be permitted only when explicitly recommended by the Commission, which I hope would prevent a recurrence of the kind of machinations, whether legitimate or not, that were conducted by the present administration, which has caused so much skepticism about the results of the last Base Closure Commission.

Finally, the Secretary of Defense must consider the total cost the final base closure rounds have on the Government, not just cost or savings to the Department of Defense. We can continue to maintain a military infrastructure that we don't need or we can provide the necessary funds to ensure our military can fight and win future wars. Our men and women are deployed and continuing to train and prepare for upcoming deployments, many to active combat regions. They are undermined, increasingly short on critical weapon systems, and are struggling to overcome a multitude of readiness deficiencies.

Recently, one of the Army divisions was declared in the lowest category of readiness. It struck home to a lot of us in this body who happen to still revere the great and wonderful Senator from Kansas, Mr. Dole, who was our majority leader, who served and sacrificed in the famous 10th Mountain Division. He, among others, was surprised when a division with that glorious and wonderful history was declared, for all intents and purposes, unfit to be deployed into a combat situation.

The cost associated with maintaining excess infrastructure represents real money that is not available for essential programs and for alleviating real defense programs.

Earlier this year, the Armed Services Committee met to discuss the need to add critical funds to the defense account for much needed modernization projects. I was amazed that although there were arguments for the need for

increased defense spending, no one could see that critical defense reforms such as further BRAC rounds were required. These rounds could provide long-term funding for modernization and readiness programs without risking other key programs.

We must finish the job we started by authorizing a new round of base closures. I urge my colleagues to join in support of this amendment and work diligently to put aside politics for what is clearly in the best interests of our military forces in our Nation.

We had kind of an unusual occurrence last year in that the Joint Chiefs of Staff, in what was deemed by most observers as a rather unusual move, they testified before the Senate Armed Services Committee that they had significant shortfalls in funding.

The committee asked for detailed responses as to what were those shortfalls in funding. The Army came up with some \$5.5 billion in unfunded requirements they thought were necessary. This comes from the uniformed heads of the services. The Army needed \$5.5 billion for programs ranging from Longbow Apache to night vision goggles, to UH-60 Blackhawk procurement. The list is very detailed and very long: The Navy needed about \$5.8 billion; the Marine Corps needed \$1.6 billion; the Air Force needed \$3.5 billion; the Special Operations Command needed \$260 million; the Army National Guard needed \$800 million; and the Air National Guard came in with a requirement for \$2.4 billion.

We are taking strides to improve funding for our military. But when you add all of this up, it comes to a very significant amount of money, about \$20 billion, that the military chiefs have submitted in written testimony to the Congress as to the needs of the individual services.

I have to be sort of candid. I am not sure we are going to come up with \$20 billion that the services need. We are increasing funding, and that is the first time in some years. But I do not see that in the realm of this \$20 billion, when you look at the additional costs which are already basically there without us being able to do anything about it—first, the funding for the new fighter aircraft, funding for the additional ships, planes, tanks, et cetera, that will be necessary to replace existing aging equipment and modernize our armed forces.

So here is \$20 billion the chiefs say they need. I do not see a huge increase of that size, frankly, in the future, as far as the Congress is concerned, nor, at least under this administration, do I see that sizable additional request.

Obviously, as I pointed out earlier, it would be a savings of some \$25 billion over a period of the next 4 years. The savings are conservatively estimated to reach about \$25 billion. I do not want to have any of my colleagues be misled. That would be the case if we had a base-closing commission that declared its decisions today. But if the

base-closing commission, in the year 2003, made its decisions, we could save over the following 4 years some \$25 billion. I want to make it clear.

Yes, there will be initial costs for cleanup of these bases. That is a sad fact—and at that time an unexpected—experience that we had. But I also argue, with the perspective of time, we have found there is now, as a result of the earlier base closings, annual net savings which are growing from \$3 billion in 1998 to \$5.7 to \$7 billion per year by next year.

I would be distressed if Yuma Marine Corps Air Station in Yuma were on the base-closing list. I would be distressed if Luke Air Force Base in Phoenix were on the base-closing list. I would be distressed if Davis Mountain Air Force Base in Tucson were on the base-closing list. I see my friend from Nevada here, one of the cosponsors of this amendment. I am sure he would be deeply distressed if Nellis Air Force Base in Reno were on the base-closing list. There is not, I believe, a Senator or very few Senators who would not feel the impact of a base-closing commission.

But I challenge the opponents of this amendment to find me one—I say one—credible military expert who resides outside of the Congress of the United States who will not say that we need to have a base-closing commission to decide on the elimination of unneeded infrastructure in the reform of bases that the military does not need.

I ask any of us to pick up the phone and call up Gen. Colin Powell; call up Gen. Norman Schwarzkopf; call up Cap Weinberger; call up Dick Cheney; call up Zbigniew Brzezinski; Call up anyone, anyone today, who is a person who has credentials as far as military readiness is concerned, and I think you would be hard pressed to find anything but the overwhelming majority—perhaps not totally but the overwhelming majority of opinion on this issue by credible military experts is that we have excess infrastructure in the form of too many bases which we do not need and which should be closed in order to use those funds for badly needed military requirements.

I apologize to this body, to keep going back to the plight of the service men and women in the military today. But we do have service men and women in the military on food stamps. We do have service men and women in the military in my own State residing in barracks that were built during World War II. We do have service men and women in the Marine Corps who are, for example, retreading military vehicle tires so they can get additional money in order to have ammunition with which to practice.

The stories go on and on.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. MCCAIN. I will be glad to yield to the distinguished chairman at any time, including now.

Mr. WARNER. At an appropriate time.

Mr. MCCAIN. Please go ahead.

Mr. WARNER. Since he and I joined together several years ago on a piece of legislation to initiate the BRAC process—you remember that, and I will not go into the chronology—I share with the Senator appreciation of the need for an assessment of our base structure. That should be made in the context of the demands of the armed services. There is no one—you just had an amendment that succeeded overwhelmingly in the Senate on food stamps. You begin to address these problems. I commend my old friend and colleague.

This comes to my mind. There is no one who is a stronger fighter for the prerogatives of the President of the United States. You fought hard here recently on an amendment which I had with Senator BYRD. I think you took the line we could be strapping the President of the United States.

Factually speaking, with no criticism towards President Clinton, there will be an election in this country and a new President elected in a few months. He will take office. Should we not accord him the courtesy to address this question, address it in the context of the needs that you have stated, address it in the context of a QDR, his own analysis of the military structure of the United States? Address it in the context of what his direction will likely be with respect to the Armed Forces of the United States?

My colleague, above all, and I are strong supporters of one particular candidate. He has spoken out very forcefully on the need to further strengthen our military. I think if we were to start the process now, it could in some ways impede or indeed thwart the next President's, what I consider, complete freedom to look at this issue.

My colleague was right. He was talking about the \$20 billion this could possibly generate. He was correct in assessing the needs of the Chairman of the Joint Chiefs of Staff and others. Just moments ago we missed by a few votes a \$90 billion program for retirement, which was tough for those who had to go against it, but we had to resist that.

I am suggesting: What is the reason we should start now versus just allow the next President to frame this legislation in terms of his own needs and aspirations?

Mr. MCCAIN. Again, I thank the chairman for his leadership and the courage he has displayed on a number of occasions on a number of issues.

First, I respond to my friend from a practical standpoint. This amendment authorizes a base-closing commission. The President of the United States does not have to appoint the Commissioners and the President of the United States can reject the findings of the Commission. So I do not believe we are forcing the next President of the United States in that respect.

My second point is, it is well known the advisers, at least to the party on this side of the aisle, to the person we

believe will be the next President of the United States—George Shultz, Brent Scowcroft, Condoleezza Rice, Colin Powell, Robert Zoellick—

Mr. WARNER. And I suggest yourself.

Mr. MCCAIN. Addressing every one of those individuals, if the chairman and I picked up the telephone and said, "Do you think we should have a base-closing commission?" they would say yes. They would say yes.

I argue, even though I understand and appreciate and sympathize with the position of our nominee for President of the United States not to interfere too much with what goes on in the Congress, I believe he would be very supportive as well.

On the other side of the aisle, if it should occur that the nominee from the other side of the aisle were elected President of the United States, the fact is very well known the Vice President of the United States supports a base-closing commission as well and has voted on this floor for the appointment of a base-closing commission.

By the way, I want the Record to be very clear that I have the greatest respect and friendship for the Vice President of the United States.

It is the decision of the people of this country who will be the next President of the United States. I had respect for the Vice President and his involvement in military issues when he and I served together, as we did, in the Senate.

Mr. WARNER. Mr. President, he served on our committee with the Vice President.

Mr. MCCAIN. The Vice President of the United States, who is the nominee of the other party on the other side of the aisle, is also supportive of and would support a base-closing commission. I believe whoever will be President of the United States supports at this time authorizing further base-closing commissions. I believe the advisers to both individuals also support a base-closing commission, and if that commission were authorized, it still would not require the next President of the United States to act even in the appointment of commissioners, much less accepting the recommendations of that commission. I yield to the Senator from Virginia, if he has any additional comments.

Mr. WARNER. No, I think Senator MCCAIN answered my question. We both made our points. Mr. President, the time that I consumed will be chargeable to those in opposition to the McCain amendment. I shall eventually vote in opposition to the McCain-Levin amendment.

Mr. MCCAIN. Mr. President, I simply conclude by saying I hope we can authorize this. It is important, not only because of the money we save which is critical for defense, but we as a body should understand that it does not enhance our reputation about our concerns about the needs of the military when we refuse to take what is a very logical step, and that is to approve a

base closure commission which would make recommendations which could be either accepted or rejected by the President of the United States and rejected by this body if this body, in its wisdom, decided those recommendations were invalid.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, will the Senator from Arizona yield me 10 minutes?

Mr. MCCAIN. Mr. President, I yield to the Senator from Michigan whatever time he uses.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, once again, it is necessary for Senator MCCAIN and I and a number of colleagues he has specified to make an effort to authorize an additional two rounds of base closings. On this issue, the Congress simply can run but it cannot hide.

Every time we speak about the need for additional resources, be it for health care in the military for retirees or active duty people, whether it is for modern equipment, whether it is for a reasonable, decent cost-of-living allowance or a pay increase for our active duty people, whatever it is we talk about as being needed in our military, it seems to me to be a little bit hollow if we are not willing to make the savings that clearly are essential and can be made and are requested by our uniform military to help pay for those additional expenditures. We can run but we simply cannot hide from our responsibilities in this area.

The amendment would implement the recommendation of the Quadrennial Defense Review. We have heard a lot about Quadrennial Defense Review today and how important it is that review take place, and it is important. The recommendation of the Quadrennial Defense Review was that we have additional rounds of base closings. The National Defense Panel recommended additional rounds of base closings. The Joint Chiefs of Staff have recommended additional rounds of base closings. The Secretary of Defense has made the same recommendation.

The way to respond to the need for resources for our military is to eliminate the expenditures which are not essential.

This amendment would authorize two base-closure rounds: one in 2003 and one in 2005. The first round would take place well into the next administration. The second round would take place in the administration after that.

The amendment Senator MCCAIN and I and others are offering would follow the base-closure process that was used previously in 1991, 1993, and 1995, with three main exceptions: First, because 2005—which is the second round under this amendment—will be the first year of a new administration, the schedule in 2005, which again would be the second round, would start and end about 2

months behind the schedule that would be used in 2003. The 2003 schedule would basically mirror the 1995 schedule, except that it would start and end about 2 weeks later than in 1995. We include a 2-month slip in the timetable of the whole process in 2005 to allow a new administration time to decide whether they want to have a base-closure process and to make its appointments to the commission.

As our friend from Arizona pointed out, this process we would authorize is simply that—we authorize the process. The President would decide whether or not to trigger the process by the appointments of the members of the base-closing commission and then would have a fail-safe mechanism to reject the recommendations of the commission.

The second exception to the general rules that were followed in the last rounds' process is this amendment also includes the language to address the problem of privatization in place for future BRAC rounds. It would allow the Secretary of Defense to privatize in place the workload of a closing military installation only when it is specifically recommended by the Base Closure Commission. That would address the issue which has been raised about the previous round when some thought that round was politicized when there was privatization in place, which was allowed. This cures that problem by saying no privatization in place unless the Base Closure Commission itself specifically recommends that course of action.

The third main difference between this and the previous rounds is that this amendment specifies we look at the costs and savings not just of the one agency but total costs and savings to the Federal Government. That is important so that we do not simply save money in one Federal Government pocket but cost money in another Federal Government pocket; that we look at the costs and the savings to the entire Government from a proposed closing when these recommendations are made and not just to the Department of Defense.

In 1997, the Congress mandated there be a report on base closures. Secretary Cohen, in compliance with that, issued a report in April of 1998. That report, which we insisted on, contains a convincing analysis of 1,800 pages of detailed backup material. It is responsive to those who said last year that we needed a thorough analysis before we could reach a decision on the need for more base closures.

What that report reaffirms is that the Department of Defense simply has more bases than it needs. Since 1989, we have reduced the total active duty military end strength by one-third, but even after four base-closure rounds, DOD's base structure in the United States has been reduced by only 21 percent. We have a disconnect. We have too much structure. There are too many bases and facilities which are op-

erating which we can no longer afford to operate and which must be consolidated.

Each of us in States that have faced those closures understand the short-term pain involved. We have lost all of our Strategic Air Command bases in Michigan. We understand what is needed in the aftermath to cushion the impact of those so-called realignments, which were closures, of our three SAC bases, but we succeeded. We are on our way back in all three areas.

The Department of Defense is telling us they have 23-percent excess capacity in current base structure. It seems to me we cannot hold our heads up and talk about the need of additional resources for the Department of Defense if we are not willing to close or at least put a process in motion which would fairly recommend the closure of some of this 23-percent excess capacity which the Department of Defense analysis says we have.

Mr. President, in relation to the excess capacity we have in our defense structure, the Department of Defense analysis concludes that we have 23 percent excess capacity in its current base structure. Just a few examples now of that excess capacity which I think are indefensible, again, particularly for those who are urging additional resources in the defense budget.

How do we justify the Army having reduced classroom training personnel by 43 percent while classroom space is only reduced by 7 percent? What we are doing by not allowing additional rounds of BRAC is telling the Army: You have to maintain all that classroom space even though you have no personnel to run it. So the classroom training personnel is reduced 43 percent; classroom space is only 7 percent reduced.

The Navy will have 33 percent more hangars for aircraft than it requires. We are telling the Navy—unless we allow these additional rounds of BRAC—you have to maintain those extra hangars even though you do not have the aircraft or the need for it.

The Air Force has reduced the number of fighters and other aircraft by 53 percent since 1989, while the base structure for those aircraft is 35 percent smaller. So they have to keep 18 percent more base structure than they need because we have been unable to show the political will to allow the military to do what they are pleading with us to allow them to do.

The chiefs come over here, the Secretary of Defense comes over here, year after year, and they say: We need additional rounds of base closures. So far, for the last few years at least, since the last round, we have been unwilling to show that political will to make those savings possible.

The report of Secretary Cohen has demonstrated some significant savings. People say: What about the savings? Can you really demonstrate savings? First of all, it seems to me, there is a commonsense demonstration that if

you have four stores and you are making a profit in three, you are going to close one of those stores.

So many of us always tell the Defense Department they ought to emulate the private sector more, to act a little bit more as a business, be a little bit more businesslike, to show some savings in order to make it possible for us to fund some other things needed in the defense budget.

The Department of Defense estimates—these are not ours, these are the Department of Defense estimates—that BRAC, so far, has saved us \$14.5 billion net. After 2001, when all of the four BRAC actions must be completed, what we call steady state savings, the savings will be \$5.7 billion per year. Those are not our estimates; those are the Department of Defense estimates: \$5.7 billion every year saved, starting after 2001, as a result of the four rounds we have had so far.

The CBO and the GAO reviewed the Department of Defense report. So our Budget Office and our General Accounting Office reviewed that report, and they agreed that base closure saves substantial amounts of money.

Based on the savings from the first four BRAC rounds, every year that we delay another base closure round, we deny the Defense Department, the taxpayers, and our Nation's defense about \$1.5 billion in annual savings we can never recoup.

Again, I know base closings can be painful. I know that probably as well as anybody because all three SAC bases, as I said, in my home State have been closed, and we are still working hard to overcome the economic blow to those communities. But we are working successfully. There is no question that the BRAC process is the fairest, most open, most objective way to close bases. Without it, we are not going to close bases. That is what history has shown.

Furthermore, in last year's bill we took steps to make the conveyance of BRAC property even easier for local communities. We have taken care of the objectionable part which surfaced last time when there was privatization in place which many thought had not been provided for by the Base Closure Commission but which the administration nonetheless allowed. We have cured that in this bill by saying the next Base Closure Commission must specifically authorize privatization in place for a closed facility or else it cannot occur.

Our forces need quality training. They need precision weapons. They do not need extra military bases. We just simply have higher priorities for our defense dollars than funding bases we no longer need.

As the Senator from Arizona said, we have paid a lot of attention, and should pay a lot of attention, to the chiefs' unfunded requirement lists. We should give, and do give, great weight to them. The Senator from Arizona listed the shortfalls the chiefs listed, totaling approximately \$20 billion.

There are a number of ways to fund those unfunded requirements. One is to use some of the surplus we have worked so hard to achieve by just simply adding to the budget for the Defense Department, to the so-called top line. But we are not limited to that approach, and it is a difficult approach.

Whether or not we pay down the national debt, whether or not we protect Medicare, whether or not we have a tax cut, or whether or not we spend some of that on education, there are very important competing interests for the surplus. We don't have to simply say: We will use the surplus and add money to the defense budget. We can find savings and reapply those savings to higher priorities. That is what past BRAC rounds are already doing for us, and that is what the BRAC rounds in this amendment will do for us in the future, if we are willing to do what the Secretary is asking us to do, not for himself but for his successors and, more importantly, for the men and women who will be serving under his successors.

Secretary Cohen said recently that his biggest disappointment as Secretary has been that the Department of Defense still has too much overhead and he has not been able to persuade his former colleagues, meaning us, to do what needs to be done to have more base closures. We all know Secretary Cohen. He was a colleague of most of us. I think every one of us trusted his judgment. We all know that BRAC affected him and his State when he served in this body, so this is not a request Secretary Cohen makes lightly. He knows what he is talking about and what he is asking of us.

We can't have it both ways. We can't say we want additional billions for health care, which we said today with the Warner amendment. We can't say we want additional billions for disability compensation, which was provided for in Senator REID's amendment. We can't talk about an additional pay raise for the military and all the other things we rightfully talk about and are concerned about and at the same time we maintain in place unneeded bases and structure. It is inconsistent. We can't have it both ways. It is an issue of political will and overcoming back-home concerns, understandable concerns but nonetheless overcoming those concerns to meet our long-term security needs.

Are we willing to do the necessary thing, the right thing to avoid the wasteful spending which is inherent when we maintain base structure we don't need, when we have reduced the size of our force by a third but our base structure by only 20 percent, and when we have classrooms and hangars that are no longer needed, a hundred other things that are no longer needed, because we don't have the political will to put in place an outside base-closing commission whose recommendations can be totally rejected if they are unfair by either the President or by us?

That is a reasonable amount of political will for which to ask in order to achieve the billions of dollars of savings that will be achieved by additional rounds of base closings.

I yield the floor and thank the Chair. The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Virginia.

Mr. WARNER. Mr. President, we now have a unanimous consent request. Piece by piece we are working and succeeding in putting forth UC requests to keep this bill moving forward.

I ask unanimous consent that at 3 p.m. on Thursday, June 8, the Senate temporarily lay aside any pending amendments and Senator DASCHLE and/or his designee be recognized to offer his amendment re: HMO, and that there be 2 hours, equally divided, prior to the vote in relation to the amendment, with no second-degree amendments in order prior to the vote.

I further ask consent that during today's or tomorrow's session, Senator INHOFE be recognized for up to 10 minutes and Senator SNOWE be recognized for up to 30 minutes, each for general debate on the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. Mr. President, I urge all Senators—we are trying to move towards a 6 o'clock deadline tonight with respect to first-degree amendments. We are making considerable progress on both sides.

Mr. REID. Mr. President, I say to the manager of the bill, I have been working with our manager. We are working very hard to come up with a finite number of amendments. It is as the Senator indicated. The average number of amendments on this bill is about 111, and 5 and a half or 6 days on the bill. We would certainly hope to beat that record. But at the present time we are trying to get a list of amendments. We hope to have that sometime later tonight or the first thing in the morning.

Mr. WARNER. Let's continue to work toward 6 o'clock tonight. I think it is important we do so. So many Senators have plans, and we want to accommodate them.

Mr. REID. We will do our best.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, on behalf of the manager, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. LEVIN. Mr. President, I ask unanimous consent that the time which is utilized by the Senator from Oklahoma come from the side of the opponents of this amendment.

The PRESIDING OFFICER. That is the understanding. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I wouldn't want anything I say to be misinterpreted by anyone as to how I am going to be voting on the defense authorization bill under consideration.

I am going to strongly support it, although it is strongly inadequate for the needs we are faced with right now. I am realistic enough to know that when we get into a rebuilding program, that is going to have to happen under a different administration than the administration we have had over the last 7½ years.

I was elected to the House of Representatives in 1986; my first term was 1987. It happened that a very smart young Congressman from Texas named Dick Armey made the decision that we were going to have to do something about excess infrastructure and devised a way, this smart guy who got his Ph.D. from the University of Oklahoma, to take politics out of the base realignment and closing process. I strongly supported him.

The first round voted on, I believe, in 1987, to be implemented in 1989, about which I spoke on the floor of the House and supported, was one that I felt this country did need. So for the first two of the four rounds we have already had, it was cherry-picking time. Yes, we closed bases and installations that resulted in a tremendous savings, and it was good.

The third and the fourth rounds didn't work out that way. We have to keep in mind that it had always been virtually impossible politically to close installations because of the politics involved. There are always Members of the House and Senate who don't want anything closed in their States. Consequently, this system that was devised, this BRAC process, was to take politics out. Everyone agreed, even though they didn't like the results, that there had to be a process free from politics to do that. It worked out for the first four rounds.

The last round that came through in 1995 was one where, among other things, the BRAC committee evaluated the air logistics centers. There are five of them in the United States, and each one was operating at that time at 50-percent capacity. Any logical business conclusion would demand that we close two of them and transfer the workload to the remaining three. I heard the distinguished Senator from Michigan talk about the process, about the fact that privatization in place is something that would be precluded in the next BRAC round, if he is successful in getting that authorized. I suggest that if somebody in the White House wants to violate the integrity of this process, it is not only privatization in place that will happen. He can find out some other way of doing it.

We are going to have, it now appears, one of two people as the next President of the United States. It will either be Vice President AL GORE or George W. Bush. In the case of Vice President GORE, let's remember what happened in the 1995 round. They made the recommendation to close two and transfer the workloads of the remaining three. They evaluated all five air logistics centers and determined that the two

least efficient ones were at McClellan Air Force Base in California and Kelly Air Force Base in Texas.

That being right before the election and both being in vote-rich swing States, the President and the Vice President went to McClellan and then to Kelly and said: Don't worry; even though they said that we are going to close your bases, we are not going to let that happen. We are going to—and just out of the air he grabbed a phrase—"privatize in place." Well, that made it very clear that if you really want to figure out a way to politicize the system, you can do it.

Who was it at that time who made the announcement out at McClellan in California and at Kelly in Texas? It wasn't President Clinton. It was Vice President AL GORE. I said when I began that one of those two individuals, GORE or Bush, is going to be the next President. I will fight to the bitter end, until at least the time we know who the next President is going to be, before I will vote to authorize future BRAC rounds in that one of the candidates, Vice President AL GORE, has already demonstrated that he will induce politics back into a system that is supposed to be free of politics. I think that has to be considered.

The second issue is, in this rebuilding process, I believe that if the next President of the United States is George W. Bush, having had personal conversations with him, he recognizes that we are in the same hollow force situation we were in in 1980 when Ronald Reagan became President and had to start a massive rebuilding program.

What is a massive rebuilding program today? The Joint Chiefs have all said, in testimony before our committee, with Senator LEVIN and myself present, that we need to have an additional \$140 billion over the next 6 years to reach the minimum expectations of the American people. What are the minimum expectations of the American people? It is to defend America on two regional fronts. This has been a concept most Americans think we can do today, and we cannot do that simultaneously.

So if we start this rebuilding process and it is going to be as significant as we think it is going to be, then we need to be looking at what our infrastructure needs will be then, not what they are today. If we have artificially lowered our force strength in this country to an artificially low level, we don't want to bring our infrastructure down to the same level because when we start to rebuild, we don't know what our infrastructure needs will be.

That is the whole point. We will know with the new administration, and we will be able to project in the future what that is going to be. The argument is used that we can't have it both ways and we need to have more money. That is true. I think we need to have a lot more money than we have right now. In fact, we have testimony from the service chiefs that, even with the budg-

et we have today, we are still inadequate to the degree of about \$11 billion-plus a year in order to start the rebuilding process and get to the point we just described.

Why would we be in a hurry to do this? When they talk about the fact that we are going to have savings, we know those savings aren't even going to take place in the best scenarios until, at the earliest, 2008. In fact, I will read out of a March 2, 2000, news article that quotes Bill Cohen. He said it will be somewhere between 2008 to 2015.

Now that is beyond the point, hopefully, that we have a crisis in this country. Our crisis is here today. There are a lot of people who would like to believe there is not a threat out there because the cold war is over. I look wistfully back to the days of the Cold War. At least we knew who the opposition was. We had two superpowers, and we had good intelligence on both sides. We knew what they had, and they knew what we had. We were able to address it. Today, we have all these rogue nations that all have weapons of mass destruction. We have countries that possess missiles that will reach to the United States of America, China, Russia, North Korea, and maybe others—warheads that could blow us up.

I come from Oklahoma, and I think most of the people realize it was just 5 years ago in April that we had the most devastating domestic terrorist attack in the history of America. It happened in Oklahoma. When you saw the pictures of that Murrah Federal Office Building, you saw parts of bodies that were stuck to the wall in that flaming building and the absolute devastation, and you stopped to realize that the smallest nuclear warhead known to man today is 1,000 times that powerful.

So here we are vulnerable, with no defense system at all on an incoming missile. Secondly, we are at one-half the force strength in 1991 during the Persian Gulf war. We have one-half of the Army divisions, one-half of the tactical air wings, one-half of the ships floating out there. Our force strength is down. At the same time, under this administration, we have had more deployments in the last 7 years than we had in the previous 40 years collectively. They have been in areas where we don't have national security interests. So we are taking these rare assets we have, and we are putting them into places such as Kosovo and Bosnia, where we should not have gone in the first place.

So facing that 1980 dilemma our rebuilding is going to have to start immediately for national security reasons. I would like to think that by 2008 we would be back where we were in 1986 after the rebuilding. I have no way of knowing that for sure, but let's hope that is the case.

Anyway, while the Senator from Arizona said it is not at all sure, he said, to be perfectly candid, that we are going to be able to save \$20 billion over

that period of time. There is one thing I suggest we are sure of, which is that the cost over the next 5 years is going to be \$2.6 billion. That means it is going to be negative during this time that we have to start the rebuilding process. Things, right now, are in a much more deplorable condition than America wants to believe.

As chairman of the Readiness Subcommittee of the Armed Services Committee, I have had occasion to go to all the military installations around the world, and I don't like what I see. We have RPMs, real property maintenance accounts, that are supposed to be done immediately, taken care of, and they are not doing it. We have barracks in Fort Bragg where when it rains—and I was there when it rained—the roof has been leaking now for years. They are unable to fix that because they don't have the money to do it. Our troops are actually lying down over their equipment to keep it from rusting. It is a crisis.

You can go to the 21st TACOM over in Germany and look at our M-915 trucks. Many of them have over a million miles on them. They are spending as much in maintenance on each one over the next 3 years as it would take to buy a brand new truck. It is a crisis that we don't have the money to buy new trucks when we need them. It is not feasible to do it that way, but that is our only choice.

We don't have spare parts for airplanes. The cannibalized rate is higher than ever before. That means they bring in a crated F-100 engine to be put into an F-16, and in order to keep the F-16 there running with a fairly recent engine, they have to rob parts from this. It is highly labor intensive. Consequently, we are having a problem in retention that is not only with pilots, which is an all time low, but also the mechanics putting those parts in.

Our pilot retention in the Navy right now is below 20 percent. It costs between \$6 million and \$9 million to train each one of them. Yet over 80 percent of them are leaving and not taking the second full tour of duty. The mechanics fixing the planes are leaving, too. I have talked to these people, and they say this country has lost its sense of mission. It is not keeping its strength. We can't buy bullets for guns. Talk to the Air Force people who go out to the red flag exercises at Nellis in the desert. They have cut them down so they don't believe they are getting the necessary training to be combat ready and to compete.

Look at our modernization program. Now we have been cutting back on the Crusader Program, which the Army believes is the crown jewel—that thing we have to have for our launching capability on the ground. Look at our modernization program in airplanes. I was never more proud of a four-star general than I was the other day when he stood up and said America needs to know that the Russians now have the SU-34, an air-to-air, air combat vehicle

that is better than anything we have, including the F-15.

The average American would say we are fine and we have the very best of equipment. We used to, but we don't now. Look at the ranges we have now. We are faced with an issue of having to close—temporarily, I hope—the firing range on Vieques. That is going to have a dramatic effect on which installations to keep open. We won't have any place to have live fire training. We will lose such ranges as Cape Wrath in Scotland, Capo Teulada in southern Sardinia. Why? Because there is no justification to allow us to fire our artillery if we are not willing to do it on our own lands.

All of these things form a crisis. When I said I look back wistfully at the days of the cold war, it isn't just me. I was redeemed the other day at our subcommittee meeting when we had George Tenet, the Director of Central Intelligence, there. This happened to be telecast live on C-SPAN. I said:

Right now, we are in the most threatened position that we have been in as a Nation in the history of this country since the Revolutionary War. Would you respond to that?

He said:

Absolutely correct. We are in the most threatened position.

It is because of the combined reasons of deployments, force strength and, of course, not having the national missile defense systems. All those will be elements of rebuilding. Who knows what our needs are going to be when we start this rebuilding. I hope the next President will be a Republican, and that we will be in a position to rebuild our defense system. When that happens, we don't know what the elements of that system are going to be.

Lastly—and I don't want to overdo the time here—we are asked this question by the distinguished Senator from Arizona: I challenge my colleagues to name any military expert who says we should not have another BRAC round.

You can name a lot of them.

The Assistant Secretary of Defense under Ronald Reagan said in an article in the *Washington Post* on May 14, 1998, when we were having the same debate, that Secretary of Defense William S. Cohen is correct when he says that the Department of Defense needs the support of Congress to have a cost-effective national defense. But the Secretary is blaming Congress for problems that are not of its making. More importantly, Cohen is ignoring the administration's own complicity in creating funding difficulties for defense and vastly is exaggerating the potential problems that could occur if Congress fails to heed his advice. Cohen wants Congress to authorize two new rounds of base closures to free up an additional \$3 billion a year for buying badly needed new weapons. But what Cohen has not stated is that these savings would not begin until a decade from now.

I think that is the significant thing. These savings would set in after a pe-

riod of time that we would be going through this rebuilding process.

I hold him up as one expert who says we should not do a round at this time.

Another is the Commandant of the Marine Corps, Gen. Jim Jones, who said that he knew of no Marine installation he would recommend for closure. He said: We cannot give it away or we will never get it back.

I don't think anyone is going to say that Gen. Jim Jones is not a military expert. He has one of the most distinguished careers of any of them.

Adm. Jay L. Johnson, the CNO, said his view was "not far" from that of Jones. He said he is concerned about permanently losing training ranges, air space, and access to the sea.

The Chief of the Army, General Shinseki, said he would support some closures in the future but said that the Army needs to decide what its future force level is going to be before it can judge base consolidation with certainty.

We have three of the four chiefs of our services saying if we are going to do it we should wait and do it after we determine what our force strength should be in the future and not do it before that time.

For the combination of those reasons, there is certainly no rush to do it and do it in this bill. Certainly I would be willing to talk about this after the next administration comes in. It wouldn't make any difference anyway because the first round wouldn't be until 2003.

I think Dick Armey did a wonderful job back in 1987. I think it served a very useful purpose—particularly the first three BRAC rounds that we were able to accomplish. They saved a lot of money. We are now enjoying some of the savings. However, the amounts that we saved have far exceeded what we lost by the cleanup costs. I don't think those estimates would be any more accurate if we were to go through two new rounds.

Keep in mind that every succeeding round is going to yield fewer benefits than the round before. I certainly think the Senator from Rhode Island, with his background and experience, knows that if you are going to start a closing process, you pick off the cherries to start with and accumulate those savings.

I conclude by saying that we need to look at them in the next administration after we find out what our force strength is going to be, and after we find out what degree of rebuilding we will have to undergo in order to protect America and meet the minimum expectations of the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I seek to be recognized under the time of Senator McCain.

Mr. LEVIN. Mr. President, I am authorized to yield the Senator from Rhode Island whatever time he may need.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

Mr. President, I rise in support of this amendment to authorize two rounds of base closings in the years 2003 and 2005. I commend particularly Senator McCain and Senator Levin, the prime sponsors of this legislation.

We all realize that base closing is a very sensitive issue because it affects dramatically all of the communities that have military installations. My home State, as some States, has not been immune to base closings. We had a significant presence of the Navy in Narragansett Bay. That presence has been diminished over the last several years. But we still have a strong and vibrant naval presence in the form of the Naval War College, and the Naval Undersea Warfare Laboratory. All of these contribute significantly not only to our national defense but to our economy in Rhode Island.

We approach this understanding that it is a very sensitive issue. But it is an issue that we must address. It is an issue that requires determination at this point so we can, indeed, free up the resources that are necessary for the modernization of our services.

The reality is quite compelling that we have excess capacity in our military establishment in terms of infrastructure. We have reduced the force structure by 36 percent since 1989. Yet we only managed to reduce the infrastructure—the buildings and the facilities—by 21 percent. This mismatch is obvious. This mismatch causes us to continue to spend in maintenance and operational expenses hundreds of millions of dollars a year minimally for facilities that we don't need. As a result, I think we have to recognize that we should authorize another round of base closings. The Department of Defense estimates they are maintaining 23 percent of excess infrastructure which is sapping resources that they could use for a host of critical needs—modernization, training, and quality of life for servicemen and servicewomen throughout our military.

Indeed, we hear so often that one of the persistent complaints is that Government should be as business; that Government should be run as efficiently as business. No business would suggest that it reduce its personnel dramatically and not make comparable reductions in the infrastructure and the facilities that have been in place for more than 50 years, in many cases.

We still have the residue of the World War II buildup. There were so many posts put up because we had to at that point train millions of soldiers, sailors, airmen, and coastguardsmen to staff an Army that was many, many times larger than it is today and a Navy that was comparably larger. Yet those facilities are still on our rolls because we had been unable to effectively initiate base-closing rounds after our first few rounds.

We know that the base-closing process yields savings. It has been estimated by the Department of Defense that past closures will produce net savings of about \$14 billion by the end of the fiscal year 2001, and they estimate annual savings thereafter will be about \$5.7 billion. This is the result of decisions we already made, base-closing rounds that have already taken place, and the bases that have already been closed. That is a lot of money, particularly as we all are concerned about additional resources for defense.

Another way to look at that is to consider how much more difficult it would be to buy new platforms, to provide pay increases, and to enhance the quality of life through improved houses and through improved health care if we were still maintaining and spending billions of dollars on these facilities that have been closed.

The Department of Defense estimates that two additional rounds of base closings would generate annual savings of about \$23 billion after they are implemented. Again, those are significant resources that can be used for programs that we consider to be critical to the defense of the Nation and the well-being of our men and women in uniform.

Both the Congressional Budget Office and the GAO agree that the Department of Defense continues to maintain excess capacity and that base closings will result in substantial savings. These are objective analyses of the current situation with respect to bases in our country.

The argument has been made that, well, we go out and we close these bases, and all of the savings are just eaten up by environmental remediation. I remind everyone that the requirement to remediate the environment is not a function of closing the bases. It is an ongoing responsibility of the Department of Defense. It is mandated regardless of whether a base remains open or closed. It is part of our lore.

The Defense Department, as every other Federal entity and private entity, has responsibilities to restore degraded environment.

What happens in a base closing is, as part of the process not only to close the base but also to make the base useful for civilian pursuits and community economic development, this environmental cleanup is accelerated. One could argue that accelerated environmental cleanup simply discharges a duty that already exists and also, importantly, makes these facilities much more amenable to economic development and private benefit for the local communities, which is a plus, not a minus.

The issue before the Senate should be addressed, as we so often address it, in the context of advice we have received from individuals charged with the administration of our military policy. The Secretary of Defense, the service secretaries, and many others have com-

mented upon the desirability of the additional base closing rounds. In his testimony before the Armed Services Committee on February 8 of this year, General Shelton, Chairman of the Joint Chiefs stated: We continue to have excess infrastructure, and any funds applied toward maintaining unneeded facilities diminish our capacity to redirect those funds towards higher priority modernization programs.

At the same hearing, Secretary of Defense Cohen requested funding to implement two more BRAC rounds, so that: scarce defense dollars will not continue to be spent on excess infrastructure; rather, on the vital needs of our Armed Forces.

Some of my colleagues argue that the base-closing process is appropriate, the need is there, but the base-closing process in 1994 was politically tainted; that politics and not sound defense policy dictated what would stay open, what would be closed, and the schedule for closures.

This amendment clearly obviates the potential for that by declaring that the base-closing rounds will take place in the year 2003 and in 2005. There will be a new administration. Any aspersions to the operations of this administration should have no effect whatever when we consider the legislation included in this amendment.

I believe we can go forward with the notion that if we act today, we will have a much firmer picture of our strategic challenges, our strategic posture by the year 2003, so that we will in fact be anticipating those strategic decisions by giving our military leaders, both civilian and military, the tools to implement their concepts to meet the new challenges, the new threats we see all around the world.

This issue, as I said, is difficult. It impinges on the communities we all represent. Anytime we authorize a base closing round, essentially we put all of our facilities in play. We all run the risk of losing a facility which is a vital part of our community, disrupting our community. But that is the very narrow view, a very parochial view.

The broader national view is that we need to eliminate the excess capacity. We need to free up resources for higher priority initiatives of the Department of Defense. We need, also, to move away from this essentially still World War II infrastructure to a much more reduced but more efficient logistical and facility base for the future of this new century. Until we are able to eliminate some of these older posts, some of these posts that were designed for and that were extremely important in World War II and throughout the cold war years, we will not have the resource to do what we have to do to face the future.

I suggest we adopt this amendment because it gives us the ability to fund higher priority functions. It gives us the ability to eliminate unnecessary facilities. We simply can't have it both

ways. We can't continue to argue for modernization, for enhancement of the quality of life for our troops, for additional training dollars, and still cling to facilities that are not needed, still insist that we maintain a World War II and cold war infrastructure as we face the challenges of this new century.

I urge my colleagues to support this amendment, give our defense leaders the tools to reduce their overhead as they have reduced the force structure, so that we have a more efficient, more effective military force for this new century.

I yield the floor.

Mr. LEVIN. How much time do the proponents have?

The PRESIDING OFFICER. Eight minutes.

Mr. LEVIN. I yield 6 minutes to the Senator from Ohio.

Mr. VOINOVICH. I rise today to support the amendment offered by my distinguished colleagues, Senator MCCAIN and Senator LEVIN.

Between fiscal year 2000 and fiscal year 2001, defense spending in our Nation will increase by more than 6 percent, nearly three times the rate of inflation. Under normal circumstances, I would likely oppose legislation that would increase defense spending at such a rate. However, we have a crisis in the military right now with respect to readiness, recruitment, retention, procurement, modernization; and the crisis must be met immediately. I will support more money for defense.

Having said that, I believe in the long term the Defense Department must focus on those activities that will help bring down their overall costs. Part of the problem we run into in this body is our inability to admit that priorities can and should be established by the Department of Defense. We need to focus on ways in which the Department can cut back on some of its expenditures and use the moneys allocated more wisely. In other words, we need to get a bigger bang for our buck. We need to work harder and smarter, and we need to do more with less.

One of the ways we can do that is to eliminate those military facilities that no longer serve a useful purpose. I know that is not easy. We have experienced the pain of closing bases in Ohio with the closure of Newark Air Force Base, Rickenbacker Air National Guard Base, and the Defense Electronic Supply Center. Even with the closures and the pain we went through, we understood that it was necessary if we were going to allocate resources where they were really needed in the Department of Defense.

According to a 1998 Department of Defense report, and as stated by Secretary of Defense William Cohen, our Armed Forces currently have 23 percent more military base capacity than is needed in this Nation. Think of that, 23 percent. Keeping this much extra capacity adds up. Right now, we spend billions of dollars annually. We will keep on spending that money until we

acknowledge that we have excess capacity and exercise the will to shut it down.

As difficult as this may sound, we have been through this process before. We know that. The Department of Defense reports that because of the base closings that have been conducted, we will have saved \$14 billion a year by the end of 2001. The projected net savings, annual savings, for the first four rounds have been estimated at nearly \$5.7 billion in fiscal year 2001, a savings that should occur annually. We have that money, and it has been reallocated.

This amendment initiates another two rounds of base closings in 2003 and 2005. In his testimony earlier this year before the Armed Services Committee, Secretary Cohen stated that if we initiate two more rounds of base closings, this will save about \$3 billion per year that we can use for some of the needs we have today in our Defense Department.

I am here today to urge my colleagues to support this amendment. I think there are those who say we ought not to do it at this time. I think we all know that if we don't get started now and start the procedure and do it today, do it this year, we are not going to be able to move forward in 2003 and 2005 when we project the base closings will occur.

I say again, I know this is a tough amendment to support for some of my colleagues, but for the good of our Nation I urge my colleagues to support this amendment.

Ms. SNOWE. Mr. President, I rise today in strong opposition to this amendment that seeks to authorize two additional BRAC rounds in fiscal years 2003 and 2005.

I have been a steadfast opponent to future BRAC proposals. This Administration has proposed BRAC legislation for the last 3 years. Each year, this administration has asked us to address the same issue. Yet over the last three years, nothing has changed.

First, the estimated savings achieved by closing bases are just that—estimated; and second, the inconsistent application of the BRAC process—which this Administration so readily demonstrated after the 1995 round, will result in lost training areas or access to airspace or the sea space by our military forces. This will result in degraded force readiness and will be to the overall detriment of our Armed Forces.

Advocates of base closures allege that billions of dollars will be saved, despite the fact that there is no consensus on the numbers among different sources. These estimates vary because, as the Congressional Budget Office explains, BRAC savings are really “avoided costs.” Because these avoided costs are not actual expenditures and cannot be recorded and tracked by the DoD accounting systems, they cannot be validated which has led to inaccurate and overinflated estimates.

For example, as revealed by the General Accounting Office, land sales from

the first base closure round in 1988 were estimated by Pentagon officials to produce \$2.4 billion in revenue, however, as of 1995, the actual revenue generated was only \$65.7 million. That is about 25 percent of the expected value. And what was the real up-front cost to generate these so called savings? No one really knows.

This type of overly optimistic accounting establishes a very poor foundation for initiating a policy that will have a permanent impact on both the military and the civilian communities surrounding these bases.

I also want to address the issue of the up-front costs involved in the base closure process. This appears to be noticeably absent from the debate. The facts reveal that there are billions of dollars in costs incurred to close a base.

This includes over \$1 billion in Federal financial assistance provided to each affected community—a cost paid by the Federal Government, not through BRAC budget accounts, and therefore is not counted in the estimates. And more significantly, there is \$9.6 billion in environmental cleanup costs as a result of the first four BRAC rounds—a conservative figure according to a December 1998 GAO report—a number that will continue to grow.

The administration and proponents of additional BRAC rounds are quick to point out that reducing infrastructure has not kept pace with our post cold war military force reductions. They say that bases must be downsized proportionate to the reduction in total force strength.

However, this thinking is based on the 1997 Quadrennial Defense Review. Since the end of the cold war we have reduced the military force structure by 36 percent and have reduced the defense budget by 40 percent. But now I ask you how much are we employing that force?

Let me point out that although the size of the armed services has decreased, the number of contingencies that our service members have been called upon to respond to has dramatically increased—the Navy/Marine Corps team alone responded to 58 contingency missions between 1980 and 1989, and between 1990 and 1999 they responded to 192—a remarkable threefold increase!

During the cold war, the U.N. Security Council rarely approved the creation of peace operations. The U.N. implemented only 13 such operations between 1948 and 1978, and none from 1979 to 1987. Since 1988, by contrast, 38 peace operations have been established—nearly three times as many than the previous 40 years.

In hearing after hearing this year, the Armed Services Committee has heard from our leaders in uniform how our current military forces are being stretched too thin, and that estimates predicted in the fiscal year 1997 QDR underestimated how much the United States would be using its military. Clearly, the benefits of the peace dividend are not being realized.

So, we are seeing first hand that the 1997 QDR force levels underestimated how much our military force was intended to be used, that our military force is being called upon now more than what military strategies estimated, and that our forces are being stretched to cover a wide range of operations.

These force levels have to be revisited, and if the trend for current deployments remains true, I would expect that these force levels may have to be increased. So would we then go and buy back this property that we have given up in future BRAC rounds to build new bases—I think not.

Before we legislate defense-wide policy that will reduce the size and number of training areas critical to our force readiness, the Department of Defense needs a comprehensive plan that identifies the operational and maintenance infrastructure required to support the services national security requirements. The peacekeeping and humanitarian missions clearly require a greater force structure than expected.

It has become clear that we are committing more military forces—and more often—than we had planned or anticipated. There is no straight line corollary between the size of our forces and the infrastructure required to support them.

We must realize that once property is given up and remediated, it is permanently lost as a military asset for all practical purposes. In the words of the Chief of Naval Operations, “we cannot give it away or we will never get it back.”

In the full committee hearings and the subcommittee hearings that the Armed Services Committee held this past year, the Chief of Naval Operations and fleet commanders testified that the QDR established force levels are not sufficient to support their operational requirements. A report released earlier this year by the Chairman of the Joint Chiefs of Staff concluded that the submarine force levels needed to be raised from the 1997 Quadrennial Defense Review and I anticipate that the next QDR will support an increase in the “300 ship” Navy as well.

Therefore, given the elasticity in the QDR numbers, it would be premature and costly to base permanent BRAC decisions on estimates that we know are not being realized.

Finally, it would be hypocritical to say that opponents of additional BRAC rounds are politicizing the process. Politics weigh heavily on both sides of the debate. In December 1998, the General Accounting Office reported that of the 499 recommendations made by the four BRAC commissions, 48 were amended and removed from the closure list. And we are all well aware of the Administration’s “intervention” in the last round that resulted in the “privatization-in-place” of the McClellan and Kelly Air Force Base depots instead of their closure.

I want to protect the military’s critical readiness and operational assets. I

want to protect the home port berthing for our ships and submarines, the airspace that our aircraft fly in and the training areas and ranges that our armed forces require to support and defend our Nation. We cannot degrade the readiness of our armed forces by chasing illusive savings.

I reaffirm my opposition to legislation authorizing additional BRAC rounds and encourage my colleagues to join me to vote against it. I urge my colleagues to defeat this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, Senator INHOFE, I believe, desires some time, and then I will yield to Senator HATCH for 10 minutes.

Mr. INHOFE. Mr. President, if I can respond to a couple of the statements of the Senator from Ohio and the Senator from Rhode Island, first of all, I know the Senator from Rhode Island is sincere when he says this would not take place until 2003; it would be a new administration. But we have to keep in mind that administration could very well be a Gore administration. It was Vice President Gore who was very instrumental in politicizing the system before. I think that is significant.

I would say also to my friend from Ohio, while there are savings that would be effected, the savings, according to Secretary Cohen, would not even start until 2008. By that time, we are hoping we will have been able to use every available dollar to get us out of the situation we are in right now. I think that is very significant. Our crisis is now. Our crisis is a rebuilding program for the next 4 to 5 years.

I yield.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as somebody who lived through the last BRAC process, and lived through it in a very intensive way, I have to say the process did not work. Everyone lost: the taxpayers, the workers in Utah, as well as those in the losing states of California and Texas, and the Air Force's state of military readiness. The process was too politicized, as I elaborate upon in my later remarks. It was a pitiful exercise, in many respects.

There were some good things about it, I have to acknowledge, but most of it was not.

Utah had the Air Force's highest rated air logistics command in the nation, bar none. Nobody could compare with it. It was listed No. 1. It made the top of every chart. The workforce and its achievements were models of efficiency. But, after the President finished tampering with the BRAC results, we had to fight like dogs against raging wolves to prove repeatedly what the BRAC had already determined.

No sooner did we get through all that process—time after time appearing at hearings, appearing at major meetings considering BRAC, and considering what should be done, making our case over and over, and winning, winning,

winning—this administration came in and immediately undertook questionable steps to sully the BRAC process.

My experience gives me little confidence in this process. And it's not done yet: we won't have the process completed until late 2001, six years after the BRAC decision. I do not care who is in charge. When you politicize the base closing process, it just leads to the type of anquish I and my colleagues are expressing here today.

How can we forget the major problems between San Antonio and McClellan, both of which were installations important to their respective States but did not reach the high standards of Utah's Hill Air Force Base. If Hill Air Force Base had come in last, I would not be here arguing today, nor back then, to keep it alive.

Let's not forget that we need high military readiness—it is a deterrent that allows for peace through strength. But that means having a system that accentuates everything that is good about our military, like Hill Air Force Base. I would not back a base that was not doing the job.

But in this particular case, McClellan had been judged by the Air Force and the BRAC commission as deficient, as was the San Antonio Air Logistics Center at Kelly Air Force Base, Texas. Yet, we wanted to help Kelly, if we could, because it had a high percentage of Hispanic workers. But the brutal facts showed that Kelly could not measure up. Neither did McClellan.

Then came the administration's misguided and downright wrongful attempts to save some of those jobs.

Mr. President, Ronald Reagan immediately comes to mind when I consider today's debate on BRAC . . . "Here we go again." We're being asked to engage in the same type of taxpayer deception that characterized the 1995 BRAC. We promise savings, and deliver nothing. All BRAC produces is a politicized outcome that makes a mockery of the independent commission process.

We need to remind ourselves why we sought a BRAC in the first place: It was because we did not feel Congress could be trusted. In fact, it was the President who couldn't be trusted. Let's look at some facts, facts especially painful to states which lost bases, and those that had to defend what they had won again, again and again. I refer to Utah's Ogden Air Logistics Center at Hill AFB—three times we had to compete for workloads that the BRAC awarded us, but which the President delayed sending to Utah.

The President intervened in the BRAC 95 process to secure California's 54 electoral votes in the 1996 election. My good friends from California—Senators BOXER and FEINSTEIN—publicly stated that they would get relief from the White House after BRAC decided to close McClellan Air Force Base in Sacramento. They succeeded, and at the cost of work that ought to have gone to Georgia and Utah, but which was delayed.

The President called the BRAC decision to close McClellan an "outrage", in a Rose Garden statement. He actually rejected the decision of his own independent commission. In its place, the President put great pressure on the Air Force to sully an already messy situation. He called this "privatization in place." He attempted to keep the jobs which were intended to be distributed to Utah, Oklahoma and Georgia in California by forcing a public-private competition that GAO rejected as unfair. It had the effect of leaving in California as many as 3,200 jobs for as long as six years after the BRAC decision, or conveniently after the year 2000 presidential election.

The BRAC monies designated to move jobs and equipment to Utah and elsewhere were mismanaged. They were spent to improve the very facilities at McClellan AFB that the BRAC had intended to close! This, the President and his gang thought, would make it easier for the base to attract private contractors to perform the privatized work in place.

The delay caused by this contrived competition cost the taxpayers an additional \$500 million, according to GAO, to sustain the bases' workloads in place, despite the decision of BRAC to ship the workloads to the other Air Force depots.

In May 1998, as many of you will remember, the Secretary of the Air Force was embarrassed by a memo written by his office urging that the Lockheed-Martin bid for the California work win the award. This behavior, to my mind, remains one of the most egregious violations of the Ethics Reform Act I have seen in my 24 years in the Senate. This act prohibits precisely the type of collusion in which the Secretary of the Air Force participated.

It was so outrageous that Secretary Bill Cohen, to his everlasting credit, removed the Secretary of the Air Force from the selection team that would oversee the public-private competition for the McClellan workload.

But this was not the end of the Clinton Administration's meddling; they directed the Air Force to deny the GAO, the congressional watchdog agency responsible for overseeing the expenditure of taxpayers' funds, access to the cost-data and other information used by the Air Force to put together competition for the McClellan workload.

As might be expected, the long-term effect of this mischievous meddling had a cost on readiness. Delays in workload transfer were directly responsible for a severe F-16 parts shortage in 1999. Also, there is a suspicious relationship between the delayed workload transfer and the KC-135 tanker problems early this year when the fleet was grounded because of a rear stabilizer malfunction, a problem akin to the cause of the Alaskan Airline aircraft off the California coast. My personal inquiry into the KC-135 issue demonstrated that if the entire KC-135 team responsible for

the repair of this part of the aircraft had been transferred to Utah in a timely way, as directed by the BRAC, the design flaw would probably never have occurred.

There is an answer to BRAC: let Congress endorse the decisions of the military services, without the filter of presidential intervention, whether by a BRAC-like commission or any other procedure. The military services know better than any other body the best and the worst of their installations, the ones that pay their own way, and the ones that drain the taxpayers' pockets. After my state's experience with the BRAC process, I am more inclined to trust this body to evaluate the services' recommendations.

I see that we have a very important guest. I will be happy to yield the floor at this time for Senator HELMS.

VISIT TO THE SENATE BY THEIR MAJESTIES KING ABDULLAH II AND QUEEN RANIA AL-ABDULLAH OF THE HASHEMITE KINGDOM OF JORDAN

Mr. HELMS. Mr. President, I ask unanimous consent the Senate stand in recess for 7 minutes so the Senators may pay their respects to the Honorable King of Jordan and his lovely lady.

There being no objection, the Senate, at 4:56 p.m. recessed until 5:04 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001—Continued

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 3197

Mr. WARNER. Mr. President, the pending business is the amendment offered by the Senator from Arizona; am I not correct?

The PRESIDING OFFICER. The Senator has 33 minutes.

Mr. WARNER. It is my intention to yield back the time, I say to my colleagues. I will wait momentarily, and we can proceed to the vote. Has the vote been ordered, Mr. President?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. WARNER. I ask for the yeas and nays on the McCain-Levin amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. WARNER. Mr. President, we jointly yield back all time. The vote may proceed.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3197. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 63, as follows:—

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—35

Bayh	Kennedy	Moynihan
Biden	Kerrey	Reed
Bryan	Kerry	Reid
Byrd	Kohl	Robb
Chafee, L.	Kyl	Rockefeller
DeWine	Landrieu	Roth
Feingold	Leahy	Smith (OR)
Gramm	Levin	Thompson
Grassley	Lieberman	Voinovich
Hagel	Lincoln	Wellstone
Harkin	Lugar	Wyden
Jeffords	McCain	

NAYS—63

Abraham	Dodd	Lott
Akaka	Dorgan	Mack
Allard	Durbin	McConnell
Ashcroft	Edwards	Mikulski
Baucus	Enzi	Murkowski
Bennett	Feinstein	Murray
Bingaman	Fitzgerald	Nickles
Bond	Frist	Roberts
Boxer	Gorton	Santorum
Breaux	Graham	Sarbanes
Brownback	Grams	Schumer
Bunning	Gregg	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Cleland	Hollings	Snowe
Cochran	Hutchinson	Specter
Collins	Hutchison	Stevens
Conrad	Inhofe	Thomas
Coverdell	Inouye	Thurmond
Craig	Johnson	Torricelli
Daschle	Lautenberg	Warner

NOT VOTING—2

Crapo Domenici

The amendment (No. 3197) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I wish to keep all Senators informed. We are making progress on this bill. We are still anxious to get indications from Senators with regard to their amendments. We are having very good cooperation on both sides. I will address that later this evening.

Under the existing order, I believe it is now the amendment of the Senator from Virginia. Am I not correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I ask unanimous consent that this amendment be laid aside temporarily.

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

Mr. WARNER. Mr. President, I ask unanimous consent that following the disposition of the Wellstone amendment—that will now be the pending business as soon as I yield the floor. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Following the disposition of the Wellstone amendment, which is subject to a 30-minute time agreement, I ask unanimous consent

that Senator ROBERT SMITH be recognized to offer his amendment regarding security clearances on which there will be 30 minutes equally divided with no amendments in order prior to the vote in relation to the amendment.

Mr. BIDEN. Mr. President, reserving the right to object, I will object, unless I can be assured that I have an agreement to 1 hour equally divided. If I can be put in the order after Senator SMITH, I will not object.

Mr. LEVIN. Mr. President, I object. The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I am trying to move things forward. Senator HELMS and I are working out language. I think we will have an agreement, but I thought I would start speaking on this amendment so we can move this forward.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this is a sense-of-the-Senate amendment that deals with the importance of condemning the use of child soldiers in dozens of countries around the world. It is also about very important protocol that is being developed and the importance of building support for it and moving forward as expeditiously as possible on this question.

Today, there are 300,000 children who are currently serving as soldiers in current armed conflicts. Child soldiers are being used in 30 countries around the world, including Colombia, Lebanon, and Sierra Leone. Child soldiers witness and are often forced to participate in horrible atrocities.

I am talking about 10-year-olds being abducted, forced to participate in horrible atrocities, including beheadings, amputations, rape, and the burning of people alive. These young combatants are forced to participate in all kinds of contemporary warfare. They wield AK-47s and M 16s on the front lines. They serve as human mine detectors. They participate in suicide missions. They carry supplies and act as spies, messengers, or lookouts.

One 14-year-old girl abducted in January 1999 by the Revolutionary United Front, a rebel group in Sierra Leone, reported to human rights observers:

I've seen people get their hands cut off, a ten-year-old girl raped and then die, and so many men and women burned alive * * * So many times I just cried inside my heart because I didn't dare cry out loud.

Mr. President, no child should experience such trauma. No child should experience such pain.

Last year, I introduced a resolution expressing the sense of the Congress

that U.S. policy permit consensus on language on this optional protocol on child soldiers, directing the State Department to work positively to address its concerns, in language within the United Nations Working Group on Child Soldiers. Today I thank the State Department for its work, and I thank the Department of Defense for its conscientious work, and I thank the Joint Chiefs of Staff for signing off on this protocol. I think it is terribly important work.

On January 21 in Geneva, representatives from more than 80 countries, including the United States, worked out an agreement raising the minimum wage for conscription in direct participation in armed conflict to 18 and prohibiting the recruitment and use in armed conflict of persons under the age of 18 by nongovernmental armed forces. The agreement calls on governments to raise the minimum wage for voluntary recruitment above the current standard of 15 but still allows the armed forces to accept voluntary recruits from the age of 16, subject to certain safeguards.

The Pentagon, and again the State Department, Harold Cohen in particular, have been great to work with. I believe this is a humanitarian crisis that we ought to address now. It is absolutely unbelievable that in the year 2000 we see people as young as age 10 abducted—I have talked to some of the mothers of these children who are abducted—and forced to commit atrocities. It is unbelievable that we see children age 10 cutting off the arms of other people, engaging in murder. It is unbelievable the extent to which young women are abducted, and they themselves are terrorized and raped. This is a practice that takes place in 30 countries around the world involving 300,000 children.

Finally, after years of work, the United Nations has put together an important protocol. We are, I believe, close to supporting this.

In conclusion, this is just a sense-of-the-Senate resolution that the Congress joins in condemning the use of children as soldiers by governmental and nongovernmental armed forces. We talk about the importance of taking this action. We make it clear that it is essential that the President consult closely with the Senate in the objective of building support for the protocol, and we also urge the Senate to move forward as expeditiously as possible.

I think it is important that all of us support this. I urge my colleagues to do so. I want colleagues to know that Congressman LEWIS and Congressman LANTOS on the House side have a very similar resolution.

Mr. DURBIN. Will the Senator from Minnesota yield for a question?

Mr. WELLSTONE. I am pleased to yield.

Mr. DURBIN. I commend my colleague for bringing this issue to our attention. I think it is particularly time-

ly that he would raise this on the floor of the Senate. In a trip to Africa just a few months ago, I discovered the ravages of the AIDS epidemic. There are some 10 million AIDS orphans. These children are likely to become the soldiers in these armies the Senator from Minnesota has just described. The young girls are likely to become either victimized or prostitutes themselves, who are going to really, in a way, continue this cycle of disease and dependency and death.

I commend my colleague from the State of Minnesota, Senator WELLSTONE, for calling this important moral issue to the attention of the Senate. I rise in strong support. I ask him if he has considered the impact of the AIDS epidemic and similar health problems that have created so many orphans in Africa, and now we have the fastest growth of HIV infection in the world in India, and the impact this could have on the issue he has raised.

Mr. WELLSTONE. Mr. President, in the time I have remaining let me say to my colleague from Illinois, I believe my colleague from Illinois, the Senator from California, the Senator from Wisconsin, and others have really brought to our attention the number of citizens, not just children, who are HIV infected, struggling with AIDS. It is a humanitarian crisis of tremendous proportions.

I think for too long the world has just turned its gaze away from this and from the whole question of how to get affordable drug treatment to deal with this, prescription drug treatment, to ways in which our country ought to be more engaged, to ways in which we can encourage governments in Africa to deal directly with this. Finally, we are doing so. My colleague is right, it is also true, for the worst of economic reasons or reasons of desperation, that these young people, including young people infected with AIDS, are the recruits. They become the child soldiers—again, colleagues, 300,000 children, many of them abducted, in 30 countries, used as child soldiers.

This resolution, I think, is terribly important. Our Department of Defense and State Department have worked hard. A year ago, our Government was not supporting this. I think we now have language that is important language. This simply urges the Senate to condemn this practice and talks about the importance of the President moving forward and building support for this protocol, and it calls upon the Senate to act expeditiously on this matter.

I hope there will be 100 votes for this. I thank my colleague Senator HELMS, chairman of the Foreign Relations Committee, for working with me. We have changed some language, and I think we have a good resolution.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent it be in order for me to speak from my seat.

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

Mr. HELMS. I thank the Chair.

Mr. President, I have prepared the best speech you will never hear. I was prepared to have to oppose my friend from Minnesota, but we have come to an understanding about this matter. We have agreed to amend and modify the proposed amendment in a way that makes it satisfactory to me.

AMENDMENT NO. 3211

(Purpose: To express condemnation of the use of children as soldiers and expressing the belief that the United States should support and, where possible, lead efforts to end this abuse of human rights)

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. DURBIN, proposes an amendment numbered 3211.

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

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

The amendment is as follows:

On page 462, between lines 2 and 3, insert the following:

SEC. 1210. SENSE OF CONGRESS REGARDING THE USE OF CHILDREN AS SOLDIERS.

(a) FINDINGS.—Congress finds that—

(1) in the year 2000 approximately 300,000 individuals under the age of 18 are participating in armed conflict in more than 30 countries worldwide;

(2) many of these children are forcibly conscripted through kidnapping or coercion, while others join military units due to economic necessity, to avenge the loss of a family member, or for their own personal safety;

(3) many military commanders frequently force child soldiers to commit gruesome acts of ritual killings or torture against their enemies, including against other children;

(4) many military commanders separate children from their families in order to foster dependence on military units and leaders, leaving children vulnerable to manipulation, deep traumatization, and in need of psychological counseling and rehabilitation;

(5) child soldiers are exposed to hazardous conditions and risk physical injuries, sexually transmitted diseases, malnutrition, deformed backs and shoulders from carrying overweight loads, and respiratory and skin infections;

(6) many young female soldiers face the additional psychological and physical horrors of rape and sexual abuse, being enslaved for sexual purposes by militia commanders, and forced to endure severe social stigma should they return home;

(7) children in northern Uganda continue to be kidnapped by the Lords Resistance Army (LRA), which is supported and funded by the Government of Sudan and which has committed and continues to commit gross human rights violations in Uganda;

(8) children in Sri Lanka have been forcibly recruited by the opposition Tamil Tigers movement and forced to kill or be killed in the armed conflict in that country;

(9) an estimated 7,000 child soldiers have been involved in the conflict in Sierra Leone, some as young as age 10, with many being

forced to commit extrajudicial executions, torture, rape, and amputations for the rebel Revolutionary United Front;

(10) on January 21, 2000, in Geneva, a United Nations Working Group, including representatives from more than 80 governments including the United States, reached consensus on an optional protocol on the use of child soldiers;

(11) this optional protocol will raise the international minimum age for conscription and direct participation in armed conflict to age eighteen, prohibit the recruitment and use in armed conflict of persons under the age of eighteen by non-governmental armed forces, encourage governments to raise the minimum legal age for voluntary recruits above the current standard of 15 and, commits governments to support the demobilization and rehabilitation of child soldiers, and when possible, to allocate resources to this purpose;

(12) on October 29, 1998, United Nations Secretary General Kofi Annan set minimum age requirements for United Nations peace-keeping personnel that are made available by member nations of the United Nations;

(13) United Nations Under-Secretary General for Peace-keeping, Bernard Miyet, announced in the Fourth Committee of the General Assembly that contributing governments of member nations were asked not to send civilian police and military observers under the age of 25, and that troops in national contingents should preferably be at least 21 years of age but in no case should they be younger than 18 years of age;

(14) on August 25, 1999, the United Nations Security Council unanimously passed Resolution 1261 (1999) condemning the use of children in armed conflicts;

(15) in addressing the Security Council, the Special Representative of the Secretary General for Children and Armed Conflict, Olara Otunnu, urged the adoption of a global three-pronged approach to combat the use of children in armed conflict, first to raise the age limit for recruitment and participation in armed conflict from the present age of 15 to the age of 18, second, to increase international pressure on armed groups which currently abuse children, and third to address the political, social, and economic factors which create an environment where children are induced by appeal of ideology or by socio-economic collapse to become child soldiers;

(16) the United States delegation to the United Nations working group relating to child soldiers, which included representatives from the Department of Defense, supported the Geneva agreement on the optional protocol;

(17) on May 25, 2000, the United Nations General Assembly unanimously adopted the optional protocol on the use of child soldiers;

(18) the optional protocol was opened for signature on June 5, 2000; and

(19) President Clinton has publicly announced his support of the optional protocol and a speedy process of review and signature.

(b) SENSE OF CONGRESS.—(1) Congress joins the international community in—

(A) condemning the use of children as soldiers by governmental and nongovernmental armed forces worldwide; and

(B) welcoming the optional protocol as a critical first step in ending the use of children as soldiers.

(2) It is the sense of Congress that—

(A) it is essential that the President consult closely with the Senate with the objective of building support for this protocol, and the Senate move forward as expeditiously as possible;

(B) the President and Congress should work together to enact a law that estab-

lishes a fund for the rehabilitation and reintegration into society of child soldiers; and

(C) the Departments of State and Defense should undertake all possible efforts to persuade and encourage other governments to ratify and endorse the new optional protocol on the use of child soldiers.

Mr. WELLSTONE. Mr. President, I say to colleagues, I will not require a recorded vote. If we want to go forward with a voice vote, that will be fine with me if it is fine with my colleague.

Mr. WARNER. Mr. President, I strongly urge we consider this matter by voice vote.

I urge the question.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3211) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3210

(Purpose: To prohibit granting security clearances to felons)

Mr. SMITH of New Hampshire. Mr. President, I call up my amendment No. 3210 at the desk and ask for its immediate consideration.

Mr. LEVIN. Mr. President, parliamentary inquiry.

THE PRESIDING OFFICER. The Senator will state the inquiry.

Mr. LEVIN. Do I understand there is a pending Warner amendment which is being temporarily laid aside for this?

THE PRESIDING OFFICER. There is no pending Warner amendment. There was just an agreement that Senator WARNER be recognized to offer an amendment. If he does not seek recognition, he waives that right.

Mr. WARNER. Mr. President, I just ask that be temporarily laid aside.

Mr. LEVIN. Mr. President, what is being temporarily laid aside if there is not a pending amendment?

Mr. WARNER. It is the right to offer the amendment.

THE PRESIDING OFFICER. The right to offer the amendment.

Mr. LEVIN. So as I understand it, after the disposition of the Smith amendment, there would be an opportunity for Senator WARNER to offer an amendment?

THE PRESIDING OFFICER. That is correct.

Mr. LEVIN. Am I correct, as the manager of the bill he would have that opportunity in any event? If he sought recognition, he would be first to be recognized after the leadership; is that correct?

THE PRESIDING OFFICER. The Senator is correct.

The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, this amendment No. 3210—

THE PRESIDING OFFICER. The Senator will withhold.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], proposes an amendment numbered 3210.

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

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . PERSONNEL SECURITY POLICIES.

No officer or employee of the Department of Defense or any contractor thereof, and no member of the Armed Forces shall be granted a security clearance unless that person:

(1) has not been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(2) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(3) has not been adjudicated as mentally incompetent;

Mr. SMITH of New Hampshire. Mr. President, this amendment is really quite simple. It involves the issue of whether or not a felon should get a security clearance. That is the essence. If you favor felons having a security clearance, you would vote against my amendment. If you think it is wrong that convicted felon should have a security clearance, then you would vote with me.

On April 6 there was a hearing the Armed Services Committee held that touched upon an important and urgent issue, that of the longstanding protections set in place to guard the most vital secrets of the Nation and of our national security community. But we had a virtual security meltdown in this administration, from our DOE labs to people without clearances getting White House passes, to the recent scandal of missing and highly classified State Department laptops. It goes on and on. While we couldn't possibly begin to address all our Nation's security deficiencies within this one authorization bill, I believe we can make progress in one very specific area.

A reporter by the name of Ed Pound of USA Today has done an outstanding job with recent news reports and investigative reporting on this issue.

Mr. President, I ask unanimous consent that articles written by Mr. Pound from USA Today be printed in the RECORD.

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

PROBE OF SECURITY CLEARANCES URGED—SENATOR SAYS CONTRACT HIRINGS POSE A THREAT

(By Edward T. Pound)

WASHINGTON.—Sen. Bob Smith, R-N.H., urged the Senate Armed Services Committee Tuesday to investigate why the Defense Department is granting high-level security clearances to employees of military contractors who have long histories of problems, even criminal activity.

Smith, a senior member of the armed services panel, asked its chairman, Sen. John Warner, R-Va., to conduct the inquiry and hold a hearing. In a letter to Warner, Smith

said industrial espionage is on the upswing. "One person can cause immeasurable damage to national security," he wrote.

Smith said that white felons can't vote in some states, they have been allowed by the Pentagon to retain access to sensitive classified information. "This doesn't pass the smell test," he said.

Warner could not be reached Tuesday for comment.

Smith is chairman of the Environment and Public Works Committee. He is the second senior senator to seek reform in the wake of a USA TODAY story last week. It detailed how the Defense Office of Hearings and Appeals, or DOHA, regularly granted clearances to contractors with histories of drug and alcohol abuse, sexual misconduct, financial problems or criminal activity.

Sen. Tom Harkin, D-Iowa, urged Defense Secretary William Cohen last week to correct the situation. "All necessary steps must be taken to correct this problem immediately," he said in a statement. "Our nation's security depends on it."

The General Accounting Office, the investigative arm of Congress, also will review DOHA and other Pentagon clearance agencies. While defending DOHA, a Pentagon spokesman said that any problems uncovered by the GAO would be corrected.

In his letter, Smith also asked Warner to explore why the Defense Department is struggling to process security background investigations, which serve as the basis for issuing clearances. The Pentagon has a backlog of more than 600,000 investigations for renewals of clearances. Smith and others say the problem poses a national security risk because spies usually are trusted insiders.

Smith said many clearances granted by DOHA violated an executive order issued by President Clinton in 1995. It requires that clearances be issued only to those whose history indicates "loyalty in the United States, strength of character, trustworthiness, honesty, reliability, discretion and sound judgment."

Clearance officials evaluate security applicants under "adjudicative guidelines," the standards for granting clearances. They cover, among other matters, allegiance to the United States, foreign influence, security violations, sexual behavior, financial problems, criminal conduct, and drug and alcohol abuse.

Smith said the armed services panel could force reform. "I would strongly urge you to task your staff to investigate" the clearance problems, Smith wrote Warner. He said an inquiry could "restore integrity and quality control" to the clearance process.

[From USA Today, Dec. 29, 1999]

FELONS GAIN ACCESS TO THE NATION'S SECRETS

(By Edward T. Pound)

WASHINGTON.—As a teenager, he was in trouble many times and built an imposing rap sheet: delinquency, disorderly conduct, resisting arrest, attempted theft, possession of a deadly weapon, possession of marijuana, five counts of burglary and three of theft. He got jail time and probation.

In 1978, at age 21 and a heavy drug user, he and two accomplices kidnapped, robbed and murdered a fellow drug user. He was charged in the murder, convicted and sentenced to 30 years in prison.

Today, at 42, he is out of prison and working in a white-collar job in the defense industry. He remains on parole until 2006. As a convicted felon, he can't vote in many states. But under federal law, he can and does hold a government-issued security clearance, a privilege that allows access to sensitive classified information off-limits to most Americans.

His case is not exceptional. A USA Today review of more than 1,500 security clearance decisions at the Department of Defense shows that a Pentagon agency regularly grants clearances to employees of defense contractors who have long histories of financial problems, drug use, alcoholism, sexual misconduct or criminal activity.

Applicants have been given sensitive clearances despite repeatedly lying about past misconduct to Defense Department investigators. One employee lied at least four times about his drug history, including twice in sworn statements. Officials didn't refer the matter to the Justice Department for prosecution, something they rarely do; instead, they allowed him to retain his secret-level clearance.

In other instances, contractor employees involved in significant criminal frauds were granted clearances. So, too, were applicants who had violated state and federal laws by not filing income tax returns for several years, including a woman who had not submitted timely returns for 11 years because she was depressed.

Another employee mishandled classified material during a five-year period but didn't lose his top-secret access. A clearance official excused his actions because he had been working in a "pressure-cooker environment."

All of these clearances were approved by the Defense Office of Hearings and Appeals, or DOHA, a little-known Pentagon agency that decides whether to grant or deny clearances to employees of defense contractors. The decisions were made by DOHA (pronounced DOUGH-ha) administrative judges. They rule in cases in which applicants seek to overturn preliminary decisions denying them access to classified information.

DOHA's quasi-judicial program, now in its 40th year, was developed to give employees of contractors the right to review the evidence against them and to challenge denials in hearings, if they so choose, before an administrative judge. Most clearance decisions are made by other DOHA officials and never reach the judges.

About two-thirds of the time, the judges decide against granting clearances. However, their approval of clearances for some employees with deeply troubled histories concerns other clearance officials in the military as well as security investigators in the Defense Department.

They argue that DOHA has gone too far, granting clearances to unstable people who might pose a risk to national security. They worry that some employees with pressing financial problems might sell secrets to foreign powers or that others, vulnerable because of embarrassing personal problems, could be blackmailed into espionage.

Army and Navy clearance officials criticize the agency for being too "lenient." Along with former DOHA officials, they complain that the agency sometimes ignores the government's "adjudicative guidelines"—the standards for granting clearances—in issuing decisions.

"To be honest with you, I think DOHA often finds in favor of the individual and not national security," says Edwin Forrest, executive director of the Navy's Personnel Security Appeal Board, which reviews clearance appeals from Navy employees. "What we see coming from DOHA are decisions that go outside the envelope—outside the adjudicative guidelines."

Howard Strouse, a former senior DOHA official who retired last January, is blunt: "Any Americans who looked at these DOHA decisions would be horrified. To know that we are giving clearances to some of these people is just intolerable."

But DOHA officials strongly defend their program and say they put national security

first. "The decisions speak for themselves," says Leon Schachter, the agency's director the past 10 years. "Do I believe in, or agree, with every decision? Of course not. But it is important to treat people fairly, and we have a system designed to be fair."

He says the idea is not to punish security applicants for past misconduct. "The goal is to understand past conduct and predict the future on it," he says. "We are being asked to use a crystal ball. It is a very difficult job."

Indeed it is. On the one hand, President Clinton, in an August 1995 executive order governing access to classified information, directed that government clearances should be given only to people "whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment."

But the guidelines for granting clearances give administrative judges and other federal clearance officials leeway to consider "mitigating" circumstances: an applicant who had committed a crime, for instance, might get a clearance if the crime was not recent and there was evidence of rehabilitation.

DOHA reviews cases involving access to classified information at three levels of sensitivity: top-secret, secret and confidential. A presidential directive says top-secret information, if disclosed, could cause "exceptionally grave damage" to national security; secret, if disclosed, could cause "serious damage"; and confidential, if revealed, could cause "damage."

Classified material covers a lot of ground. It includes the design plans and other data on dozens of weapons systems, such as bombers and nuclear submarines, and information on spy satellites, sophisticated technology and communications systems. But it also includes such things as the composition of the radar-absorbing coatings on Stealth bombers and the names of employees who work on sensitive projects.

People within the contracting community with access to classified information aren't just top officials. They include consultants, scientists, computer specialists, analysts, secretaries and even blue-collar workers such as janitors and truck drivers with access to classified areas.

The quality of DOHA's decisions is vital. Though none of the cases involved DOHA decisions, according to agency officials, a government report says 12 contractor employees have been convicted of espionage in the past 17 years. And in the aftermath of the Cold War, industrial espionage is on the upswing. Spies from dozens of nations—some of them friendly—have stepped up efforts to gather industrial intelligence on technologies used in U.S. weapons systems.

Meanwhile, the Pentagon is struggling to process security background investigations, which serve as the basis for clearance decisions. It has a backlog of more than 600,000 periodic reinvestigations—cases in which defense employees and contractor personnel are to be re-evaluated.

The backlog is significant. Spies traditionally are trusted insiders. Many cases reviewed by DOHA involve requests to retain clearances. This backlog was disclosed last summer by USA Today in an examination of the Defense Security Service, another Pentagon agency, which conducts the background checks.

In its inquiry into DOHA's actions, USA Today reviewed decisions issued by the agency's 15 administrative judges since 1994. Under the Privacy Act, DOHA deletes the names and other identifying information from the files. The judges review 300 to 400 cases a year. USA Today requested interviews with two senior judges, but the Pentagon wouldn't make them available.

In the case involving the murder, government lawyers sought to block the clearance, but Administrative Judge Paul Mason wrote that the man had earned a college degree and had reformed.

"Against the heinous nature of the crime," he wrote, "are the positive steps applicant has taken over the years in making himself a productive member of society." He said he was persuaded the "applicant was genuinely remorseful" and would not resume a criminal career.

The man's lawyer, James McCune of Williamsburg, Va., won't discuss the criminal case. But, he says, clearance decisions must be weighed carefully because employees often lose their jobs when they lose their clearances. "It is really a black mark," he says.

A sampling of other approvals:

On Aug. 27, 1997, Administrative Judge John Erck ruled that a 43-year-old man who had participated in a scheme to defraud the Navy of \$2 million could keep his secret-level clearance. The man was employed at the time of the fraud, in 1991, as a ship's master for a company that operated ships for the Navy in the U.S. Merchant Marine program. He and other employees submitted false time sheets for overtime to assist their financially troubled company. Judge Erck wrote that the fraud was not recent and that although it amounted to "serious criminal activity," he was "impressed" with the applicant's "honesty and sincerity."

That same year, Administrative Judge Kathryn Moen Braeman allowed a 30-year-old employee of a defense contractor to keep his secret clearance, even though he was a convicted sex offender and on probation. The man was convicted in a state court of two felony charges of criminal sexual contact with a minor in June 1996, less than a year before the administrative judge's decision.

The case file shows the man fondled his 8-year-old stepdaughter and on 50 occasions entered her bedroom and masturbated while she was asleep. Braeman said there were "mitigating" circumstances: the man, she wrote, had completed counseling in a sex-offenders program and his therapist did not believe the pedophilia with his stepdaughter would recur. According to Braeman, the therapist concluded the man would always have a sexual interest in children but had learned through therapy to control himself.

A 42-year-old employee of a defense contractor was given a secret clearance by Chief Administrative Judge Robert Gales, although earlier in his career, as an investor, he had been convicted of bank fraud, imprisoned and ordered to pay \$150,000 restitution. According to DOHA files, the man "made false entries" on loan forms to obtain \$2.3 million in mortgages. He pleaded guilty in December 1994. Two years later, while the man remained on probation in the criminal case, Judge Gales approved his clearance; Gales cited his cooperation with prosecutors and said he had "clean(ed) up his act."

Judge Erck approved a secret clearance for the 53-year-old owner of a defense contracting business despite his long history of violent altercations with others. In one case, the decision shows, the man tried to bulldoze another car blocking his exit from a parking lot. In another incident, Erck wrote, he "challenged" a state court judge in court after the judge ruled in favor of the other party in a civil lawsuit. Police were called and "an altercation occurred," according to Erck. The man was arrested and jailed for resisting arrest. In a third incident, he left a threatening message on his ex-wife's answering machine advising her he had a "shotgun and two Uzis" and was coming to her house to get his son. Police arrested him at his former wife's house and he was jailed on an assault conviction.

"There is an obvious nexus between Applicant's criminal conduct and the national security," Erck wrote in his decision. "An individual who repeatedly loses his temper and breaks the law is much more likely to violate security rules and regulations." Nonetheless, Erck granted the clearance. He said the man had become active in the church and had learned to control his temper. He was, Erck wrote, a "changed man."

In February 1996, a 44-year-old computer software engineer was allowed to retain his top-secret clearance despite a 10-year history of sexual exhibitionism. Once, in the early morning, he stood naked outside the kitchen door of a 26-year-old woman and masturbated. The police were called and he was charged with two felonies, including "gross lewdness." The man's "history of exhibitionism reflects adversely on his judgment, reliability and trustworthiness," Administrative Judge Elizabeth Matchinski wrote. But, she added, "his contributions to the defense industry in combination with his recent pursuit of therapy" justified giving him a clearance.

Those cases are not unusual. There are other similar decisions in DOHA's files.

The DOHA process grew out of the abuses of the McCarthy era in the 1950s when many people were attacked for alleged Communist ties. President Eisenhower, acting after the Supreme Court ruled that contractor employees had the right to a hearing if their clearances were jeopardized, issued an executive order requiring hearing procedures.

The vast majority of cases processed by DOHA never go before the agency's 15 judges.

When they do review cases, the judges deny clearances in many egregious cases, or their approvals are overturned by the DOHA Appeal Board composed of three of their own members. One example: a 59-year-old man convicted of sexually abusing his granddaughter, a felony, was approved for a clearance by an administrative judge. The appeal board reversed the decision. It said the judge's decision was "arbitrary, capricious, and contrary to law."

Judges and other government clearance officials make decisions based on government-wide adjudicative guidelines. The guidelines cover, among other things, allegiance to the United States, foreign influence, sexual behavior, financial considerations, alcohol and drug use, security violations and criminal conduct. Applicants are evaluated under the "whole person" concept, which requires both favorable and unfavorable information to be considered.

Clearance officials are urged to make "common sense" determinations. "The individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility, or emotionally unstable behavior," the guidelines state.

They also require clearance officials to err on the side of national security. "Any doubt as to whether access to classified information is clearly consistent with national security," they state, "will be resolved in favor of the national security."

Most people pass the guidelines without a hitch. Tens of thousands of military and contractor personnel are cleared each year. The Defense Department says only 2% to 4% of its applicants are denied a clearance or have their existing access revoked. In 1998 the Pentagon denied or revoked clearances in 3,516 cases, including 628 contractor employees. About 2.4 million people hold Pentagon-issued clearances.

DOHA's role is not limited to contractor employees. Its judges also review appeals from military personnel and civilian employees of the Defense Department. The judges issue "recommended decisions," but those

opinions are not binding. Final decisions are made by clearance boards established by the Pentagon. Each branch of the service and the Pentagon's administrative arm, Washington Headquarters Services, have their own clearance boards, known as Personnel Security Appeal Boards, or PSABs.

Those PSABs often reject the judges' recommendations to grant clearances to people with background problems. DOHA statistics show that the judges recommended granting clearances in 271 of 740 cases they have reviewed since 1995. The PSABs rejected the advice in 120 cases, or 44% of the time.

The PSABs say they are tougher.

"We are not saying that everybody who drinks too much is a security threat," says K.J. Weiman, executive secretary of the Army's PSAB. But, he says, screeners must be concerned when people have financial problems, histories of drug use or heavy drinking.

"For instance, are you a quiet drunk or are you a talkative drunk?" he asks. "Are you the kind who will have too many drinks and you are sitting in a bar and saying, 'Did you know this, that, there is a terrorist threat out for Y2K?'"

Private lawyers who represent clients in clearance cases defend DOHA. They say the military process doesn't give applicants all the rights they should have and say the importance of the whole-person concept cannot be over-emphasized.

Sheldon Cohen, an attorney in Arlington, Va., says the government must evaluate the whole person in deciding whether to approve or reject a clearance: "The use of a variety of drugs by a person in high school or college, even to a substantial degree, might not disqualify that person, while a single use of marijuana by an adult while that person held a security clearance would probably cause loss of a clearance."

Adds Elizabeth Newman, a Washington lawyer. "The fact we don't want them as neighbors does not mean they will misuse classified information."

But some former DOHA employees believe there has been too much "lawyering." A clearance is a privilege, not a right, and the Supreme Court has so ruled, they say.

Howard Strouse, the retired DOHA official who was based in Columbus, Ohio, supervised the preparation of many administrative cases against contractor employees over a 14-year-period. He is frank in his assessment of the agency.

DOHA is doing a lousy job, he says.

"DOHA is due process heaven, and I'm not proud of that," he says. "You want due process, yes, but these attorneys and judges who work for DOHA have to realize they work for the government, and we are talking about national security."

Strouse says there were countless times when he and his staff pressed cases against applicants with questionable backgrounds but were overruled by the headquarters office in Arlington, Va.

"In looking at some of these administrative judge decisions," he says, "you are only seeing the tip of the iceberg."

He says he had frequent disputes with senior DOHA lawyers and Schachter, the agency's director, over "liberal" decisions. He says Schachter talked about how no spies have ever been cleared by DOHA. But, Strouse says: "Of course, he can't be disputed because there hasn't been a spy to come up. But I'm sure they are out there. Industry has long been a problem for spying."

Schachter declined to answer many questions. In a letter to USA Today, he wrote: "Sensationalizing a few cases distorts the overall record of seriousness, professionalism and dedication reflected throughout the DOHA staff and judges."

But Thomas Ewald, who directed security background investigations for the Defense Department before retiring in 1996, worries that some DOHA decisions will come back to haunt the agency. "There is no question that all of us in the business felt that many clearances should be denied that weren't," he says. "It only takes one person to cause untold damage to national security."

[From the USA Today, Jan. 4, 2000]

EASY ACCESS TO NATION'S SECRETS POSES SECURITY THREAT

GAO, USA TODAY reports show erosion of standards for clearances.

"No one has a right to a national security clearance." At least, that is what the Supreme Court said in 1988, ruling that the government should grant clearances "only when consistent with the interests of national security."

Yet, as an outraged Sen. Tom Harkin, D-Iowa, noted, citing a special report in USA TODAY last week, the Pentagon "apparently has an 'ask don't care' policy when it comes to contractor security clearances." And this week, Congress' General Accounting Office (GAO) announced that it is undertaking a new inquiry to determine whether the Defense Department consistently complies with government guidelines for issuing clearances.

There's good reason to wonder. The USA TODAY report detailed numerous instances of defense contractors' workers receiving top-secret clearances despite long histories of financial problems, drug use, alcoholism, sexual misconduct and even criminal activity.

One was awarded a clearance while on probation for bank fraud. Another was allowed to keep his high-level clearance after taking part in a \$2-million fraud against the Navy. Another had a history of criminal sexual misconduct for which he was still receiving therapy.

Such behavior runs counter to President Clinton's 1995 executive order requiring that recipients of clearances have a personal and professional history showing "loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion and sound judgment."

And it's not the first example of the Pentagon's relaxed-fit attitude when it comes to maintaining the integrity of the security-clearance system that is designated to protect the nation's top secrets. As previous USA TODAY and GAO investigations have shown in recent months, the Pentagon has a backlog of more than 600,000 investigations for renewals of clearances. The GAO also concluded that "inadequate personal-security investigations pose national security risks." It found that 92% of the investigations it audited were deficient on matters including citizenship and criminal history.

Oversight wasn't the problem with the cases cited by USA TODAY last week. Those individuals received clearances because special judges in the Defense Office of Hearings and Appeals overruled Pentagon investigators and the office's own lawyers.

Hearings before such judges provide a needed level of protection against the arbitrary and capricious denial of security clearances by the government. People can correct facts and provide mitigating evidence to prove they aren't a threat to national security.

But prove that they must. And standards shouldn't be lowered for private contractors' employees. Defense contractors build the nation's advanced weapons. They develop the software and hardware for guarding the country's infrastructure and mapping attack or defense plans. Their secrets are as important as any at the Pentagon.

Harkin is demanding that the Pentagon demonstrate that it is taking steps to "ensure that security clearance is not granted to people likely to abuse the privilege."

As a start, investigators, hearing judges and defense contractors should consider the Supreme Court's message a reminder: Don't allow national security clearances to endanger national security.

A SECURITY CHECK

In deciding whether to grant security clearances, federal guidelines require judges to consider the following factors: Allegiance to the United States, Foreign influence, Sexual behavior, Personal conduct, Financial considerations, Alcohol consumption, Drug involvement, Emotional, mental and personality disorders, Criminal conduct, Security violations, Outside activities, and Misuse of information technology systems.

Mr. SMITH of New Hampshire. At the Defense Office of Hearings and Appeals, USA Today reported that felons, convicted felons—I want my colleagues to listen carefully here—convicted felons, including a murderer, individuals with chronic alcohol and drug abuse problems, a pedophile, an exhibitionist—all received security clearances in order to work for defense contractors.

I want to repeat that because I think most people would say, you have to be kidding, that really happened? The answer is yes, which is why this amendment is so urgently needed. This was investigative reporting by USA Today that reported that a murderer, people with chronic alcohol and drug abuse problems, a pedophile, and an exhibitionist received security clearance to work for defense contractors.

There was another individual who was awarded a clearance while on probation for bank fraud. Yet another was allowed to keep his clearance after taking part in a \$2 million fraud against the U.S. Navy. Another had a history of criminal sexual misconduct for which he was still undergoing therapy.

For goodness' sake, I say to my colleagues, most of us and the American people would say: Gee, to get a security clearance, that is a big deal; you get to see all the secrets. At least that is what the people think. We have different levels of security clearances, from confidential, to secret, to top secret, to code level. These are security clearances for individuals who have no right to get those clearances, and I think every American would agree: \$2 million in fraud against the U.S. Navy, pedophiles, murderers, chronic alcohol and drug abusers getting security clearances to see the highest classified material on various defense contracts.

An even more egregious example is that an administrative judge at the Defense Office of Hearings and Appeals—that is who hears these cases—granted a clearance to a defense contractor's project manager who had a lengthy history of drug and alcohol abuse, including two convictions of selling cocaine for which he served two separate terms in Federal prison. Overriding Government lawyers who said this man's criminal past made him ineligible for a clearance, the judge at this defense

hearing ruled this individual "had no desire to ever engage in criminal conduct again."

I repeat. This is an individual who was granted a clearance by an administrative judge at the Defense Office of Hearings and Appeals. He had a lengthy history of drug and alcohol abuse, including two convictions for selling cocaine and served two separate prison terms for it. The Government lawyers said: No, this guy should not have a clearance; what are you talking about here?

They were overridden. The judge ruled the individual "had no desire to ever engage in criminal conduct again." Therefore, we will give him his clearance.

The case in point, when somebody else comes along tomorrow and says: Yes, I robbed a couple of banks, killed a couple of people, but I am sorry; I will not do it again if you will just give me my security clearance, that is what I am talking about. That is the logic: Yes, I sold a little cocaine, maybe I used a little cocaine; I am sorry. Can I have my clearance? I want to get access to classified secrets so I can work for a defense contractor.

It is unbelievable to think this is happening in our Government, but it is. Common sense dictates that one convicted murderer or one convicted drug dealer with a security clearance is one too many.

I have been told by at least one former DOD official that the USA Today's reported cases of felons granted security clearances is probably only the tip of the iceberg. These are the ones we know about.

I am also informed that the Defense Office of Hearings and Appeals is the only organization dictated to by attorneys, while in the others—for example, the military services—the security specialists are in charge. We want the security specialists to be in charge, and apparently they are not.

A frequent complaint is when there is reasonable doubt about an applicant, the Defense Office of Hearings and Appeals judges rule in favor of the applicant rather than the national interest. This is a very important point. Do you err on the side of national defense, national security, national interest, or do you err on the side of the individual?

This is not rocket science, and it is not a big deal about how they do this. Yet it is happening. In other words, err on the side of the individual; he will be OK; he is sorry; he is not going to do it again; do not worry about the cocaine; do not worry about the murder; do not worry about that; it is fine; we think he will be OK so we are going to err on his side, not on the side of national security.

I say to my colleagues, we all have staff who get security clearances. My colleagues know how tough it is to get them and how long they wait and what they put these guys and gals through. My colleagues know what is on the forms and how long it takes to get a

clearance. It is an outrage this is occurring.

The adjudicative guidelines require that national security be the first priority. Those are the guidelines. These guidelines are not being enforced. As my colleagues watch me, they must be thinking: This cannot be true; he has to be blowing smoke; no way.

It is true. I have researched these cases. Senator HARKIN, who has done an outstanding job, has also researched these cases. Senator HARKIN is with me on this amendment. In fact, he first helped bring this to my attention.

When I repeatedly questioned the DOD general counsel at the April 6 hearing about whether it is acceptable to grant a clearance to an individual who committed a cold-blooded murder, he would not say no to my question.

I said to him: Is it acceptable ever to grant a clearance to an individual who committed a cold-blooded murder? I wanted him to say no. I gave him every opportunity to say no, but he refused to say no.

If you do not say no, it has to mean there is a time when it is in the interest of the individual, never mind national defense, to grant the clearance because he may not commit a murder anymore and he might be great. He could be the greatest contractor employee the Defense Department ever saw, but do we want to take the chance? Do we want to take a chance?

If my colleagues had a staff member who was asking for a security clearance—I do not know if they would be working for them if he or she committed a murder, but if they did and tried to get one, good luck. We know they would not get it. Therefore, if that is the rule for staff, then it ought to be the rule for those contractors who work for the Defense Department.

Senator HARKIN's press release about this scandal when it broke argued very persuasively:

No one has a right to a national security clearance.

No one has a right to it. Senator HARKIN, who testified at the SASC hearings on the DSS and DOHA, argued people go through intense scrutiny just to serve on the Commission on Library Sciences, and they do not have to handle any Government secrets. We should at least have the same high standards for those holding security clearances as we require of those serving on the Commission of Library Sciences. Senator HARKIN is absolutely right. I agree with him.

Additionally, there were examples of the Defense Office of Hearings and Appeals granting clearances to people with recent drug and alcohol addictions. Why is the Defense Office of Hearings and Appeals, knowing there will always be risks that some people with clearances will betray their country for money or for ideology, placing an additional risk into the system by giving these felons clearances? Why do we take the risk? There are many good, decent people who have never com-

mitted a crime in their lives who do not gain access to classified material because they do not need to know and, therefore, they do not get their clearances because they do not need to know. Why does a convicted murderer, rapist, or convicted drug dealer need to know? The answer is simply they do not.

You might say: We should give this person a chance. No, we should not, no, no, no; not if we are going to risk the national defense of our country, we should not give them a chance.

As Senator HARKIN has said: It is not a right. It is a privilege that you earn. Additionally, there were examples of, as I said, clearances for those with recent drug and alcohol problems. Why would we want these convicted lawbreakers given access to these secrets? We know how much damage just one individual can wreak on national security. We have heard the stories—the legacy of Aldrich Ames, Jonathan Pollard, and the Walkers, the Rosenbergs. Go back as far as you want to go. It is well known to all of us who have dealt with national security issues, we simply cannot afford to have loose standards when it comes to protecting our secrets and protecting lives. They are loose enough as it is.

We have had stolen secrets from our atomic weapons labs going to the Chinese. We certainly do not need to invite people into critical areas, where sensitive technology and sensitive information is bandied about, to have a person who would have that kind of a background to get a security clearance.

I emphasize, again, I know in America we are all in favor—and I am, too—of giving people a break, giving a person a chance, giving them a second chance, but not when it comes to national security.

I guarantee you, for every cocaine dealer you think is fine now and would be a great person to work for a Government contractor—I guarantee you—there are 100 who never had any cocaine convictions who would be just as good. I guarantee it. We ought to start looking down the line to find them.

In some States, an individual would lose his or her right to vote based on a felony conviction. The 1968 Gun Control Act stripped individuals convicted of felonies of their constitutionally protected second amendment right. I have known of an instance where a Capitol Hill staffer was denied a clearance because he was a few months behind in his student loan payment.

Keep in mind, a security clearance is not a right; it is a privilege. In fact, it is more than that. It is an honor. That says something about this person, that this is a special person who can be trusted with the secrets, sensitive information about the U.S. Government, about the weapons we make.

To say that we would dumb those standards down at that level is a disgrace and, frankly, it is an embarrassment to our country, to our Government, to our Defense Department, to

our administration, to everybody involved, and, yes, even an embarrassment to the members of the Armed Services Committee of the Senate that this is happening. It is an embarrassment. The only way to correct it is to stop it and say it is wrong.

Right now you can have a felony conviction and still be granted a clearance and access to sensitive secrets; and that does not pass the commonsense test. It does not pass the smell test, folks, that a convicted murderer can be granted a security clearance. Believe it or not, they had an explanation for it. It was not a good one. They had an explanation for it: He's reformed now. He's OK now.

In conclusion, the bottom line is, my amendment is very simple. It would prevent DOD from granting security clearances to those who have been convicted in a court of a crime punishable by imprisonment for a term exceeding 1 year. It would also disallow a clearance for anyone who is an unlawful user or addicted to any controlled substance or has been adjudicated as mentally incompetent or has been dishonorably discharged from the U.S. Armed Forces.

It is sad, though, that we have to pass an amendment on the floor of the Senate, add language to the DOD authorization bill that says the people who do these things—the people who review these cases, who review these individuals—we have to pass an amendment which is nothing more than common sense that says you cannot put murderers and felons and cocaine dealers, people who have been convicted of these crimes, in positions where they have access to national security information. We have to pass an amendment because the people we put in charge are not doing this, are not stopping this. Can you imagine that?

That is what it has come to. I am embarrassed by it. But I will tell you what. I would rather be embarrassed by it than have it continue to happen, where our secrets get compromised because somebody could be compromised as a result of this kind of background.

We cannot take all the risks out of the system no matter how good we are, no matter how good the DOHA, the Defense Office of Hearings and Appeals. No matter how good they are, they are going to make mistakes. That is human. Sometimes people such as Pollard and Walker get clearances, unfortunately. And they ought to pay the price for it when they are caught. But let's not take this kind of ridiculous risk and dumb down the entire operation.

I might add—it does not say this in the amendment—if we have people who are looking at these cases, and assessing the risks, and they are concluding that people with these kinds of backgrounds can get security clearances, we may want to change some of the people who are doing the evaluating as well. That may be the next step if it does not stop.

I regret that many of the committee members missed the DSS, the Department of Security Services, and the Defense Office of Hearings and Appeals hearing that we had because it was an eye-opener for me. Even though I read the press articles relating to the scandal, I was surprised those individuals I questioned—when I gave them the opportunity when I questioned them—still said they would not say no when I asked them whether they believed it would be all right to give somebody such as that a clearance. They would not say no, which gives me the impression there would be circumstances where they should be able to get the clearances.

That is my amendment. I know the manager of the bill is not prepared to vote at this time. But at this point, Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. SMITH of New Hampshire. Mr. President, I yield the floor.

I will take this moment to thank my colleague, Senator WARNER, the chairman of the committee, for the outstanding leadership he has provided as the chairman of the committee.

Mr. WARNER. Mr. President, I thank my colleague and simply say we are endeavoring and working with the other side of the aisle to see if we might come up with some clarification to his amendment.

I yield the floor.

AMENDMENT NO. 3214 TO AMENDMENT NO. 3210

Mr. MCCAIN. Mr. President, I send a second-degree amendment to the pending amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. FEINGOLD and Mr. LIEBERMAN, proposes an amendment numbered 3214 to amendment No. 3210.

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

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

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

Mr. MCCAIN. Mr. President, I offer this amendment on behalf of myself, Senator FEINGOLD, and Senator LIEBERMAN.

This amendment would mandate that the names of contributors to entities operating under section 527 of the Tax Code be disclosed. This amendment is simple. It is straightforward. It would impose no substantial burdens on any entity. And most importantly, it is constitutional and in no way infringes on the free speech of any individual or group.

Before I discuss the matter further, I thank my colleagues, Senator

LIEBERMAN and Senator FEINGOLD, for all they have done to close this 527 loophole. They have been stalwarts in this effort, and their hard work and dedication deserves note and praise. In fact, Senator LIEBERMAN has separate legislation supported by myself and Senator FEINGOLD on this very issue.

On May 18 of this year, USA Today stated:

What's happening? Clever lawyers for partisan activists, ideological causes and special interests have invented a new way to channel unlimited money into campaigns and avoid all accountability. Hiding behind the guise of "issue advocacy" and an obscure part of the tax law, nameless benefactors with thick bankrolls can donate unlimited sums to entities known as "section 527 committees," beyond the reach of the campaign-reporting laws designed to curb such abuses.

If the Chinese Army had discovered this tactic first, its infamous contributions of 1996 would have been quite legal. It wasn't supposed to be this way. Post-Watergate reforms a quarter-century ago required that all donations of \$200 and more be publicly reported by name. There would be no more "hidden gifts" of \$2 million and up like those that helped fuel the illegal activities of Richard Nixon's re-election campaign. At least voters would know where a candidate's political debts lay.

But that is not the way the system has evolved. And today no one knows how many anonymous contributors are exploiting the loopholes in the law or how much these loopholes are adding to the swamp of money in politics.

USA Today sums it up well. This is a dark, uncontrolled sector of the political landscape. It is a danger to our electoral system. Unfortunately, unless we act, the problem will only grow worse.

The Associated Press reported on June 6:

At crucial moments in the presidential campaign, George W. Bush has benefited from millions of dollars in advertising paid for by mysterious groups and secret donors.

Similar ads have also boosted Vice President Al Gore, but they generally were done by well-established organizations with clear agendas. Still, their donors remained secret, too.

It's a new form of political warfare that's quickly becoming the tool of choice for people looking to influence Election 2000, made possible by a once-obscure provision in the tax code that lets anyone form a group and spend money on campaign-style ads without saying who is paying for them.

This amendment in no way restricts the ability of any individual or organization from spending money to influence a political or electoral system. I believe 527 should be abolished completely. I am not sure that at this moment in time we have sufficient votes to do that in the Senate.

This amendment protects free speech but recognizes that the public has a right to know who is speaking. This amendment gives the American public an answer to the question raised by the Associated Press story; namely, who is paying for these multimillion-dollar ad campaigns?

While the rhetoric of speech being protected is sometimes bantered around without much thought, it is not

actually speech that is constitutionally protected but the individual who is protected to speak his or her thoughts. Speech is not naturally occurring. It is not created of matter and therefore exists outside of the human realm. It is the individual who is protected. Under this amendment, the individual is protected. He or she can speak their will. Again, the public is given the right to know who is speaking.

The 2000 Federal election cycle has brought a new threat to the integrity of our Nation's election process: the proliferation of so-called stealth PACs operating under section 527 of the Tax Code. These groups exploit a recently discovered loophole in the Tax Code that allows organizations seeking to influence Federal elections to fund their election work with undisclosed and unlimited contributions at the same time as they claim exemption from both Federal taxation and the Federal election laws.

Section 527 of the Tax Code offers tax exemption to organizations primarily involved in election-related activities such as campaign committees, party committees, and PACs. It defines the type of organization it covers as one whose function is, among other things, "influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office. . . ."

Because the Federal Election Campaign Act uses near identical language in defining entities it regulates, organizations that spend or receive money "for the purpose of influencing any election for Federal office," section 527 formerly had been generally understood to apply only to those organizations that register as political committees under, and comply with, Federal election campaign laws, unless they focus on State or local activities and do not meet certain other FECA requirements.

Nevertheless, a number of groups engaged in what they term "issue advocacy campaigns" and other election-related activity recently began arguing that the near identical language of FECA and section 527 actually mean two different things. In their view, they can gain freedom from taxation by claiming they are seeking to influence the election of individuals to Federal office but may evade regulation under FECA by asserting they are not seeking to directly influence an election for Federal office.

Let me repeat that. This is what these organizations are saying: They can gain freedom from taxation by claiming they are seeking to influence the election of individuals to Federal office, but they evade regulation under Federal election laws by asserting they are not seeking to directly influence an election for Federal office.

As we have seen in the past, they simply avoid using the infamous six words noted in the Buckley decision as

a footnote; namely, "vote for, vote against, support" or "oppose." As a result—because unlike other tax exempt groups such as 501(c)(3)s and (c)(4)s, section 527 groups don't even have to publicly disclose their existence—these groups gain both the public subsidy of tax exemption and the ability to shield from the American public the identity of those spending their money to try to influence our elections.

Indeed, according to news reports, newly formed 527 organizations pushing the agenda of political parties are using the ability to mask the identity of their contributors as a means of courting wealthy donors who are seeking anonymity in their efforts to influence our elections.

There are some in this body who would fully regulate 527s under the FECA. This amendment doesn't do that. While I would personally support such an effort, this amendment does not impose the burdens mandated under FECA to 527 organizations. This amendment would, however, require 527 organizations to disclose their existence to the IRS, to file publicly available tax returns, and to file with the IRS or make public reports specifying annual expenditures of over \$500 and identifying those who contribute more than \$200 annually to the organization. What could be more simple? What could be more fair, honest, and straightforward?

The Washington Post recently stated:

For years, opponents of campaign finance reform have been saying that disclosure is disinfectant enough. Don't enter the swamp of trying to regulate the raising and spending of campaign money, they say; just require the prompt reporting of contributions, and let the voters perform the regulatory function at the polls.

This is an argument that has been made continuously by my colleagues. On September 26, 1997, the senior Senator from Kentucky stated, in regards to contributor information reported by the Democratic National Committee:

Disclosure would have been the best disinfectant.

On the same day, on the floor of the Senate, the majority leader stated:

Why don't we, instead, go with freedom, open it up, have full disclosure and let everybody participate to the maximum they wish?

I believe this amendment is 100 percent in accordance with Senator LOTT's comments. For the information of my colleagues, the amendment places no new restrictions of any kind on giving to so-called 527 organizations or how they spend their money. It merely mandates full disclosure.

Senator LOTT stated on May 13, 1992:

It seems to me that something that has that big an influence on an election, campaign election, should at least be reported. Disclosure. That is the key. Let us always disclose to the American people where we are getting our money, where it is being spent. That is the answer.

On September 26, 1997, Senator BENNETT stated:

So, if you are going to look for a local example of something that works, you could say, based on my state's experience, that we ought to open the whole thing up and let corporate contributions come in as well as individual contributions. The one thing that we do have in Utah that has made it work is full and complete disclosure so that everybody knows that, if the Utah Power and Light company is giving to X campaign, that is on the public record. And when the Governor goes to deal with utility regulation, everybody knows how much the power company gave him.

Under this amendment, 527 entities would disclose their contributors exactly in the manner Senator BENNETT claims should be done.

Senator CRAIG, on February 24, 1998, stated:

Instead [of McCain-Feingold] full and immediate public disclosure of campaign donations would be a much more logical approach.

To be fair, Senator CRAIG was referring to contributions to candidates. But we all recognize that political ads that run under the 527 loophole are designed to accomplish the exact same goal as candidate-run ads: to elect or defeat candidates or causes and, as such, the contributors to 527s, such as contributors to candidates, should be immediately and fully disclosed.

The clarion call for greater disclosure has been heard and it is time we acted. This amendment is not designed to give any one party any advantage over the other. As I noted earlier in my remarks, both parties are the beneficiaries of 527 expenditures.

As the Washington Post editorialized:

Both parties use these Section 527 committees. The failure to disclose is insidious, the ultimate corruption of a political system in which offices if not the office holders themselves, are increasingly bought. At least, they could vote for sunshine. Or is the truth too embarrassing for either donors or recipients?

Many times, I have stood on the floor of the Senate and argued for the constitutionality of the so-called McCain-Feingold legislation. I strongly believe that campaign contributions should not only be disclosed but that they can be constitutionally limited. Recent Supreme Court decisions clearly affirm that fact.

But there was dissent noted in the most recent Supreme Court case on campaign finance reform. I want to note for the Record that in Justice Kennedy's dissent he stated:

What the Court does not do is examine and defend the substitute it has encouraged, covert speech funded by unlimited soft money. In my view, that system creates dangers greater than the one it has replaced. The first danger is the one already mentioned: that we require contributors of soft money and its beneficiaries mask their real purpose. Second, we have an indirect system of accountability that is confusing, if not dispiriting, to the voter. The very disaffection or distrust that the Court cites as the justification for limits on direct contributions has now spread to the entire discourse.

In his dissent, Justice Kennedy also points out:

Among the facts the Court declines to take into account is the emergence of cyberspace communication by which political contributions can be reported almost simultaneously with payment. The public can then judge for itself whether the candidate or the officeholder has so overstepped that we no longer trust him or her to make a detached neutral judgment. This is a far more immediate way to assess the integrity and the performance of our leaders than through the hidden world of soft money and covert speech.

In his dissent concerning the same campaign finance reform case, Justice Thomas paraphrases the Buckley case and states:

And disclosure laws "deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity."

Based on the dissent issued in the Missouri case and what was clearly stated by the majority, the kind of disclosure mandated by this amendment would not only be constitutional but is clearly in the public's best interest.

Mr. President, this amendment is the right thing to do. It is not as comprehensive an approach as I believe is necessary to deal with the numerous problems associated with our current campaign finance system. I believe much more needs to be done, and I intend to continue my fight with my friend from Wisconsin, Senator FEINGOLD, to truly reform our campaign finance laws. But it is a simple, easy-to-understand solution to one specific problem that currently plagues our electoral system. It is a solution we can enact today or tomorrow. It is a solution to a problem that has just begun and one that is easily solved. I hope my colleagues will support this amendment.

I have been in elected office since 1983. I first came to the other body and then to this one. If at the time I first came to the Congress of the United States you told me tickets would be sold by fundraisers for \$500,000, that we would have organizations that took part in our political system and directly intervened in our elections, where it was not even required for contributors to disclose unlimited amounts of money, if you had told me that we would have a situation which would cause so much concern and anger and discontent, as in the 1996 election where money poured in even from foreign sources, that huge amounts of money from a Communist country, China, would pour into our elections—we may never know how much—that, in my view, would have been illegal and deserved the appointment of an independent counsel. The machinations that went into the Justice Department to prevent that from happening have been revealed.

If we don't require full disclosure of these 527s, then we will say as a body that it is legal for money to come from anywhere, from anyone, and it doesn't even have to be disclosed to the American people. That is a sad state of affairs, a very sad state of affairs.

I see my friend, Senator FEINGOLD, here waiting to speak, and I know others want to speak on this. I have said a

couple of times on the floor of the Senate that I learned a lot in the last campaign in which I was involved. The most disheartening thing that I learned—which was affirmed long before I learned it by the 1998 election, which had the lowest voter turnout in history of the 18 to 26-year-olds in this country—was that particularly young Americans are becoming more and more disconnected and even alienated from their Government. Young Americans don't believe they are represented anymore. Young Americans in a focus group conducted by the Secretaries of State of America—those responsible for our elections in every State—the focus groups of young people were very alarming in their results. A lot of young people said they thought we were corrupt. A lot of young people said they would never run for public office. There is an unwillingness to serve the country—at least in the area of public service today—because young Americans believe that we no longer represent their hopes, dreams, and aspirations.

This situation has gradually evolved, as any evil does in life. We started out with a situation where soft money was set up that required full disclosure, and different organizations calling themselves “independent” began to accept unlimited amounts of money. But at least they fell under laws that required full disclosure. Now we have this new, burgeoning industry. I have no idea if it is tens of millions or hundreds of millions of dollars that will go into this political campaign under the guise of 527. I intend, later in the debate, to quote from news articles describing the dramatic growth of these 527s. Mr. President, it has to stop.

A funny thing is happening in the world. Today, the former Chancellor of the Federal Republic of Germany, Mr. Helmut Kohl, is in disgrace in his nation—the man who led his nation through a great deal of the cold war for 16 years. Helmut Kohl is in disgrace in the eyes of his countrymen because Helmut Kohl refuses to disclose the names of the people who gave him money for political purposes while he was the Chancellor of the Federal Republic of Germany.

In the United States of America, the beacon of home and freedom and the institutions of democracy throughout the world, we now have a situation where it is legal for anyone to give unlimited amounts of money which will directly affect American political campaigns. There is not even disclosure. It is evil in itself that unlimited amounts of money are able to be contributed because it is a direct violation of the \$1,000 contribution limit which the U.S. Supreme Court just upheld as constitutional. But now we have reached a point where the Washington Post says failure to disclose is insidious, the ultimate corruption of a political system in which offices, if not the officeholders themselves, are increasingly bought. At least we could vote for sunshine.

I would like to yield to my friend from New York briefly because Senator FEINGOLD is waiting.

Mr. SCHUMER. Mr. President, I want to ask the Senator a question to clarify. His amendment is one of disclosure. Is that the same as the one the Senator from Connecticut introduced? It would not affect first amendment rights. It would not affect limits on how much you give but simply disclose what is given. Am I correct in that assumption?

Mr. MCCAIN. The Senator from New York is correct. I would like to say to the Senator from New York that we are doing this because perhaps we can't sell the whole package; perhaps we can't do the whole thing. This is in no way an indication that Senator FEINGOLD and I or the Senator from New York or the Senator from Connecticut are not equally committed to McCain-Feingold soft money elimination, et cetera. But at least let's get this ill cured.

How in the world a vote can be cast against disclosure of this is not comprehensible to me.

I thank the Senator.

Mr. SCHUMER. I think it is an excellent idea. I would like to speak later in support of the Senator's amendment.

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

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am very pleased to again be on the floor with my colleague and friend, the Senator from Arizona, and to join with him in offering this amendment.

I am especially pleased also to be offering this amendment with the Senator from Connecticut, Mr. LIEBERMAN, who has offered a bill in this same form.

I ask unanimous consent that the Senator from New York, Mr. SCHUMER, be added as a cosponsor of the amendment as well.

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

Mr. FEINGOLD. Mr. President, if there is one thing on which the entire Senate should be able to agree, it is that we need to have full disclosure by groups participating in the electoral process by running advertisements that mention candidates.

This is a first step. In fact, it is only a first step on this bill. We intend to offer other steps, including our McCain-Feingold legislation concerning soft money, on this bill. But this is the first step.

The so-called 527 organizations that this amendment addresses are the newest wrinkle in the breakdown of our campaign finance laws.

These 527 groups are now openly and proudly flouting the election laws by running phony issue ads and refusing to register with the FEC as political committees or disclose their spending and contributors. It is time that Congress called a stop to this, not to try to keep anyone from speaking or other-

wise participating in elections, but to give the American people information that they desperately need and deserve about who is behind the ads that are already flooding our airwaves, six months before the election.

There is no reason that our tax laws should give protection to any group that refuses to play by the election law rules. For that reason, I have cosponsored and wholeheartedly endorse S. 2582, a bill introduced earlier this year by Senators LIEBERMAN, DASCHLE, MCCAIN, and others to restrict the tax exempt status available under section 527 of the Internal Revenue Code only to those groups that register and report with the FEC. This amendment is even more mild. But at the very least, the public deserves more information on the financial backers and activities of groups that benefit from this tax exempt status, and that is what this amendment attempts to provide. This amendment simply seeks disclosure. It would be a small step towards addressing one of the loopholes in our current campaign laws that is eroding the public's faith in our electoral system. It's a small step, but an important step. It is the first step, and the second step is the ban on soft money.

Time and time again when we have debated reform here on the floor of the Senate, the opponents of the McCain-Feingold bill have said that they favor full and complete disclosure of campaign contributions and spending.

The Senator from Arizona did a fine job of sharing with us some of the quotes from Senators who said they would support disclosure even if they couldn't support a ban on soft money.

Well, those Senators who so confidently proclaim that full disclosure is the answer to our campaign finance problems should realize that they cannot be consistent in that view if they don't support this amendment. All this amendments seeks is disclosure, the most basic and commonsense tenet of our campaign finance laws, by groups that are spending millions of dollars to influence elections. It is said that sunshine is the best disinfectant. Here is our chance to throw some sunshine on this latest effort to cast a dark cloud on our campaign finance system.

Sadly, what to me is perhaps the most shameful thing about this whole process is we know that many Members of Congress are involved in raising money for these 527s.

Recently, there was a very disturbing report in the Washington Post about the majority leader urging hi-tech companies to contribute to a new group called Americans for Job Security that is now running ads supporting one of our colleagues who is up for reelection. Americans for Job Security is almost certainly claiming a tax exemption under section 527, but at the same time it will not disclose its contributors or its spending. And we all know of the highly publicized connections between the majority whip in the House, Mr. DELAY, and various 527 organizations.

These groups pose a special danger to the political process because if Members of Congress can organize them or raise money for them, the real possibility of corruption emerges. What is the difference between a million dollar contribution directly to a candidate and a million dollar contribution requested by a candidate that goes to a group that plans to run ads to support that candidate or, more likely, attack his or her opponent? There really is no difference when you come right down to it, but right now, the first contribution is illegal, as it should be, and the second contribution is not. It is legal. Our amendment does not prohibit that second contribution, it just asks that it be made public.

As groups proliferate, the chances of scandal increase as well. It will not be long before reports of legislative favors received by big donors to 527 groups start making the headlines. Or foreign money or money derived from organized crime making its way into our election process by way of 527s. The 527 loophole is a ticking time bomb of scandal.

As noted in the recent Common Cause report, "Under the Radar: The Attack of Stealth PACs on our Nation's Elections," here are some of the groups that are taking advantage of the 527 loophole to collect unlimited contributions and use them to influence federal elections without any disclosure. Saving America's Families Everyday, the Republican Majority Issues Committee, Citizens for Better Medicare, Republicans for Clean Air, Shape the Debate, Business Leaders for Sensible Priorities, the Peace Voter Fund, citizens for Reform, and the Sierra Club. When the American people see an ad by one of these groups, they will know it is coming from a Stealth PAC, a 527, but that's all they will know because these groups are currently not reporting anything to the FEC or the IRS.

Money, politics, and secrecy is a dangerous mixture. Mr. President. The least we can do is address the secrecy ingredient in this potion with this amendment. There is no justification whatsoever for allowing these groups to operate under the radar. None. Citizens deserve to know who is behind a message that is being delivered to them in the heat of a campaign. These groups that hide behind apple pie names are trying to obscure their identities from the public. The public is entitled to that information. And it is entitled to withhold a tax exemption from any group that would refuse to provide the information.

I think I have heard from almost every one of my colleagues recently that they believe this campaign finance system is completely out of control, that they sense it is about to completely explode. We all know it. It is completely out of control. This is a first step to try to bring that control back and then to move on quickly to the effort to address the other even

more enormous problem at this point—the problem of soft money being contributed to political parties.

I thank the Senator from Arizona and my colleagues on the floor, the Senators from Connecticut and New York, for their work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

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

I rise to support the amendment offered by the Senator from Arizona. I am proud to be a cosponsor of it and to join with him and the Senator from Wisconsin, my friend, and also my colleague from New York.

This is a bold but absolutely necessary step which was initiated by the Senator from Arizona, based on some work a bipartisan group did together earlier in the year to try to respond to this latest threat to the integrity of our Nation's election process, and that is the proliferation of so-called "stealth" PACs operating under section 527 of the Tax Code.

As my colleagues have indicated, these groups exploit a relatively recently discovered loophole in the Tax Code that allows organizations seeking to influence Federal elections to fund those elections with undisclosed and unlimited contributions at the same time as they claim exemption from both Federal taxation and the Federal election laws.

As I say these words, and as I have listened to my colleagues, I wonder about the folks listening to the proceedings on C-SPAN. People must justifiably be scratching their heads or, I hope, standing up in outrage at what is happening within our political system.

I was taught as a student at school long ago about the power of water, the natural force of water, to move and find weakness and then move through that weakness to continue to go forward. The flow of money in our political system today, which is not as natural as the movement of water through nature, seems to follow the same kind of unstoppable movement where it pursues a point of weakness in our legal system and pushes through, to the detriment of our democracy.

Section 527 is the latest point of vulnerability that has been found by the forces and flow of money in our political system. Section 527 offers tax exemption to organizations, primarily involved in election-related activities such as campaign committees, party committees, and PACs. That is what the law says it is supposed to do. It defines the type of organization it discovers as one whose function is, among other things, "Influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office."

Because the Federal Election Campaign Act uses nearly identical language to define the entities it regulates, section 527 formally had been

generally understood to apply only to those organizations that register as political committees under the Federal Election Campaign Act.

Nevertheless, the flow of money moves to find a point of vulnerability in our existing legal system. A number of groups engaging in what they term "issue advocacy campaigns" and other election-related activities, have begun arguing that the near identical language of our Federal Election Campaign Act and section 527 actually mean two different things. This would be hilarious if it wasn't so serious. In their view, these groups gain freedom from taxation by claiming they are seeking to influence the election of individuals to Federal office, but they claim they can evade regulation under the Campaign Act by asserting that they are not seeking to influence an election for Federal office.

They are going two ways at once, trying to claim the benefit of two inconsistent laws, and, for the time being, getting away with it. As a result, unlike other tax-exempt groups, section 527 groups don't even have to publicly disclose their existence. They gain both the public subsidy of tax exemption and the ability to shield from the American public the identity of those spending their money to try to influence our elections. Indeed, according to news reports, newly formed 527 organizations pushing the agenda of political parties are using the ability to mask the identity of their contributors as a means of courting wealthy donors who are seeking anonymity in their efforts to influence our elections.

This is so venal, an end run on the clear intention of our laws, that I cannot believe we will let it continue. Section 527 organizations are not required to publicly disclose their existence. It is impossible to know the precise scope of this problem. The Internal Revenue Service private letter rulings, though, make clear that organizations that are intent on running what they call "issue ad campaigns" and engaging in other election-related activities are free to assert section 527 status. Of course, there have been numerous news reports that provide specific examples of groups taking advantage of these rulings.

Common Cause recently issued a report which is engaging in unsettling reading, under the title "Under the Radar: The Attack of the Stealth PACs on Our Nation's Elections," which offers details on 527 groups set up by politicians, industry groups, right-leaning ideological groups, and left-leaning ideological groups. The advantages conferred by assuming this 527 form, which are the anonymity provided to both the organization and its donors, the ability to engage in unlimited political activity without losing your tax-exempt status, and significantly the exemption from gift tax which otherwise would be imposed on large donors, leaves no doubt that

these groups will continue to proliferate as the November election approaches.

No one should doubt that the expansion of these groups poses a real and significant threat to the integrity and the fairness of our election system. One of the basic promises that our system makes is for full disclosure. Senator MCCAIN and Senator FEINGOLD have spoken of comments that have been made on this floor and elsewhere by those who opposed other forms of regulating and limiting campaign finance contributions, limits on expenditures, but at least support disclosure, sunshine, the right to know. The identity of the messenger, the identity of the contributor supporting a message, naturally, would help a citizen, a voter, reach a judgment on the quality and the effect of that message.

The risk posed by the 527 loophole goes even further than depriving the American people of critical information. I believe it threatens the very heart of our democratic political process because allowing these groups to operate in the shadows poses a real and present danger of corruption and makes it difficult for anyone to vigilantly guard against that risk. The press has reported that a growing number of 527 groups have connections to, or even have been set up by, candidates and elected officials who are otherwise limited—clearly, at least so is the intention of the law—by other laws. Allowing individuals to give to these groups and allowing elected officials to solicit money for these groups without ever having to disclose their dealings to the public, at a minimum leads to exactly the appearance of corruption that the Supreme Court in some of its election law cases has warned against and sets the conditions clearly that would allow corruption to thrive.

If people in public life are allowed to continue seeking money secretly, particularly sums of money that exceed what the average American makes in a year, there is no telling what will be asked for in return. And there is no predicting how many more tens of thousands, hundreds of thousands, millions of our fellow citizens will turn away from our political system because they reach the conclusion that there is not actually equal access to our Government; that an individual or group or corporation that gives hundreds of thousands of dollars secretly to this kind of political committee clearly have more influence than they do, and it is not worth even turning out to vote.

In the hopes of forestalling this growing cancer in our body politic, a bipartisan group of Members of the Senate earlier this year introduced two bills to deal with this 527 problem. The first was what we called our aspirational bill. It would have completely closed the 527 loophole by making clear that tax exemption under 527 is available only to organizations regulated under the Federal Elections Campaign Act. It

was pretty straightforward and, in my opinion, eminently sensible and logical. If this bill were ever enacted, groups would no longer be able to tell one thing to the IRS to get a tax benefit and then deny the same thing to the FEC, the Federal Election Commission, in order to evade Federal Election Campaign Act regulation.

But recognizing that a complete closing of this ever growing 527 loophole might not be possible to achieve in this Congress, we also offered a second alternative, slightly narrower. That is what this amendment is before the Senate now. It is aimed at forcing section 527 organizations simply to emerge from the dark shadows, from the secret corners, and let the public know who they are—that is not asking too much—where they get their money—that is a fundamental right—and how they spend it.

This amendment would require 527 organizations to disclose their existence to the IRS, to file publicly available tax returns and to file with the IRS and make public reports specifying annual expenditures of at least \$500 and identifying those who contribute at least \$200 annually to the organization. That is not asking very much. It is simple fairness, basic facts, respecting the public's right to know.

No doubt opponents of this amendment may claim the proposal infringes on their first amendment rights, perhaps, to free speech and association. But nothing in this amendment infringes on those cherished freedoms in the slightest bit. This amendment does not prohibit anyone from speaking. It does not force any group that does not currently have to comply with the Federal Elections Campaign Act or disclose information about itself to do either of those things. This amendment speaks only to what a group must do if it wants the public subsidy of tax exemption, something the Supreme Court has made clear that no one has a constitutional right to have. We in Congress, Representatives of the people, makers of the law, have the right to attach conditions in return for the public subsidy of tax exemption. As the Supreme Court explained in *Regan v. Taxation with Representation of Washington*, a 1983 case:

Both tax exemptions and tax-deductibility are a form of subsidy that is administered through the tax system, [and] Congressional selection of particular entities or persons for entitlement to this sort of largess is obviously a matter of policy and discretion. . . .

That is policy and discretion to be exercised in the public interest by this Congress. Under this proposal, any group not wanting to disclose information about itself or abide by the election laws would be able to continue doing whatever it is doing now. It would just have to do so without the public subsidy of tax exemption conferred by section 527. Again, that is not asking too much.

We have become so used to our campaign finance system's long, slow de-

scend that I fear it is sometimes hard to ignite the kind of outrage that should result when a new loophole starts to shred the very spirit of yet another law aimed at protecting the integrity of our system.

I suppose if there is any direct relevance of this proposal to the Department of Defense Authorization Act on which it is offered, it is that generations of Americans have fought, been injured, and died for our political system, our principles, our values: The right to exercise the franchise, the right to know. We are witnessing, without acting to correct it, the corruption and erosion of those basic freedoms.

This new 527 loophole should outrage us and we should act, I hope unanimously, across party lines, by adopting this amendment to put a stop to it.

Mr. President, I urge all our colleagues to join us in supporting this proposal. I thank the Chair and I yield the floor.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent Senators be allowed to speak on this issue, and therefore ask further proceedings under the quorum call be suspended.

Mr. ALLARD. I object.

The PRESIDING OFFICER. Is there objection?

Mr. ALLARD. I object.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. 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. WARNER. Mr. President, I ask unanimous consent that the pending McCain amendment and the Robert Smith amendment be laid aside, the McCain amendment become the pending business at 1 p.m. on Thursday, and there be 2 hours equally divided on the McCain amendment, with a vote to occur in relation to the McCain amendment immediately following the scheduled vote re: HMO at 5 p.m. on Thursday.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. No objection.

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

Mr. WARNER. In light of this agreement, there will be no further votes this evening, and the Senate will resume the DOD authorization bill at 9:30 a.m. on Thursday morning.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Senator BYRD,

who has been a tremendous leader on campaign finance reform for decades, Senator BIDEN, Senator REID of Nevada, and Senator LEVIN be added as cosponsors to the McCain-Feingold-Lieberman amendment.

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

The PRESIDING OFFICER. The Senator from Michigan.

BIRTH OF SENATOR LEVIN'S GRANDDAUGHTER

Mr. LEVIN. Mr. President, one of the reasons I left the floor with great joy during the day was to greet the arrival of my granddaughter, Bess Rachel—who was delivered today. Bess is named after my mother. I am sure she will forgive me for doing this because she is too young to know the difference. Her mother, my daughter Kate, and my son-in-law Howard Markel, may be looking at us now. If they are, I hope they will forgive me, too. I am just a proud grandpa, with grandma Barbara there at the hospital in New York. That is why I disappeared for a few minutes.

As always, HARRY REID does yeoman work on this floor for all of us on this side of the aisle, obviously, but really for every Member of the Senate. I thank him for filling in.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

INSTRUCTIONAL FACILITY AT FORT LEAVENWORTH

Mr. ROBERTS. Mr. President, I am concerned that the current primary instructional facility, Bell Hall, at the Command & General Staff College, U.S. Army Combined Arms Center, Fort Leavenworth, Kansas, is becoming incapable of performing its mission of preparing officers for positions of increased complexity and responsibility within the United States Army and other services. Bell Hall is the central academic and instructional facility of the C&GSC but the building's deteriorating physical plant and patchwork communication infrastructure can no longer support the instructional requirements contained in current and evolving Army curriculum. I am concerned that if a replacement facility is not constructed as soon as possible maintenance costs will continue to increase while Army Operation and Maintenance resources decline and student access to state-of-the-art technology required to teach advanced warfighting skills will remain limited.

Mr. WARNER. I believe construction of a new Command & General Staff College instruction facility will be included in the FY 2003 through 2007 Military Construction Future Years De-

fense Plan and I would certainly encourage the Army to execute this project as soon as possible.

Mr. ROBERTS. I thank the distinguished chairman of the Senate Armed Services Committee for his consideration and ask that the conferees include language in the conference report noting the need to execute this essential project as soon as possible.

MORNING BUSINESS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

THE RETIREMENT OF STEVE BENZA

Mr. THURMOND. Mr. President, It is neither an understatement, nor a misstatement of fact, to say that the United States Senate is an impressive, awe inspiring, and unique institution for many different reasons. Certainly one of the biggest reasons that the Senate is such a special place is the talented, dedicated, and bright men and women who work in support of us and our duties. I rise to pay tribute to one of these individuals, Steve Benza, who is retiring today after thirty-two years of service as an employee of the United States Senate.

Though he retains some of the mannerisms and accent that one would expect to find in someone who was born in the Bronx, New York City, Steve Benza is for all intents and purposes a native of the Senate. His family moved to the Washington area in 1958 and he began working in the Senate while a high school student, spending his summer breaks as a Page. Following graduation, Steve spent time working on the Grounds Crew and in the Senate Post Office before seizing the opportunity to work as a staff photographer, and his career was launched. As an aside, I would be remiss if I did not mention the fact that Senate service is a family tradition with the Benzas, Steve's mother Christine Benza has served with the Architect of the Capitol for the past forty-years.

Beginning his career as a "shooter", even before the contemporary Photographic Studio was established back in 1980, Steve Benza has become a familiar and well liked member of the Senate family. During his career here, Steve has met hundreds of Senators, taken probably millions of pictures, and has become an instantly recognizable institution with trademark mustache and trusted camera slung over his shoulder. In his almost thirty-years of working as an official photographer, Steve Benza has seen and chronicled everything from the mundane and routine to the unusual and historic. Confirmation hearings for Supreme Court Justices, the Fiftieth Anniversary of the D-Day Invasion, the Inaugurations

of four Presidents, dozens of State of the Union Addresses and Joint Sessions of Congress, and the Impeachment Trial of President Clinton are all among the events that have been covered by Steve Benza.

In 1997, Steve was promoted from his position of supervisor of the Senate Photographers to Manager of the Senate Photo Studio where he has proven himself not only to be an able administrator, but someone of vision. Under his direction, the Senate Photographic Studio has invested in new equipment and technology, embracing the revolution in digital photography which has allowed for many innovations including quicker turn around time on orders, the creation of an image data base, and expanded services that ultimately benefit us and our constituents. Also under his direction, the Senate Photo Laboratory facilities were upgraded and training opportunities for staff were increased. All in all, the contributions and leadership of Steve Benza have turned the Photo Studio into a modern operation, equipped with the technology of the new century, and as a result, he has increased the efficiency of this vital Senate support service. He unquestionably leaves an impressive legacy of dedication to his job, and he has set an excellent example for others to emulate.

It is hard to believe that after more than three-decades, Steve Benza has decided to retire. I know it is safe to say that he will missed by countless individuals including all one-hundred Senators, but I am certain that each of us will remember him. I had the pleasure of having Steve travel with me to the People's Republic of China when I led a delegation to that nation in 1997. Beyond putting together an impressive collection of images that chronicled our journey, Steve's relaxed disposition and ready sense of humor made what was a pleasurable journey all the more enjoyable.

As many of us know, Steve Benza is a devoted family man. Though I understand that he has not made-up his mind as to what he will do in his retirement, I am certain that spending time with his wife Alma, and children George and Annie, will be a big part of his activities, as will pursuing his passions of fishing and golfing. Regardless of what Steve chooses to do in the future, I wish him many years of health, happiness, and success, and I want him to know that I am grateful and appreciative for his many years of loyal service to the United States Senate. It has been a pleasure to know him and I will certainly miss him.

TRIBUTE TO COLONEL TERESA M. PETERSON, UNITED STATES AIR FORCE

Mr. LOTT. Mr. President, I would like to recognize the professional dedication, vision, and public service of

Colonel Teresa M. Peterson who is leaving the 14th Flying Training Wing (14 FTW) after two years of devoted service to become the Director of Transportation on the Air Force staff in the Pentagon. It is a privilege for me to recognize her many outstanding achievements at Columbus Air Force Base, and to commend her for the superb service she has provided the Air Force and our great Nation.

As Commander of the 14th Flying Training Wing, Colonel Peterson spearheaded the training and education of our Nation's next generation of Air Force pilots. The epitome of an Air Force officer and accomplished pilot, she provided our Nation's future warriors with inspirational leadership and an outstanding training environment. Her talents were showcased in every aspect of Columbus AFB operations and highlighted through outstanding performances on command inspections such as the 1998 Headquarters Air Education and Training Command (AETC) Operational Readiness Inspection.

Colonel Peterson's quality of life initiatives for Columbus AFB provided the installation with \$56 million in improvements. Those initiatives included construction of a \$6.3 million Unaccompanied Officer Quarters and a \$25 million, 202 unit, highly sensitive family housing complex. She deftly negotiated resolution of several complex contracting challenges on the family housing project and ensured that contractor issues were handled quickly and efficiently. Her vision and oversight of numerous facilities construction and renovation projects significantly enhanced the training environment and living conditions of Columbus AFB personnel.

Under Colonel Peterson's leadership and guidance, Columbus AFB was a showcase for visitors which included the Secretary of the Air Force, members of Congress, foreign dignitaries, numerous flag officers, and friends and families of the Specialized Undergraduate Pilot Training Program. Her dedication to the Air Force and her people and the vision she established for Columbus AFB are her greatest assets, netting Columbus unprecedented recognition with AETC and the Air Force.

She aggressively met the increased Air Force pilot demand through activation of the first reserve associate squadron, seamlessly integrating reservists with active duty instructor pilots to mitigate force reduction problems. Colonel Peterson managed the second busiest military airfield east of the Mississippi River, with more than 200,000 aircraft operations annually. Her area of responsibility included 49,000 square miles of airspace in close coordination with 13 civilian satellite airports. Under her command, Columbus AFB has remained one of the safest flying operations in the AETC.

She astutely enhanced pilot training at its initial phase by establishing co-equal T-37 squadrons with an operating concept for synchronized training and

operations under two distinct supervisors. She managed pilot training and support operations for USAF and international officers using a fleet of 247 T-37B, T-38A, T-1A and AT-38B aircraft and 14 instrument simulators. Her extraordinary aviation skills, coupled with her vast experience and boundless warrior spirit, ensured that Columbus AFB was aggressively able to meet the challenge of increased Air Force pilot demand. Her efforts produced 585 Specialized Undergraduate Pilot Training and 481 Introduction to Fighter Fundamental student pilots who flew 146,795 sorties totaling 198,722 hours during her tenure.

As Colonel Teresa Peterson leaves Columbus Air Force Base, she leaves behind a legacy of excellence and "firsts." She was the first woman in the Air Force to command a flying squadron; the first active duty woman to command an Air Force flying wing; and, the first woman pilot to make the rank of brigadier general. She is recognized as an honorary member of the Tuskegee Airmen (Alva N. Temple Chapter) and a member of the Mississippi University for Women's National Board of Distinguished Women. Colonel Peterson is an outstanding officer and a credit to the United States Air Force and our great Nation. I call upon my colleagues from both sides of the aisle to recognize her service to Columbus Air Force Base and wish her well in her next assignment.

VICTIMS OF GUN VIOLENCE

Mr. SCHUMER. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read some of the names of those who lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

June 7, 1999: Devron Baker, 17, Baltimore, MD; Allen Galathe, 19, New Orleans, LA; Jose Junco, 27, Houston, TX; Raynell Lawrence, 24, New Orleans, LA; Kenneth Martin, 41, New Orleans, LA; Earl Merriweather, 23, Atlanta, GA; Solomon Morrison, 65, New Orleans, LA; Lawrence Piedra, 39, Philadelphia, PA; Allan P. Raidna, 30, Seattle, WA; Angel Retemar, 19, Bridgeport, CT; Timothy Stovall, 12, New Orleans, LA; Unidentified male, 49, Bellingham, WA.

UNANIMOUS CONSENT REQUEST

Mr. SHELBY. Mr. President, I ask unanimous consent that a letter to Senators LOTT and DASCHLE dated May 21, 2000, be printed in the RECORD.

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

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 25, 2000.

HON. TRENT LOTT,
Majority Leader,
Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

SENATOR LOTT AND DASCHLE: S. 1902, the Japanese Imperial Army Disclosure Act, contains provisions affecting intelligence activities and programs. This legislation, which amends the National Security Act of 1947, would permit the release of any portion of any operational file of the Central Intelligence Agency. As you know, these are issues of significant interest to, and clearly within the jurisdiction of, the Select Committee on Intelligence. Therefore, pursuant to Senate Resolution 400, we hereby request that S. 1902 be referred to the Intelligence Committee for consideration.

Sincerely,

RICHARD C. SHELBY,
Chairman.
RICHARD H. BRYAN,
Vice Chairman.

COMMITTEE ON RULES AND ADMINISTRATION RULE CHANGE

Mr. MCCONNELL. Mr. President, I would like to give notice to Members and staff of the Senate that the Committee on Rules and Administration has approved the following change to its Rules of Procedure.

The Committee's rules approved at the beginning of the 106th Congress require 4 members of the committee to constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee to constitute a quorum for the purpose of taking testimony not under oath.

The Committee intends to amend paragraph 3 of Title II of the Rules of Procedure for the Committee on Rules and Administration to state:

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 2 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 1 member of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that once a quorum is established for the purpose of taking testimony under oath, any one member can continue to take such testimony.

This amendment shall be effective on June 8, 2000, and will make the Rules Committee's quorum rules more consistent with the quorum rules of most other standing committees.

PENNSYLVANIANS RAISE FUNDS FOR WORLD WAR II MEMORIAL

Mr. SANTORUM. Mr. President, I rise today to recognize the accomplishments of 30,020 Pennsylvanian Wal-Mart associates. These dedicated individuals, along with 870,000 other Wal-Mart associates nationwide, raised more than \$14 million for the National World War II Memorial Campaign.

This outstanding achievement brought the World War II Memorial

Fund to more than \$90 million. This donation brings the fund increasingly closer to its goal of \$100 million. On June 6, 2000, Barbara Ritenour and Bonnie Cowell from Belle Vernon, PA joined 40 other Wal-Mart associates to present this contribution to former Senator Robert Dole, National Chairman of the World War II Memorial Campaign on the National Mall in Washington, D.C.

The purpose of this event on June 6 was to thank those who went above and beyond the call of duty to help meet this financial goal. It was the small contributions of bake sales and parking lot carnivals that made such a difference.

Wal-Mart employs over 1,900 World War II veterans. They recognize the importance of constructing a memorial to salute the men and women who fought in the war as well as those who supported it from the home front.

I commend the efforts of those so dedicated to the memory of those who served in World War II, and I wish the World War II Memorial Campaign continued success as they work to meet the remainder of their \$100 million goal.

RYAN WHITE CARE ACT

Mr. KENNEDY. Mr. President, yesterday we passed the Ryan White CARE Reauthorization Act. I commend everyone in the Senate who has worked so effectively on the issue of HIV and AIDS, beginning with Senator JEFFORDS, who has been a champion on this issue since the CARE Act was first authorized in 1990. I also thank the sponsors of this bill and our colleagues on the Health Committee who have sounded the alarm about the HIV/AIDS crisis through their unwavering support of the CARE Act reauthorization.

There is no stronger or more effective support than a full Senate unanimous vote today to show that, in each and every one of our states, we stand behind a bill that will enable so many citizens to receive the benefits of advances in therapies and support developed through our efforts over the past ten years.

At times of great human suffering or great tragedies or epidemics, it has often been the leadership of the federal government that has helped our fellow citizens deal with difficulties. It is in that very important tradition that this legislation was originally enacted and I urge the Senate to approve this important reauthorization of it today.

Ryan White, the young boy after whom the CARE Act was named, would have celebrated his twenty-eighth birthday this year. If we had we been as far along as we are now in providing life-prolonging and life-saving therapies, Ryan might well have been here with us, thanking each of us for the lifeline and the hope provided through the CARE Act.

Since the beginning of this epidemic, AIDS has claimed over 400,000 lives in

the United States, and an estimated 900,000 Americans are living with HIV/AIDS today. AIDS continues to claim the most vulnerable among us. Like other epidemics before it, Aids is now hitting hardest in areas where knowledge about the disease is scarce and poverty is high. The epidemic has dealt a particularly severe blow to communities of color, which account for 73% of all new HIV infections. Women account for 30% of new infections. Over half of all new infections occur in persons under 25. This means that HIV infection of the nation's youth is a national crisis.

AIDS continues to kill brothers and sisters, children and parents, friends and loved ones—all in the prime of their lives. From the 30,000 AIDS orphans in New York City to the 21 year old gay man with HIV living in Iowa, this epidemic knows no geographic boundaries and has no mercy.

An estimated 34% of AIDS cases in the U.S. are in rural areas, and this percentage is growing. We know the challenges faced in rural communities where pulling together in the face of adversity is commonplace in other case. But where too often today there is silence and isolation because of the fear of condemnation over AIDS.

In addition, access to good medical care is often a significant barrier for many of our citizens with disabling diseases, who have to travel to urban centers to receive the care they need and deserve. As the AIDS crisis continues year after year, it has become more and more difficult for anyone to claim that AIDS is someone else's problem. In a very real way, we are all living with AIDS or are directly touched by AIDS.

The epidemic still kills over 47,000 persons a year. But we have good reason today to feel encouraged by the extraordinary medical advances made over the past ten years. AIDS deaths declined by 20% between 1997 and 1998. Many people with HIV and AIDS are leading longer and healthier lives today.

In addition, we have witnessed the smallest increase in new AIDS cases—11% in 1998, compared to an 18% increase in 1997. More families are leading productive lives in our society, in spite of their HIV diagnosis. This is the good news. But unfortunately, the number of people living with AIDS who can't afford expensive medical treatment is growing which means that greater demands are being placed on community-based organizations and state and local governments that serve them.

The advances in the development of life-saving HIV/AIDS drugs has come with an enormous price tag and these advances have been costly. An estimated 30% of person living with AIDS do not have health care coverage to pay for costly treatments. For these Americans, the CARE Act continues to provide the only means to obtain the health care and the treatment they need.

In Massachusetts we have seen an overall 77% decline in AIDS and HIV-related deaths since 1995. At the same time, however, like many other states, the changing HIV/AIDS trends and profiles are serious problems. AIDS and HIV cases increased in women by 11% from 1997 to 1998. 55% of persons living with AIDS in the state are person of color. State budgets often provide funds for prevention, screening and primary care. But no state could provide the major financial resources needed to help person living with HIV disease to obtain the medical and support services they need, without the Ryan White CARE Act.

By passing this legislation, we are making clear that the AIDS epidemic in the United States will receive the attention and public health response it deserves. The CARE Act reauthorization brings hope to over 600,000 persons each year in dealing with the devastating disease. It also brings hope and help to their families and their communities.

The enactment of this legislation in 1990 was an emergency response to the devastating effects of HIV on individuals, families, communities, and state and local governments. The Act targets funds to respond to the specific needs of specific communities. Title I targets the hardest hit metropolitan areas in the country. Local planning and priority-setting requirements under Title I assure that each of the Eligible Metropolitan Area can respond effectively to the local HIV/AIDS needs.

Title II funds emergency relief to states. It helps them to develop HIV care infrastructure, and to provide effective and life-sustaining drug therapies through the AIDS Drug Assistance Program to over 61,000 persons each month.

Title III funds community health centers and other primary health care providers that serve areas with a significant and disproportionate need for HIV care. Many of these community health centers are located in the hardest hit areas, serving low income communities. Title IV of the CARE Act meets the specific needs of women, children, and families.

This reauthorization builds on these past accomplishments, while recognizing the challenge of ensuring access to HIV drug treatments for all who need them. Our goal is to reduce health disparities in vulnerable communities, and improve the distribution and quality of services. Senator JEFFORDS and I have worked together to address new challenges we face in the battle against AIDS. This reauthorization will create additional funding for states that have had to limit access to new therapies due to lack of resources. The bill also targets new funds to smaller metropolitan areas and to rural and urban communities, where the epidemic is growing and adequate infrastructure is lacking.

In addition, the bill funds early intervention services to promote early diagnosis of HIV disease, referral to health

care, and initiation of effective treatments to reduce the onset of the illness and its progression. Health disparities in communities of color will be reduced by requiring states and local communities funded by the Act to plan, set priorities, and fund initiatives to meet documented local needs in dealing with the epidemic. The reauthorization will also establish quality and accountability in HIV service delivery, by strengthening quality management activities to make them consistent with Public Health Service guidelines.

Our action yesterday affirmed our long-standing commitment to citizens with HIV/AIDS and to sound public policy for all citizens, families and communities touched by this devastating disease. We have the resources to continue to battle AIDS. We must continue to deal with this disease with the same courage shown to us ten years ago by the valiant ten year old, Ryan White, who spoke out against the ignorance the discrimination faced by so many people living with AIDS. The lives saved by our efforts through the CARE Act will mean a chance for real hope as medical research comes closer and closer to finding a cure.

Mr. SMITH of Oregon. Mr. President, I am delighted that last night the Senate voted to reauthorize the Ryan White CARE Act, S. 2311. I am proud to count myself as one of the cosponsors of this legislation in the Senate and strongly support its swift passage by the House.

The HIV/AIDS epidemic continues to take a high toll on Americans infected with HIV and their families. HIV/AIDS has affected Oregon in many ways. Almost five thousand Oregonians have been diagnosed with AIDS—resulting in almost 3,000 deaths. In addition, those infected with HIV number up to 8,500 in Oregon. This epidemic has touched people in every part of my State—rural and urban, rich and poor, senior citizens and newborns.

Although the story of each of these individuals living with HIV/AIDS is different, they all have one thing in common: they all benefit from the Ryan White CARE Act. Oregon received almost \$8.5 million federal dollars last year to fund programs through the Ryan White CARE Act.

Passage of the Ryan White CARE Act will allow Oregonians living with HIV to have timely access to life-prolonging medications and necessary health care and support services, regardless of income level or insurance status. The Ryan White CARE Act will also improve access for HIV positive Oregonians to clinical trials, with the potential for additional scientific breakthroughs in the treatment of HIV/AIDS.

I call for the House to join the Senate in a similar quick passage of the Ryan White CARE Act that will allow hundreds of thousands of HIV positive Americans to remain healthy, productive members of their communities, while slowing the spread of the AIDS epidemic.

I would like to thank my friend Terry Bean of Portland, Oregon for talking to me about the good things the Ryan White Act does for Oregonians living with HIV/AIDS. Terry is a long time board member of the Human Rights Campaign and has been a highly valued advisor on issues affecting the Gay and Lesbian community in Oregon.

Terry's thoughts and wisdom on hate crimes, ENDA and fighting against all types of discrimination have provided me with an ethical marker for doing what is right on the Senate Floor for Oregonians. I do feel lucky that Terry's advice is dispensed on a golf course—though the only criticism I may have for Terry is that he lacks the political savvy to lose to a United States Senator. I thank him anyway for his strong support and good advice.

Mrs. FEINSTEIN. Mr. President, yesterday the Senate reauthorized a very important piece of legislation: the Ryan White CARE Act. I want to thank Senators KENNEDY and JEFFORDS for their work and commitment to reauthorizing the Ryan White CARE Act.

The CARE Act provides access to health care for tens of thousands of low-income people living with HIV and AIDS. This vital Act is set to expire on September 30, 2000. We must move quickly to ensure that it is reauthorized. Without the CARE Act, access to important health-related services could be jeopardized for hundreds of thousands of people living with HIV/AIDS.

Since 1990, the CARE Act has helped establish a comprehensive, community-based continuum of care for uninsured and under-insured people living with HIV and AIDS, including access to primary medical care, pharmaceuticals, and support services. The CARE Act provides services to people who would not otherwise have access to care.

The CARE Act is particularly important to communities of color. The HIV epidemic is devastating communities of color. Currently, AIDS is the leading cause of death among African American men and the second leading cause of death among African American women between the ages of 25 and 44. Comparably, AIDS is the fifth leading cause of death among all Americans in this age group. A disproportionate number of African Americans and Hispanic/Latinos are also living with AIDS. Whereas African Americans represent only 13 percent of the total U.S. population, they represent 36 percent of reported AIDS cases. Likewise, Latinos represent 9 percent of the population but 17 percent all of AIDS cases.

The Ryan White CARE Act is important to thousands of Californians. Two of California's largest cities, Los Angeles and San Francisco, are among the top four metropolitan cities with the highest number of AIDS cases in the United States. California has the second highest number of AIDS cases,

with over 40,000 Californians currently living with AIDS. Through the CARE Act, Los Angeles has provided services to over 43,160 clients since 1996. San Francisco has provided services to 47,440 since 1996. These numbers alone demonstrate the significant impact the CARE Act has had on California.

A majority of newly diagnosed AIDS cases in California are among people of color. Through 1998, over half of all AIDS cases are reported among racial and ethnic minorities in California. In Los Angeles, and Oakland that number rises to over 60 percent, according to the Ryan White CARE Act state profiles.

Los Angeles County and San Francisco County were among the first sixteen eligible metropolitan areas to receive Title I emergency Ryan White CARE Act funds in 1991. California has been significantly impacted by the HIV/AIDS since the beginning of the epidemic, and has greatly benefitted from the Ryan White CARE Act since 1990.

The CARE Act has been very successful in the past decade. Over the last several years, the CARE Act has:

- Helped to reduce AIDS mortality by 70 percent. Due to combination anti-retroviral therapies being made more widely available through the CARE Act, the AIDS death rate in 1997 was the lowest in nearly a decade.

- Helped to reduce mother-to-child transmission by 75 percent.

- Helped to reduce the number and length of expensive hospitalizations by 30 percent. It has also helped decrease the use of medical specialty care.

- Helped 97,000 individuals access drugs through the AIDS Drug Assistance Program in 1997.

- Helped 315,234 people receive HIV testing and counseling services in 1997.

- Helped 66,000 people access dental care in 1998.

- Promoted health and well-being which has enabled many people living with HIV to return to work and remain healthy, and actively participate in society.

The CARE Act is more important now than ever. HIV/AIDS remains a health emergency in the United States. The Centers for Disease Control estimates that 40,000 new cases are reported annually. According to the Centers for Disease Control, between 650,000 and 900,000 Americans are currently infected with HIV while the number of AIDS cases has nearly doubled over the past five years. According to Dr. Fauci at the National Institutes of Health, the worse is yet to come in the 21st century. The state of the epidemic points to the need for an increase, rather than a decrease, in health care and drug treatment for people living with HIV/AIDS. Communities of color and women will continue to be the most heavily impacted in the 21st century.

We have made many advances in testing, treatment, and research since the early days of the disease and the beginnings of the Ryan White CARE Act. Drugs now exist that can prolong and improve the quality of life. These drugs are not a cure, but they enable

many people to lead a more "normal" life. Our job is not done, however, until we have made certain that all people have access to these life-prolonging medications.

The work we were able to accomplish in San Francisco for people living with HIV/AIDS is one of my proudest achievements as Mayor of the City and County of San Francisco. In 1981, when there were only 76 diagnosed cases, we provided \$180,000 for prevention and social services for people living with HIV/AIDS. These were some of the first public funds allocated for AIDS in the United States. In 1987, during my last full year as mayor, 20,000 AIDS deaths were reported in San Francisco and we increased funding to \$20 million. There was no federal Ryan White program then; I struggled to find this money in the city budget. Fortunately, for cities and States across the country, we now have the Ryan White CARE Act.

I pledge to do all I can to eliminate AIDS. As I have said time and time again: I was there in the beginning and I plan to be there in the end. In the meantime, we must make certain that the uninsured and under-insured have access to life-prolonging HIV treatments. The Ryan White CARE Act has proven to be an essential and effective Federal program for the uninsured and under-insured. We must ensure the continuation of the Ryan White CARE Act.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 6, 2000, the Federal debt stood at \$5,647,513,754,741.07 (Five trillion, six hundred forty-seven billion, five hundred thirteen million, seven hundred fifty-four thousand, seven hundred forty-one dollars and seven cents).

Five years ago, June 5, 1995, the Federal debt stood at \$4,904,369,000,000 (Four trillion, nine hundred four billion, three hundred sixty-nine million).

Ten years ago, June 5, 1990, the Federal debt stood at \$3,127,273,000,000 (Three trillion, one hundred twenty-seven billion, two hundred seventy-three million).

Fifteen years ago, June 5, 1985, the Federal debt stood at \$1,776,407,000,000 (One trillion, seven hundred seventy-six billion, four hundred seven million).

Twenty-five years ago, June 5, 1975, the Federal debt stood at \$524,448,000,000 (Five hundred twenty-four billion, four hundred forty-eight million) which reflects a debt increase of more than \$5 trillion—\$5,123,065,754,741.07 (Five trillion, one hundred twenty-three billion, sixty-five million, seven hundred fifty-four thousand, seven hundred forty-one dollars and seven cents) during the past 25 years.

ADDITIONAL STATEMENTS

STAFF SERGEANT ANA V. ORTIZ

• Mr. DODD. Mr. President, I rise today to pay tribute to a well-respected and remarkable public servant, Staff Sergeant Ana V. Ortiz, who has been chosen to receive the 2000 National Image Salute to Hispanics Award. Not only is Staff Sergeant Ortiz an upstanding and dedicated member of the Connecticut Air National Guard, but she is also the principal of the Betances Elementary School in Hartford and an active and vital member of her community.

Staff Sergeant Ortiz has dedicated nine years of service to the Connecticut Air National Guard, displaying the qualities of a natural leader and setting an example for others to follow. She participated in three Air Force contingency operations that have sent her around the world. In 1996, she supported Operation Decisive Endeavor in Italy; 1998 found her in Panama playing a role in Constant Vigil; and just last year she worked in Southwest Asia for Operation Guarded Skies. Staff Sergeant Ortiz previously attended the Air National Guard Diversity Conference, as well as the National Guard Bureau's National Diversity Program. A vocal advocate for diversity within the Air National Guard, she worked to build a solid foundation for minorities in the military, as well as a better understanding of the armed forces among both minorities and non-minorities. Her work in the Guard has earned her the Armed Forces Reserve Medal and two Air Force Achievement Medals.

Although her military feats are impressive, Staff Sergeant Ortiz is further known for her strong commitment to the Hartford schools and community. As the principal of Betances Elementary School she keeps actively involved with her students and community. Staff Sergeant Ortiz is a member of the Language Arts Committee for the State of Connecticut, and a contributor to the Center for Youth After-School Programs, the Center City Churches, and the Charter Oak Cultural Center. She also encourages and maintains a partnership program with suburban schools in the surrounding area, and is constantly working to improve education and educational opportunities for her students.

Ms. Ortiz' commitment to her students extends far beyond the school grounds. She was selected to serve on the Hartford Police Department Task Force for students at risk in the community, which strives to encourage children to find positive ways to overcome the dangers of drugs and violence that face our communities today. Furthermore, Ms. Ortiz is actively involved in protecting Connecticut's park attractions through her membership on the board of directors of the Bushnell Park Foundation, again promoting the well-being of her school children, as well as the entire community.

Ms. Ortiz' professional achievements are matched by an impressive educational background. She earned a Bachelors of Science degree in Education with an English major from Central University in Puerto Rico, a Masters degree in Reading from the University of Hartford, and a six year degree in Supervision and Administration from the University of Connecticut. Her wide range of expertise has enabled her to better excel in all aspects of her life, and the surrounding community has clearly benefitted as a result.

Staff Sergeant Ortiz strives to make the world a better place for all—through her military service, community work, and involvement with Connecticut schools. Her dedication and commitment appear to be boundless, and she is wholly deserving of the 2000 National Image Salute to Hispanics Award. Staff Sergeant Ortiz will travel to San Juan, Puerto Rico on Thursday, June 8, 2000 to receive her prestigious award.●

RETIREMENT OF RICHARD W. CANNON

• Mr. L. CHAFEE. Mr. President, on June 16th, family, friends and colleagues will gather to honor Richard W. Cannon, who has served the Social Security Administration for 39 years, and is retiring as District Manager of the Providence, RI office.

Mr. Cannon has demonstrated an exemplary record of service to New England and the Social Security Administration (SSA). He began his career with SSA as a Claims Representative in the Pawtucket, RI office in September, 1961. He quickly rose through the ranks, receiving promotions to field Representative, Operations Supervisor, Branch Manager, Assistant District Manager, and finally to District Manager by 1976. He has held the position of District Manager for 24 years in three offices: New London, CT; Cambridge, MA; and since May 1987, Providence.

Not only has Rhode Island benefited from Richard's services, but regions across the country have as well. He served stints in Social Security Administration offices in New York, California, and Hawaii. But, it has been our good fortune that he continues to return to his home state of Rhode Island.

He has shared his knowledge and expertise not only with his office colleagues, but with members of the Rhode Island Federal Executive Council, which he led as chairman for two years, and the New England Social Security Managers Association, where he also held office.

Lest we think that Richard's life was dedicated solely to the Social Security Administration, he also enjoys the outdoors. I have it on good authority that he can often be seen leaving his home in Snug Harbor to cruise the waters of Narragansett Bay, hoping to entice a fish or two to join him in his boat.

As Richard prepares for his private life away from the duties of his terribly

demanding job, I want to congratulate and thank him for all that he has given to the Social Security Administration and his community.●

KANSAS CITY SESQUICENTENNIAL

● Mr. ASHCROFT. Mr. President, I rise to honor one of the great cities in Missouri: Kansas City. On June 3, 1850, the Town of Kansas was incorporated. Three years later, the town was re-incorporated as the City of Kansas and renamed Kansas City in 1889. Today, Kansas Citizens are celebrating the sesquicentennial of Kansas City, Missouri.

Kansas City is situated at the point of entry at the confluence of the Missouri and Kansas Rivers. In the beginning, Kansas City was known as the last point of civilization before venturing into the untamed West. The settlement quickly prospered as an outfitting post for gold prospectors and homesteaders who were moving west.

Because of its geographical location in the middle of the United States, Kansas City was destined to develop into one of our nation's most important trading markets and distribution hubs for goods and services.

As Kansas City began to grow and prosper it became a major region for raising and sending cattle to market. Kansas City quickly emerged as the largest cattle market in the world. Since that time, each Fall, the American Royal Festival is held to pay tribute to this rich cultural heritage.

Two words come to mind when people talk about Kansas City. Those two words are Jazz and Barbecue. Kansas City is world renowned for both. One also must not forget the grandeur of the Christmas lights that adorn Country Club Plaza, viewed annually by thousands.

Kansas City is home to the Liberty Memorial which honors America's sons and daughters who defended liberty and our country through their service in World War I. This Memorial serves as a tribute to ensure that the sacrifices made by those brave men and women are not forgotten.

Union Station was the gateway for many World War II service men and women passing through Kansas City on their way to service. Now newly refurbished it still stands tall and stately as a major tourist attraction.

In the 1960s, Kansas City emerged as a powerhouse in professional sports. Lamar Hunt brought the Chiefs NFL football team to Kansas City, and Ewing Kauffman was awarded a major league baseball franchise. The Kansas City Chiefs and the Kansas City Royals have both captured world pennants.

From its vibrant past to its glowing future, Kansas City is a community that remains on the cutting edge of technology, industry, medical research, manufacturing, and sports. At the dawn of a new century, Kansas City will continue to grow and prosper and rise to her highest and best.

Mr. President, it is a distinct privilege to represent this great city in the

United States Senate. I request that my colleagues join me in recognizing Kansas City for its 150 years of contributions to our great land and paying tribute to the KC150 celebration, Kansas City's sesquicentennial.

CONGRATULATIONS TO CHARLIE HOWELL

● Mr. COVERDELL. Mr. President, I am pleased to inform my colleagues that a young man from my state, Charlie Howell, won the individual National Collegiate Athletic Association golf championship this past weekend. Charlie hails from Augusta, home of the Masters Golf Tournament, and his achievement marks the beginning of another chapter in the great golf tradition of the Augusta area.

Charlie, a junior at Oklahoma State University, finished the event with a final score of 265, a full 23 strokes under par. His score shattered the previous championship record of 17 under. Given the number of talented players who have won the title, including Tiger Woods, Charlie's accomplishment is nothing short of phenomenal.

Along with his win in the individual tournament, Charlie helped the Oklahoma State team win the National Championship as well. This marks the first time since 1990 that the individual champion was also apart of a national championship team.

While success on the professional golf circuit almost certainly awaits Charlie, he has decided that his future can wait. Charlie will return to OSU for his senior year, helping to lead his team in defense of their title, and more importantly, to complete his college education.

Charlie's hard work and dedication to the sport have paid off handsomely. He now joins an elite group of golfers that can call themselves NCAA champions. I commend Charlie for his tremendous accomplishment, and wish him well in all of his future endeavors.●

HONORING STUDENTS FROM GREEN RIVER HIGH SCHOOL

● Mr. THOMAS. Mr. President, on May 6-8, 2000, more than 1200 students from across the United States came to Washington, D.C. to compete in the national finals of the We the People . . . The Citizen and the Constitution program. I am proud to announce that the class from Green River High School in Green River, Wyoming, represented my state in this national event. These young scholars worked diligently to reach the national finals and through their experience have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The participating students were Richard Baxter, Natalie Binder, Katharine Bracken, Cameron Kelsey, Sandra Newton, Jacque Owen, Jeremy Pitts, Benjamin Potmesil, Meagan Reese, Rachel Ryckman, Ryan Stew-

art, and Steven Ujvary. I also want to recognize their teacher, Dennis Johnson, who deserves much of the credit for the success of the team.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition is modeled after hearings in the United States Congress, during which a panel of judges from a variety of appropriate professional fields probes the students for their depth of understanding and ability to apply their constitutional knowledge.

The class from Green River represented the state of Wyoming well during the finals, and I wish these "constitutional experts" the best of luck as they continue to cultivate their interest in the principles upon which our great country was founded.●

REGARDING THE IMPORTANCE OF OUR CONSTITUTION

● Mr. ENZI. Mr. President, I want to take a moment to recognize some special students from my home state of Wyoming, Green River to be specific, who have been spending a lot of their time studying our Constitution. They got so good at it, in fact, that they entered a national competition here in Washington to test their knowledge against the best of their peers and had a remarkable result.

Earlier this month students from around the country came to the nation's capital to compete on their understanding of our Constitution and our American Government. The students of Green River High School did very well in that event. In fact, their understanding and grasp of the fundamental principles of our Democracy and the meaning of our Constitution was judged to be among the best of the 50 teams that participated.

Programs like the one the students of Green River participated in are vital if we are to ensure that our future leaders have an understanding of the principles of our Constitution and the beliefs and values our Founding Fathers brought to the creation of our government. Such an understanding is an important part of our children's education for it will help them understand that the rights and freedoms afforded by our Constitution bring with them certain duties and responsibilities - the duties and responsibilities of citizenship. That will help them understand their role as they become our local, state and national leaders and face the challenges of the new millennium.

Good work, Green River High School! Led by their teacher, Dennis Johnson, and supported by their State Coordinator, Dick Kean, and their District Coordinator, Matt Strannigan, they did a great job and made Wyoming proud.

I would also like to congratulate each member of the team, which includes: Richard Baxter, Natalie Binder, Katharine Bracken, Cameron Kelsey, Sandra Newton, Jacque Owen, Jeremy Pitts, Benjamin Potmesil, Meagan Reese, Rachel Ryckman, Ryan Stewart and Steven Ujvary.●

RECOGNITION OF WHITE PASS & YUKON RAILROAD'S 100TH ANNIVERSARY

● Mr. MURKOWSKI. Mr. President, I rise today to recognize an Alaskan institution as it nears its 100th birthday.

It is a major tourist attraction in Alaska, the eighth most popular in the state in 1998, boosting ridership in 1999 to about 274,000 passengers. It is an engineering marvel, having been named an International Historic Civil Engineering Landmark in 1994, such as the Panama Canal, Eiffel Tower, and the Statue of Liberty. It is an historic institution, its history tied directly to that of the Territory and State of Alaska. It got its start because of the famed Klondike Gold Rush of 1898—the last great Gold Rush in North American history. But it is more.

The White Pass & Yukon narrow-gauge Railroad is a lasting monument to the power of a dream, and to the ability of this country to mobilize technology. And it is proof positive that if you never give up, you can accomplish any worthwhile task, no matter how difficult the challenge. That lesson is as important today, as it was in 1900, at the line's completion.

It was early in 1898 when two men came north intent upon solving a transportation dilemma—intent upon moving men and supplies across the daunting Coast Mountains of Southeast Alaska, so they could reach the gold fields of the Yukon to forge national wealth for both Canada and America from the virgin wilderness. Sir Thomas Tancrede, a representative of a group of British financiers and Michael J. Heney, a Canadian railway contractor, by chance met one night at a hotel bar in Skagway, Alaska.

Tancrede, after detailed surveys, had concluded that it was impossible to build a railroad through the rugged St. Elias Mountains that separate the interior of the Yukon from Alaska at the northern end of the Alaska Panhandle. But Heney had just the opposite view. After an all-night "discussion," one of the world's great railroad projects was no longer a dream, but an accepted challenge.

On May 28, 1898, construction began on the White Pass & Yukon Route. Utilizing tons of black powder and thousands of workers the project began. Two months later the railroad's first engine pulled an excursion train from Skagway north over the first four miles of completed track, making the WP&YR, the northernmost railroad in the Western Hemisphere—the first built above 60 degrees north latitude.

From there on, the going got tough. The railroad, truly an international

undertaking, climbed from sea level at the docks in Skagway through sheer mountains to 2,865 feet at the summit of the White Pass. It faces grades as steep as 3.9 percent. Heney's workers hung suspended by ropes from the vertical granite cliffs, chipping away with picks and planting black powder to blast a right-of-way through the mountains. Heavy snow and temperatures as low as -60 °F hampered the work. And the mere whisper of a new gold find sent workers scurrying off in droves.

With all odds against it, the track reached the summit of White Pass on Feb. 20, 1899 and by July 6, construction reached the headwaters of the great Yukon River at Lake Bennett. While southern gangs blasted their way through the pass, a northern crew worked toward Whitehorse, later the capital of the Yukon Territory. On July 29, 1900, the 110-miles of rails met at Carcross, where a ceremonial spike was driven by Samuel H. Graves, the company's first president. It is that anniversary—the Golden Spike Centennial Celebration—that will take place in Carcross, Yukon Territory, on Saturday, July 29 that is a reason for this statement.

Another reason, however, is simply to honor the White Pass, one of the most historic and quaint railroads in the world. Through the years when Alaska was a territory and later a state, the railroad enjoyed a rich and colorful history. It hauled passengers and freight to the Yukon; was a chief supplier for the U.S. Army's Alaska Highway construction project during World War II; and later was a basic freight railroad, hauling metal from the mines of the Yukon to tidewater in Alaska. The company after WWII began modernizing itself, retiring the last of its steam engines in 1964, switching to diesel locomotives. It became a fully-integrated transportation system, carrying freight (containers and highway tractor-trailer units) and passengers from Alaska to Canada's Interior.

In 1982, however, world metal prices plummeted and the major mines in the Yukon shut down—metals being the most dependable freight during its first 82 years of service—causing the railroad's operations to be suspended. It was six long years later that the railroad reopened to provide tourist excursions for the 20.4 mile trip from tidewater to the summit of the White Pass and back to Skagway. It also picks up hikers who trek the famed Chilkoot Trail that ends at Lake Bennett and brings them to the Klondike Highway for road transport home.

The railroad along the way paid homage to its heritage by saving old steam engine No. 73, a 1947, 2-8-2 Mikado class steam locomotive, and later restoring her for ceremonial service, so that passengers can venture from the docks in historic downtown Skagway—center of the Klondike Gold Rush National Historic Park—toward the old Gold Rush cemetery, just 1.5 miles away. In those

few miles, tourists can feel the rumble, hear the noise and experience the romance of historic American train travel.

The White Pass embodies Alaska's "boom-and-bust" history, being born as a result of the Klondike Gold Rush. It is the direct result of the spirit and economic boom started in August 1896 when George Washington Carmack and his two Indian companions, Skookum Jim and Tagish Charlie, found gold in a tributary of the Klondike, later named Bonanza Creek outside of Dawson. The railroad experienced the territory's malaise in the early 20th Century, until World War II reinvigorated it. It survived the downturn in North American mining industry and is now benefiting from the growth of the nation's tourism industry and America's renewed interest in its history.

All of America is better off for the railroad's presence. It today is a slice of living history that helps fuel the imagination of Americans and a love for our nation's past. It is a national treasure that we all need to protect and preserve. Happy Golden Anniversary to all the employees of the railroad and may you have a second great century of exciting and historic travel.●

MESSAGE FROM THE HOUSE

At 10:47 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 3642) an act to authorize the President to award a gold medal on behalf of the Congress to Charles M. Schulz in recognition of his lasting artistic contributions to the Nation and the world.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 777) an act to require the Department of Agriculture to establish an electronic filing and retrieval system to enable the public to file all required paperwork electronically with the Department and to have access to public information on farm programs, quarterly trade, economic, and production reports, and other similar information.

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

H.R. 3030. An act to designate the facility of the United States Postal Service located at 757 Warren Road in Ithaca, New York, as the "Matthew F. McHugh Post Office."

H.R. 3535. An act to amend the Magnuson-Stevens Fishery Conservation and Management Act to eliminate the wasteful and unsportsmanlike practice of shark finning.

H.R. 4241. An act to designate the facility of the United States Postal Service located at 1818 Milton Avenue in Janesville, Wisconsin, as the "Les Aspin Post Office Building."

H.R. 4542. An act to designate the Washington Opera in Washington, D.C., as the National Opera.

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

H. Con. Res. 229. A concurrent resolution expressing the sense of Congress regarding the United States Congressional Philharmonic Society and its mission of promoting musical excellence throughout the educational system and encouraging people of all ages to commit to the love and expression of musical performance.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3030. An act to designate the facility of the United States Postal Service located at 757 Warren Road in Ithaca, New York, as the "Matthew F. McHugh Post Office"; to the Committee on Governmental Affairs.

H.R. 3535. An act to amend the Magnuson-Stevens Fishery Conservation and Management Act to eliminate the wasteful and unsportsmanlike practice of shark finning; to the Committee on Commerce, Science, and Transportation.

H.R. 4241. An act to designate the facility of the United States Postal Service located at 1818 Milton Avenue in Janesville, Wisconsin, as the "Les Aspin Post Office Building"; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 229. A concurrent resolution expressing the sense of Congress regarding the United States Congressional Philharmonic Society and its mission of promoting musical excellence throughout the educational system and encouraging people of all ages to commit to the love and expression of musical performance; to the Committee on the Judiciary.

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-9141. A communication from the Assistant Secretary for Planning and Analysis, Department of Veterans' Affairs, transmitting, a draft of proposed legislation to authorize major medical facility projects for the Department of Veterans Affairs for Fiscal Year 2001 and for other purposes; to the Committee on Veterans' Affairs.

EC-9142. A communication from the Assistant Secretary for Planning and Analysis, Department of Veterans' Affairs, transmitting, a draft of proposed legislation entitled "The Veterans Housing Loan Amendments of 2000"; to the Committee on Veterans' Affairs.

EC-9143. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on transportation security for calendar year 1998; to the Committee on Commerce, Science, and Transportation.

EC-9144. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the Automotive Fuel Economy Program for calendar year 1999; to the Committee on Commerce, Science, and Transportation.

EC-9145. A communication from the Chairman of the Board of Governors of the Federal

Reserve System, transmitting, pursuant to law, the annual report for calendar year 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-9146. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of a statement with respect to a transaction involving U.S. exports to Taiwan; to the Committee on Banking, Housing, and Urban Affairs.

EC-9147. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, a report relative to the provisions of the new part 702 concerning the NCUA Board; to the Committee on Banking, Housing, and Urban Affairs.

EC-9148. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report relative to agency compliance with mandatory use concerning Government charge cards; to the Committee on Governmental Affairs.

EC-9149. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "The Costs and Benefits of Federal Regulations, 1999"; to the Committee on Governmental Affairs.

EC-9150. A communication from the Commissioner of Social Security, transmitting, a draft of proposed legislation entitled "The Social Security Administration Fiscal Year 2001 Budget Support Act"; to the Committee on Finance.

EC-9151. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to amend the Customs user fee statute to extend for seven years the authorization for collection of such fees; to the Committee on Finance.

EC-9152. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on geographic adjustment factors under the Medicare Program; to the Committee on Finance.

EC-9153. A communication from the President of the United States, transmitting, pursuant to law, the report of Presidential Determination 2000-22 concerning the extension of waiver authority for Belarus; to the Committee on Finance.

EC-9154. A communication from the President of the United States, transmitting, pursuant to law, the report of Presidential Determination 2000-23 concerning the extension of waiver authority for the People's Republic of China; to the Committee on Finance.

EC-9155. A communication from the President of the United States, transmitting, pursuant to law, the report of Presidential Determination 2000-21 concerning the extension of waiver authority for Vietnam; to the Committee on Finance.

EC-9156. A communication from the Chair of the Medicare Payment Advisory Commission, transmitting, pursuant to law, a report entitled "Selected Medicare Issues"; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. HELMS for the Committee on Foreign Relations.

Edward E. Kaufman, of Delaware, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2000. (Reappointment)

Alberto J. Mora, of Florida, to be a Member of the Broadcasting Board of Governors

for a term expiring August 13, 2000. (Reappointment)

David N. Greenlee, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

Susan S. Jacobs, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Vanuatu.

John F. Tefft, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lithuania.

John R. Dinger, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mongolia.

Donna Jean Hrinak, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

John Martin O'Keefe, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

Edward William Gnehm, Jr., of Georgia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia.

Daniel A. Johnson, of Florida, Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

V. Manuel Rocha, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

Rose M. Likins, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

W. Robert Pearson, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

Marc Grossman, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Director General of the Foreign Service.

Anne Woods Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Colombia.

James Donald Walsh, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

(The above nominations were reported with the recommendation that

they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I report favorably nomination lists which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Foreign Service nominations beginning Craig B. Allen and ending Daniel E. Harris, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on April 7, 2000.

Foreign Service nominations beginning C. Franklin Foster, Jr. and ending Michael Patrick Glover, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on April 7, 2000.

Foreign Service nominations beginning Leslie O'Connor and ending David P. Lambert, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 11, 2000.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LEVIN (for himself, Mr. ASHCROFT, and Mr. ABRAHAM):

S. 2685. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the production, sale, and use of highly-efficient, advanced technology motor vehicles and to amend the Energy Policy Act of 1992 to undertake an assessment of the relative effectiveness of current and potential methods to further encourage the development of the most fuel efficient vehicles for use in interstate commerce in the United States; to the Committee on Finance.

By Mr. COCHRAN (for himself and Mr. AKAKA):

S. 2686. A bill to amend chapter 36 of title 39, United States Code, to modify rates relating to reduced rate mail matter, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SMITH of New Hampshire:

S. 2687. A bill regarding the sale and transfer of Moskit anti-ship missiles by the Russian Federation; to the Committee on Foreign Relations.

By Mr. INOUE (for himself, Mr. AKAKA, Mr. COCHRAN, Mr. DODD, Mr. KENNEDY, Mrs. MURRAY, and Mr. SCHUMER):

S. 2688. A bill to amend the Native American Languages Act to provide for the support of Native American Language Survival Schools, and for other purposes; to the Committee on Indian Affairs.

By Ms. LANDRIEU:

S. 2689. A bill to authorize the President to award a gold medal on behalf of Congress to Andrew Jackson Higgins (posthumously), and to the D-day Museum in recognition of the contributions of Higgins Industries and the more than 30,000 employees of Higgins Industries to the Nation and to world peace during World War II; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY (for himself, Mr. SMITH of Oregon, Ms. COLLINS, Mr. LEVIN, Mr. JEFFORDS, Mr. FEINGOLD, Mr. MOYNIHAN, Mr. AKAKA, Mr. KERREY, and Mr. WELLSTONE.

S. 2690. A bill to reduce the risk that innocent persons may be executed, and for other purposes; to the Committee on the Judiciary.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 2691. A bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, and Mr. DURBIN):

S. 2692. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety of imported products, and for other purposes; to the Committee on Health Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 317. A resolution expressing the sense of the Senate to congratulate and thank the members of the United States Armed Forces who participated in the June 6, 1944, D-Day invasion of Europe for forever changing the course of history by helping bring an end to World War II; to the Committee Armed Services.

By Ms. SNOWE (for herself, Mr. SMITH of New Hampshire, Mr. GREGG, Ms. COLLINS, Mr. WARNER, Mr. ROBB, Mr. SESSIONS, Mr. LEVIN, and Mr. KENNEDY):

S. Res. 318. A resolution honoring the 129 sailors and civilians lost aboard the U.S.S. Thresher (SSN 593) on April 10, 1963; extending the gratitude of the Nation for their last, full measure of devotion; and acknowledging the contributions of the Naval Submarine Service and the Portsmouth Naval Shipyard to the defense of the Nation; considered and agreed to.

By Mr. ROBB (for himself, Mr. REID, and Mr. KENNEDY):

S. Con. Res. 120. A concurrent resolution to express the sense of Congress regarding the need to pass legislation to increase penalties on perpetrators of hate crimes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN (for himself and Mr. AKAKA):

S. 2686. A bill to amend chapter 36 of title 39, United States Code, to modify rates relating to reduced rate mail matter, and for other purposes; to the Committee on Governmental Affairs.

LEGISLATION TO IMPROVE THE PROCESS FOR ESTABLISHING NONPROFIT POSTAGE RATES

Mr. COCHRAN. Mr. President, today I am introducing a bill to improve the process used by the United States Postal Service to establish postage rates for nonprofit and other reduced-rate mailers.

Under the current rate setting procedure, nonprofit postage rates have changed significantly, often rising

more than corresponding commercial rates. In fact, in some cases, nonprofit mail rates have increased so much that the nonprofit rates are higher than similar commercial rates. According to the Postal Service, the unpredictable rate changes experienced by nonprofit mailers stem from difficulties the Service has had with gathering accurate cost data for small subclasses of mail.

By establishing a structured relationship between nonprofit and commercial postage rates, this legislation would protect all categories of nonprofit mail from unpredictable rate swings in the future. The bill would set nonprofit and classroom Periodical rates at 95 percent of the commercial counterpart rates (excluding the advertising portion), set nonprofit Standard A rates at 60 percent of the commercial Standard A rates, and set Library and Educational Matter rates at 95 percent of the rates for the special subclass of commercial Standard B mail.

The Postal Service recently proposed to increase postage rates for all classes of mail, and this proposal is now pending before the Postal Rate Commission. As part of its request, the Postal Service asked for nonprofit postage rates that are premised on the enactment of this, or similar, legislation to change the process for setting nonprofit mail rates. Without this legislation, nonprofit mailers will face potential double-digit rate hikes.

This bill achieves an appropriate balance between nonprofit and commercial postage rates, and provides nonprofit mailers with much needed rate predictability. It is a compromise solution that is supported by the United States Postal Service and several major commercial and nonprofit mailer associations, including: the Alliance of Nonprofit Mailers, the National Federation of Nonprofits, the Direct Marketing Association, the Magazine Publishers of America, and the Association of Postal Commerce.

I invite my colleagues to support this effort to protect nonprofit mailers by improving the method for establishing nonprofit postage rates.

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. 2686

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

SECTION 1. SPECIAL RATEMAKING PROVISIONS.

(a) ESTABLISHMENT OF REGULAR RATES FOR MAIL CLASSES WITH CERTAIN PREFERRED SUBCLASSES.—Section 3622 of title 39, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) Regular rates for each class or subclass of mail that includes 1 or more special rate categories for mail under former section 4358(d) or (e), 4452(b) or (c), or 4554(b) or (c) of

this title shall be established by applying the policies of this title, including the factors of section 3622(b) of this title, to the costs attributable to the regular rate mail in each class or subclass combined with the mail in the corresponding special rate categories authorized by former section 4358(d) or (e), 4452(b) or (c), or 4554(b) or (c) of this title."

(b) RESIDUAL RULE FOR PREFERRED PERIODICAL MAIL.—Section 3626(a)(3)(A) of title 39, United States Code, is amended to read as follows:

"(3)(A) Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358 of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

"(i) the estimated costs attributable to such class of mail or kind of mailer; and

"(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B)."

(c) SPECIAL RULE FOR NONPROFIT AND CLASSROOM PERIODICALS.—Section 3626(a)(4) of title 39, United States Code, is amended to read as follows:

"(4)(A) Except as specified in subparagraph (B), rates of postage for a class of mail or kind of mailer under former section 4358(d) or (e) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate category mailing.

"(B) With respect to the postage for the advertising pound portion of any mail matter under former section 4358(d) or (e) of this title, the 5-percent discount specified in subparagraph (A) shall not apply if the advertising portion exceeds 10 percent of the publication involved."

(d) SPECIAL RULE FOR NONPROFIT STANDARD (A) MAIL.—Section 3626(a) of title 39, United States Code, is amended by adding at the end the following:

"(6) The rates for mail matter under former sections 4452(b) and (c) of this title shall be established as follows:

"(A) The estimated average revenue per piece to be received by the Postal Service from each subclass of mail under former sections 4452(b) and (c) of this title shall be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail.

"(B) For purposes of subparagraph (A), the estimated average revenue per piece of each regular-rate subclass shall be calculated on the basis of expected volumes and mix of mail for such subclass at current rates in the test year of the proceeding.

"(C) Rate differentials within each subclass of mail matter under former sections 4452(b) and (c) shall reflect the policies of this title, including the factors set forth in section 3622(b) of this title."

(e) SPECIAL RULE FOR LIBRARY AND EDUCATIONAL MATTER.—Section 3626(a) of title 39, United States Code, as amended by subsection (d) of this section, is amended by adding at the end the following:

"(7) The rates for mail matter under former sections 4554(b) and (c) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate mailing."

SEC. 2. TRANSITIONAL AND TECHNICAL PROVISIONS.

(a) TRANSITIONAL PROVISION FOR NONPROFIT STANDARD (A) MAIL.—In any proceeding in which rates are to be established under chapter 36 of title 39, United States Code, for mail

matter under former sections 4452(b) and (c) of that title, pending as of the date of enactment of section 1 of this Act, the estimated reduction in postal revenue from such mail matter caused by the enactment of section 3626(a)(6)(A) of that title, if any, shall be treated as a reasonably assignable cost of the Postal Service under section 3622(b)(3) of that title.

(b) TECHNICAL AMENDMENT.—Section 3626(a)(1) of title 39, United States Code, is amended by striking "4454(b), or 4454(c)" and inserting "4554(b), or 4554(c)".

By Mr. INOUE (for himself, Mr. AKAKA, Mr. COCHRAN, Mr. DODD, Mr. KENNEDY, Mrs. MURRAY, and Mr. SCHUMER):

S. 2688. A bill to amend the Native American Languages Act to provide for the support of Native American Language Survival Schools, and for other purposes.

NATIVE AMERICAN LANGUAGES ACT AMENDMENTS ACT OF 2000

• Mr. INOUE. Mr. President, I rise today to introduce a bill to amend the Native American Languages Act to provide authority for the establishment of Native American Language Survival Schools. I am joined in co-sponsorship by Senators AKAKA, COCHRAN, DODD, KENNEDY, MURRAY and SCHUMER.

Mr. President, for hundreds of years, beginning with the arrival of European settlers on America's shores, the native peoples of America have had to fight for the survival of their cultures. History has shown that the ability to maintain and preserve the culture and traditions of a people is directly tied to the perpetuation of native languages. Like others, the traditional languages of Native American people are an integral part of their culture and identity. They provide the means for passing down to each new generation the stories, customs, religion, history and traditional ways of life. To lose the diversity and vibrant history of many Indian nations, is to lose a vital part of the history of this country.

Mr. President, Native American languages are near extinction in the United States. Studies suggest that at one time several thousand distinct Indian languages existed in what is now America. Today that number has dwindled to approximately 155 Indian languages. Of these 155 languages remaining, 45 are only spoken by elders, 60 are spoken only by middle-aged adults or older adults, 30 are spoken by all adults but not children, and only 20 Native languages are spoken by most of the children. With so many Native communities facing the loss of their languages as elderly native speakers pass on before the language can be taught to younger generations, it is little wonder that this tragedy is growing exponentially, day by day.

In the 1880s, as part of the United States' forced assimilation policies towards Native Americans, a system of off-reservation boarding schools was initiated. Native American children were forcibly taken from their families, transported hundreds of miles to

schools where their hair was cut notwithstanding the religious importance of hair length in most native cultures, their clothes replaced with military-style uniforms, and they were forbidden to speak their native languages or practice their religion. Although this effort to eradicate Indian culture was not successful, it did separate several generations of Native Americans from their native languages.

The Native American Languages Act of 1990 officially repudiated the policies of the past and declared that "it is the policy of the United States to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages." The Act was amended in 1992 to provide financial support to Native American language projects.

Mr. President, this bill would bring the nation one step closer to assuring the preservation and revitalization of Native American languages by supporting the development of Native American Language Survival Schools. These schools would provide a complete education through the use of both Native American languages and English. The bill also provides support for Native American Language Nests, which are Native American language immersion programs for children aged six and under. In addition, the bill provides authority for the following activities: curriculum development, teacher, staff and community resource development, rental, lease, purchase, construction, maintenance or repair of educational facilities, and the establishment of two Native American Language School support centers at the Native Language College of the University of Hawaii at Hilo, and the Alaska Native Language Center of the University of Alaska at Fairbanks.

Mr. President, I urge my colleagues to support this legislation to assist the Native people of America in their efforts to reverse the effects of past Federal policies by reintroducing today's children to their Native languages and preserving Native languages for the generations to come.

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. 2688

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 "Native American Languages Act Amendments Act of 2000".

SEC. 2. PURPOSE.

The purposes of this Act are to—

(1) encourage and support the development of Native American Language Survival Schools as innovative means of addressing the effects of past discrimination against Native American language speakers and to support the revitalization of such languages

through education in Native American languages and through instruction in other academic subjects using Native American languages as an instructional medium, consistent with United States' policy as expressed in the Native American Languages Act (25 U.S.C. 2901 et seq.);

(2) encourage and support the involvement of families in the educational and cultural survival efforts of Native American Language Survival Schools;

(3) encourage communication, cooperation, and educational exchange among Native American Language Survival Schools and their administrators;

(4) provide support for Native American Language Survival School facilities and endowments;

(5) provide support for Native American Language Nests either as part of Native American Language Survival Schools or as separate programs that will be developed into more comprehensive Native American Language Survival Schools;

(6) support the development of local and national models that can be disseminated to the public and made available to other schools as exemplary methods of teaching Native American students; and

(7) develop a support center system for Native American Survival Schools at the university level.

SEC. 3. DEFINITIONS.

Section 103 of Public Law 101-477 (25 U.S.C. 2902) is amended to read as follows:

"DEFINITIONS

"In this Act:

"(1) INDIAN.—The term 'Indian' has the meaning given that term in section 9161 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7881).

"(2) INDIAN TRIBAL GOVERNMENT.—The term 'Indian tribal government' has the meaning given that term in section 502 of Public Law 95-134 (42 U.S.C. 4368b).

"(3) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(4) INDIAN RESERVATION.—The term 'Indian reservation' has the meaning given the term 'reservation' in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

"(5) NATIVE AMERICAN.—The term 'Native American' means an Indian, Native Hawaiian, or Native American Pacific Islander.

"(6) NATIVE AMERICAN LANGUAGE.—The term 'Native American language' means the historical, traditional languages spoken by Native Americans.

"(7) NATIVE AMERICAN LANGUAGE COLLEGE.—The term 'Native American Language College' means—

"(A) a tribally-controlled community college or university (as defined in section 2 of the Tribally-Controlled Community College or University Assistance Act of 1978 (25 U.S.C. 1801));

"(B) Ka Haka 'Ula o Ke'elikolani College;

or

"(C) a college applying for a Native American Language Survival School in a Native American language which that college regularly offers as part of its curriculum and which has the support of an Indian tribal government traditionally affiliated with that Native American language.

"(8) NATIVE AMERICAN LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native American Language Educational Organization' means an organization that—

"(A) is governed by a board consisting of speakers of 1 or more Native American languages;

"(B) is currently providing instruction through the use of a Native American lan-

guage for not less than 10 students for at least 700 hours of instruction per year; and

"(C) has provided such instruction for at least 10 students annually through a Native American language for at least 700 hours per year for not less than 3 years prior to applying for a grant under this Act.

"(9) NATIVE AMERICAN LANGUAGE NEST.—The term 'Native American Language Nest' means a site-based educational program enrolling families with children aged 6 and under which is conducted through a Native American language for not less than 20 hours per week and not less than 35 weeks per year with the specific goal of strengthening, revitalizing, or re-establishing a Native American language and culture as a living language and culture of daily life.

"(10) NATIVE AMERICAN LANGUAGE SURVIVAL SCHOOL.—The term 'Native American Language Survival School' means a Native American language dominant site-based educational program which expands from a Native American Language Nest, either as a separate entity or inclusive of a Native American Language Nest, to enroll families with children eligible for elementary or secondary education and which provides a complete education through a Native American language with the specific goal of strengthening, revitalizing, or reestablishing a Native American language and culture as a living language and culture of daily life.

"(11) NATIVE AMERICAN PACIFIC ISLANDER.—The term 'Native American Pacific Islander' means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

"(12) NATIVE HAWAIIAN.—The term 'Native Hawaiian' has the meaning given that term in section 9212 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7912).

"(13) SECRETARY.—The term 'Secretary' means the Secretary of the Department of Education.

"(14) TRADITIONAL LEADERS.—The term 'traditional leaders' includes Native Americans who have special expertise in Native American culture and Native American languages.

"(15) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)."

SEC. 4. NATIVE AMERICAN LANGUAGE SURVIVAL SCHOOLS.

Title I of Public Law 101-477 (25 U.S.C. 2901 et seq.) is amended by adding at the end the following new sections:

"GENERAL AUTHORITY

"SEC. 108. (a) IN GENERAL.—The Secretary is authorized to provide funds, through grant or contract, to Native American Language Educational Organizations, Native American Language Colleges, Indian tribal governments, or a consortia of such organizations, colleges, or tribal governments to operate, expand, and increase Native American Language Survival Schools throughout the United States and its territories for Native American children and Native American language-speaking children.

"(b) ELIGIBILITY.—As a condition of receiving funds under subsection (a), a Native American Language Educational Organization, a Native American Language College, an Indian tribal government, or a consortia of such organizations, colleges, or tribal governments—

"(1) shall—

"(A) have at least 3 years experience in operating and administering a Native American Language Survival School, a Native American Language Nest, or other educational programs in which instruction is

conducted in a Native American language; and

"(B) include students who are subject to State compulsory education laws; and

"(2) may include students from infancy through grade 12, as well as their families.

"(c) USE OF FUNDS.—

"(1) REQUIRED USES.—A Native American Language Survival School receiving funds under this section shall—

"(A) consist of not less than 700 hours of instruction conducted annually through a Native American language or languages for at least 15 students who do not regularly attend another school;

"(B) provide direct educational services and school support services that may also include—

"(i) support services for children with special needs;

"(ii) transportation;

"(iii) boarding;

"(iv) food service;

"(v) teacher and staff housing;

"(vi) purchase of basic materials;

"(vii) adaptation of teaching materials;

"(viii) translation and development; or

"(ix) other appropriate services;

"(C) provide direct or indirect educational and support services for the families of enrolled students on site, through colleges, or through other means to increase their knowledge and use of the Native American language and culture, and may impose a requirement of family participation as a condition of student enrollment; and

"(D) ensure that students who are not Native American language speakers achieve fluency in a Native American language within 3 years of enrollment.

"(2) PERMISSIBLE USES.—A Native American Language Survival School receiving funds under this section may—

"(A) include Native American Language Nests and other educational programs for students who are not Native American language speakers but who seek to establish fluency through instruction in a Native American language or to re-establish fluency as descendants of Native American language speakers;

"(B) include a program of concurrent and summer college or university education course enrollment for secondary school students enrolled in Native American Language Survival Schools, as appropriate; and

"(C) provide special support for Native American languages for which there are very few or no remaining Native American language speakers.

"(d) CURRICULUM DEVELOPMENT AND COMMUNITY LANGUAGE USE DEVELOPMENT.—The Secretary is authorized to provide funds, through grant or contract, to Native American Language Educational Organizations, Native American Language Colleges, Indian tribal governments, or a consortia of such organizations, colleges, or tribal governments, for the purpose of developing—

"(1) comprehensive curricula in Native American language instruction and instruction through Native American languages; and

"(2) community Native American language use in communities served by Native American Language Survival Schools.

"(e) TEACHER, STAFF, AND COMMUNITY RESOURCE DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary is authorized to provide funds, through grant or contract, to Native American Language Educational Organizations, Native American Language Colleges, Indian tribal governments, or a consortia of such organizations, colleges, or tribal governments for the purpose of providing programs in pre-service and in-service teacher training, staff training, personnel development programs, programs

to upgrade teacher and staff skills, and community resource development training, that shall include a program component which has as its objective increased Native American language speaking proficiency for teachers and staff employed in Native American Language Survival Schools and Native American Language Nests.

"(2) PROGRAM SCOPE.—Programs funded under this subsection may include—

"(A) visits or exchanges among Native American Language Survival Schools and Native American Language Nests of school or nest teachers, staff, students, or families of students;

"(B) participation in conference or special non-degree programs focusing on the use of a Native American language or languages for the education of students, teachers, staff, students, or families of students;

"(C) full or partial scholarships and fellowships to colleges or universities for the professional development of faculty and staff, and to meet requirements for the involvement of the family or the community of Native American Language Survival School students in Native American Language Survival Schools;

"(D) training in the language and culture associated with a Native American Language Survival School either under community or academic experts in programs which may include credit courses;

"(E) structuring of personnel operations to support Native American language and cultural fluency and program effectiveness;

"(F) Native American language planning, documentation, reference material and archives development; and

"(G) recruitment for participation in teacher, staff, student, and community development.

"(3) CONDITIONS OF FELLOWSHIPS OR SCHOLARSHIPS.—A recipient of a fellowship or scholarship awarded under the authority of this subsection who is enrolled in a program leading to a degree or certificate shall—

"(A) be trained in the Native American language of the Native American Language Survival School, if such program is available through that Native American language;

"(B) complete a minimum annual number of hours in Native American language study or training during the period of the fellowship or scholarship; and

"(C) enter into a contract which obligates the recipient to provide his or her professional services, either during the fellowship or scholarship period or upon completion of a degree or certificate, in Native American language instruction in the Native American language associated with the Native American Language Survival School in which the service obligation is to be fulfilled.

"(f) ENDOWMENT AND FACILITIES.—The Secretary is authorized to provide funds, through grant or contract, for endowment funds and the rental, lease, purchase, construction, maintenance, or repair of facilities for Native American Language Survival Schools, to Native American Language Educational Organizations, Native American Language Colleges, and Indian tribal governments, or a consortia of such organizations, colleges, or tribal governments that have demonstrated excellence in the capacity to operate and administer a Native American Language Survival School and to ensure the academic achievement of Native American Language Survival School students.

"NATIVE AMERICAN LANGUAGE NESTS

"SEC. 109. (a) IN GENERAL.—The Secretary is authorized to provide funds, through grant or contract, to Native American Language Educational Organizations, Native American Language Colleges, Indian tribal governments, and nonprofit organizations that

demonstrate the potential to become Native American Language Educational Organizations, for the purpose of establishing Native American Language Nest programs for students from infancy to age 6 and their families.

"(b) REQUIREMENTS.—A Native American Language Nest program receiving funds under this section shall—

"(1) provide instruction and child care through the use of a Native American language or a combination of the English language and a Native American language for at least 10 children for at least 700 hours per year;

"(2) provide compulsory classes for parents of students enrolled in a Native American Language Nest in a Native American language, including Native American language-speaking parents;

"(3) provide compulsory monthly meetings for parents and other family members of students enrolled in a Native American Language Nest;

"(4) provide a preference in enrollment for students and families who are fluent in a Native American language; and

"(5) receive at least 5 percent of its funding from another source, which may include Federally-funded programs, such as a Head Start program funded under the Head Start Act (42 U.S.C. 9801 et seq.).

"DEMONSTRATION PROGRAMS REGARDING LINGUISTICS ASSISTANCE

"SEC. 110. (a) DEMONSTRATION PROGRAMS.—The Secretary shall provide funds, through grant or contract, for the establishment of 2 demonstration programs that will provide assistance to Native American Language Survival Schools and Native American Language Nests. Such demonstration programs shall be established at—

"(1) Ka Haka 'Ula O Ke'elikolani College of the University of Hawaii at Hilo, in consortium with the 'Aha Punana Leo, Inc., and with other entities if deemed appropriate by such College, to—

"(A) conduct a demonstration program in the development of the various components of a Native American Language Survival School program, including the early childhood education features of a Native American Nest component; and

"(B) provide assistance in the establishment, operation, and administration of Native American Language Nests and Native American Language Survival Schools by such means as training, hosting informational visits to demonstration sites, and providing relevant information, outreach courses, conferences, and other means; and

"(2) the Alaska Native Language Center of the University of Alaska at Fairbanks, in consortium with other entities as deemed appropriate by such Center, to conduct a demonstration program, training, outreach, conferences, visitation programs, and other assistance in developing orthographies, resource materials, language documentation, language preservation, material archiving, and community support development.

"(b) USE OF TECHNOLOGY.—The demonstration programs authorized to be established under this section may employ synchronic and asynchronous telecommunications and other appropriate means to maintain coordination and cooperation with one another and with participating Native American Language Survival Schools and Native American Language Nests.

"(c) DIRECTION TO THE SECRETARY.—The demonstration programs authorized to be established under this section shall provide direction to the Secretary in developing a site visit evaluation of Native American Language Survival Schools and Native American Language Nests.

"(d) ENDOWMENTS AND FACILITIES.—The demonstration programs authorized to be established under this section may establish endowments for the purpose of furthering their activities relative to the study and preservation of Native American languages, and may use funds to provide for the rental, lease, purchase, construction, maintenance, and repair of facilities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 111. There are authorized to be appropriated such sums as may be necessary to carry out the activities authorized by this Act for fiscal years 2001 through 2006." •

By Ms. LANDRIEU:

S. 2689. A bill to authorize the President to award a gold medal on behalf of Congress to Andrew Jackson Higgins (posthumously), and to the D-day Museum in recognition of the contributions of Higgins Industries and the more than 30,000 employees of Higgins Industries to the Nation and to world peace during World War II; to the Committee on Banking, Housing, and Urban Affairs.

ANDREW JACKSON HIGGINS

• Ms. LANDRIEU. Mr. President, I speak today to honor an innovative and patriotic American—the logger-turned-boatbuilder, who single-handedly transformed the concept of amphibious ship design when our nation and her Allies needed it most. Despite a series of bureaucratic obstacles set up by America's World War II war-machine, Higgins skillfully engineered Marine Corps landing craft, and eventually won contracts to build 92 percent of the Navy's war-time fleet. The story of Andrew Jackson Higgins exemplifies the American Dream, and merits full recognition of this body for his ingenuity, assiduous work, and devotion to our country.

In the late 1930's, Higgins was operating a small New Orleans work-boat company, with less than seventy-five employees. He quickly earned a reputation for fast, dependable work, turning out specialized vessels for the oil industry, Coast Guard, Army Corps of Engineers, and U.S. Biological Survey. But when he presented his plans for swift amphibious landing crafts, he met hard resistance. The U.S. Navy had overestimated French and British abilities to secure France's ports from German encroachment, and had thus overruled decisions to create landing boat crafts. As the U.S. Marine Corps discerned the need for mass production of amphibious vessels for both the Pacific and European theaters, top brass began to lobby the Navy to abandon its internal contracting, and procure ships from Higgins Industries, which boasted high performance quality, and unprecedented speed for turning out boats. In 1941, the Navy finally asked Higgins to begin designing a landing draft to carry tanks. Instead of a design, Higgins delivered an entire working boat. It had only taken 61 hours to design and construct his first Landing Craft, Mechanized (LCM). Quickly, the Higgins firm grew to seven plants, eventually turning out 700 boats a month—

more than all other shipyards in the nation combined. By the war's end, Higgins had turned out 20,000 boats, ranging from the 46-foot LCVP (Landing Craft, Vehicle & Personnel) to the fast-moving PT boats, the rocket-firing landing craft support boats, the 56-foot tank landing craft, the 170 foot freight supply ships and the 27-foot airborne lifeboats that could be dropped from B-17 bombers.

Able to conceive various ship designs and mass-produce vessels quickly at affordable prices, Higgins not only transformed wartime ship building acquisition, but sustained the universal faith American invention and global power projection. Higgins landing craft crashed on the shores of Normandy on June 6, 1944, launching the greatest amphibious assault in world history, and commencing a eastward drive to liberate Europe from Nazi Germany. In addition to his contributions to Allied war efforts abroad, Higgins' manufacturing further changed the face of my own city of New Orleans, home to most of the firm's business. I urge my colleagues to support provisions to award Andrew Jackson Higgins the Gold Medal of Honor, in the tradition of our great institution.

Mr. President, in 1964, President Dwight D. Eisenhower was reflecting on the success of the 1944 Normandy invasion to his biographer, Steven Ambrose. Andrew Jackson Higgins "is the man who won the war for us," he said. "If Higgins had not developed and produced those landing craft, we never could have gone in over an open beach. We would have had to change the entire strategy of the war." to me, Mr. Higgins and his 20,000-member workforce embody American creativity, persistence, and patriotism; they deserve to be distinguished for their critical place in history.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2689

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 "Andrew Jackson Higgins Gold Medal Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Andrew Jackson Higgins was born on August 28, 1886, in Columbus, Nebraska, moved to New Orleans in 1910, and formed Higgins Industries on September 26, 1930.

(2) Andrew Jackson Higgins designed, engineered, and produced the "Eureka", a unique shallow draft boat the design of which evolved during World War II into 2 basic classes of military craft: high speed PT boats, and types of Higgins landing craft (LCPs, LCPLs, LCVs, LCMs and LCSs).

(3) Andrew Jackson Higgins designed, engineered, and constructed 4 major assembly line plants in New Orleans for mass production of Higgins landing craft and other vessels vital to the Allied Forces' conduct of World War II.

(4) Andrew Jackson Higgins bought the entire 1940 Philippine mahogany crop and other material purely at risk without a government contract, anticipating that America would join World War II and that Higgins Industries would need the wood to build landing craft. Higgins also bought steel, engines, and other material necessary to construct landing craft.

(5) Andrew Jackson Higgins, through Higgins Industries, employed a fully integrated assembly line work force, black and white, male and female, of up to 30,000 during World War II, with equal pay for equal work.

(6) In 1939, the United States Navy had a total of 18 landing craft in the fleet.

(7) From November 18, 1940, when Higgins Industries was awarded its first contract for Higgins landing craft until the conclusion of the war, the employees of Higgins Industries produced 12,300 Landing Craft Vehicle Personnel (LCVP's) and nearly 8,000 other landing craft of all types.

(8) During World War II, Higgins Industries employees produced 20,094 boats, including landing craft and Patrol Torpedo boats, and trained 30,000 Navy, Marine, and Coast Guard personnel on the safe operation of landing craft at the Higgins' Boat Operators School.

(9) On Thanksgiving Day 1944, General Dwight D. Eisenhower stated in an address to the Nation: "Let us thank God for Higgins Industries, management, and labor which has given us the landing boats with which to conduct our campaign."

(10) Higgins landing craft, constructed of wood and steel, transported fully armed troops, light tanks, field artillery, and other mechanized equipment essential to amphibious operations.

(11) Higgins landing craft made the amphibious assault on D-day and the landings at Leyte, North Africa, Guadalcanal, Sicily, Iwo Jima, Tarawa, Guam, and thousands of less well-known assaults possible.

(12) Captain R.R.M. Emmett, a commander at the North Africa amphibious landing, and later commandant of the Great Lakes Training Station, wrote during the war: "When the history of this war is finally written by historians, far enough removed from its present turmoil and clamor to be cool and impartial, I predict that they will place Mr. (Andrew Jackson) Higgins very high on the list of those who deserve the commendation and gratitude of all citizens."

(13) In 1964, President Dwight D. Eisenhower told historian Steven Ambrose: "He (Higgins) is the man who won the war for us. If Higgins had not developed and produced those landing craft, we never could have gone in over an open beach. We would have had to change the entire strategy of the war."

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—

(1) IN GENERAL.—The President is authorized, on behalf of Congress, to award a gold medal of appropriate design to—

(A) the family of Andrew Jackson Higgins, honoring Andrew Jackson Higgins (posthumously) for his contributions to the Nation and world peace; and

(B) the D-day Museum in New Orleans, Louisiana, for public display, honoring Andrew Jackson Higgins (posthumously) and the employees of Higgins Industries for their contributions to the Nation and world peace.

(2) MODALITIES.—The modalities of presentation of the medals under this Act shall be determined by the President after consultation with the Speaker of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection

(a), the Secretary of the Treasury (in this Act referred to as the "Secretary") shall strike 2 gold medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medals struck under this Act, under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. STATUS AS NATIONAL MEDALS.

The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed \$60,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 4 shall be deposited in the United States Mint Public Enterprise Fund.●

By Mr. LEAHY (for himself, Mr. SMITH of Oregon, Ms. COLLINS, Mr. LEVIN, Mr. JEFFORDS, Mr. FEINGOLD, Mr. MOYNIHAN, Mr. AKAKA, Mr. KERREY, and Mr. WELLSTONE):

S. 2690. A bill to reduce the risk that innocent persons may be executed, and for other purposes; to the Committee on the Judiciary.

THE INNOCENCE PROTECTION ACT OF 2000

● Mr. LEAHY. Mr. President, a few months ago, I came to this floor to draw attention to a growing national crisis in the administration of capital punishment and to suggest some solutions. You will recall some of the shocking facts I described:

For every 7 people executed, 1 death row inmate is shown some time after conviction to be innocent of the crime.

Many of those exonerated have come within hours of being executed, and many have spent a decade or more in jail before they were given a fair opportunity to establish their innocence.

Capital defendants are frequently represented by lawyers who lack the funds or the competence to do the job, or who have been disbarred or suspended for misconduct, and, from time to time, by lawyers who sleep through the trial, but the courts turn a blind eye.

Inexpensive and practically foolproof means of proving innocence are often denied to defendants.

The saddest fact of all, to me, is that the society facing this crisis is not a medieval one; it is America, today, in the 21st Century. As the Governor of Illinois told us when he placed a moratorium on the death penalty in his State earlier this year, something urgently needs to be done to remedy this situation. That is why I have been talking with Senators on both sides of the aisle and all sides of the capital punishment debate. That is why I have been searching for ways to reduce the risk of mistaken executions.

That is why I am so pleased that today, with my good friend, the junior

Senator from Oregon (Senator GORDON SMITH), we are introducing the bipartisan Innocence Protection Act of 2000. This bill is a carefully crafted package of criminal justice reforms designed to protect the innocent and to ensure that if the death penalty is imposed, it is the result of informed and reasoned deliberation, not politics, luck, bias or guesswork.

Every American child is taught that justice is blind. It is important to remember what justice is supposed to be blind to. Justice should never be blind to the truth, it should never be blind to the evidence, and it should never be blind to the teachings of modern science. What justice should be blind to is ideology, politics, race and money.

Too often in this chamber, we find ourselves dividing along party or ideological lines. The bill that Senator SMITH and I are introducing today is not about that, and it is not about whether in the abstract, you favor or disfavor the death penalty. It is about what kind of society we want America to be in the 21st Century.

I am optimistic about America's future. I have become all the more optimistic in the past few months as I have seen an outpouring of support across the political spectrum and across the country for common-sense measures to reduce the risk of executing the innocent.

Today, Senator SMITH and I are joined by Senators from both sides of the aisle, by some who support capital punishment and by others who oppose it. On the Republican side, I want to thank my friend Senator SUSAN COLLINS of Maine and my fellow Vermonter, Senator JIM JEFFORDS. On the Democratic side, Senators LEVIN, FEINGOLD, MOYNIHAN, AKAKA, KERREY, and WELLSTONE. I also want to thank our House sponsors WILLIAM DELAHUNT and RAY LAHOOD, along with their 39 cosponsors, both Democratic and Republican. Here on Capitol Hill it is our job to represent Americans. The scores of legislators who have sponsored this legislation clearly do represent Americans, both in their diversity and in their readiness to work together for common-sense solutions.

The outpouring of bipartisan support we have seen in Congress reflects an emerging public consensus. Opinion polls show Americans divided on the death penalty in the abstract. But they show overwhelmingly that Americans will not tolerate the execution of innocent people, and that Americans expect their justice system to provide everyone with a fair trial and a competent lawyer. A recent Gallup Poll found that 92 percent of Americans believe that people convicted before modern advances in DNA technology should be given the opportunity to obtain DNA testing if such tests might show their innocence.

I am also encouraged by the growing chorus of calls for reform of our capital punishment system by criminal justice experts and respected opinion leaders

nationwide. George Will wrote in a April 6th column that "skepticism is in order" when it comes to capital punishment. Another conservative columnist, Bruce Fein, wrote in *The Washington Times* on April 25th:

A decent respect for life . . . demands scrupulous concern for the reliability of verdicts in capital punishment trials. Otherwise, the death penalty game is not worth the gamble of executing the innocent—a shameful stain on any system of justice—and life sentences (perhaps in solitary confinement) should be the maximum.

Mr. Fein writes as one who served as a senior Justice Department official in the Reagan Administration.

More recently, on May 11th, the Constitution Project at Georgetown University Law Center established a blue-ribbon National Committee to Prevent Wrongful Executions, comprised of supporters and opponents of the death penalty, Democrats and Republicans, including six former State and Federal judges, a former U.S. Attorney, two former State Attorneys General, and a former Director of the FBI. According to its mission statement, this Committee is "united in [its] profound concern that, in recent years, and around the country, procedural safeguards and other assurances of fundamental fairness in the administration of capital punishment have been significantly diminished." Many of the concerns that the Committee has raised are addressed in the legislation that Senator SMITH and I are introducing today.

Just yesterday, the editors of *The Washington Times* noted that "the increased use of DNA analysis has in fact revealed some serious flaws in the way the justice system exacts the supreme penalty," and succinctly expressed the common sense view of nine out of ten Americans and the basic point that underlies our legislation: "Surely no one could reasonably object to making sure we execute only the guilty."

I ask unanimous consent that *The Washington Times* editorial be included in the RECORD at this point, together with the articles by George Will and Bruce Fein, and editorials dated February 19 and 28 from the *New York Times* and *The Washington Post*, both praising the Innocence Protection Act.

As I describe some of the major reforms proposed by our legislation, I ask you to consider these issues from the perspective of a capital juror, an ordinary citizen who is asked by his government to do one of the toughest things a citizen can do: sit in judgment on another person's life. You would not want to make the wrong decision. You would want the process to work so that you could make the right decision.

We need to enact real reforms to combat the very real risk in America today that an innocent person is being executed. I will now describe some of the major reforms proposed by our legislation.

More than any other development, improvements in DNA testing have provided the critical evidence to exonerate innocent people. In the last dec-

ade, scores of wrongfully convicted people have been released from prison—including many from death row—after DNA testing proved they could not have committed the crime for which they were convicted. In some cases the same DNA testing that vindicated the innocent helped catch the guilty.

As I already mentioned, 92 percent of Americans agree that we need to make DNA testing available in every appropriate case. But this legislation is not about public opinion polls—it is about saving innocent lives.

A few months ago, I met Kirk Bloodsworth, a former Marine who was convicted and sentenced to death in Maryland for a crime that he did not commit. Nine years later, DNA testing conclusively established his innocence.

On the same day, I met Clyde Charles. He spent 9 years pleading with the State of Louisiana for the DNA testing that eventually exonerated him. He missed the childhood of his daughter, he contracted diabetes and tuberculosis while in prison, and both of his parents died before his release.

Just last Wednesday, the Governor of Texas pardoned A.B. Butler, who served 17 years of a 99-year sentence for a sexual assault that he did not commit before he was finally cleared by DNA testing. Butler spent 10 years trying to have DNA testing done in his case.

One day later, the Governor of Virginia ordered new DNA testing for Earl Washington, a retarded man convicted of a rape-murder in 1982.

There are still significant numbers of convicted men and women in prisons throughout the country whose trials preceded modern DNA testing. If history is any guide, then some of these individuals are innocent of any crime.

If DNA testing can help establish innocence, there is no reason to deny testing, and every reason to grant it. This is not about guilty people trying to get off on legal technicalities. This is about innocent people trying to prove their innocence—and being thwarted by legal technicalities. Our bill will allow retroactive tests for people tried before DNA technology was available to them, and eliminate the procedural bars that may prevent the introduction of new, exculpatory DNA evidence. Our bill will also ensure that inmates are notified before a State destroys a rape kit or other biological evidence that may, through DNA testing, prove that an inmate was wrongfully convicted.

What possible reason could there be to deny people access to the evidence—often the only evidence—that could prove their innocence? Now that we have DNA fingerprinting that can prove a person's innocence, why should we as a society be willfully blind to the truth?

The sole argument I have heard advanced against the Leahy-Smith proposal is that it is somehow overly broad. As best I can understand this objection, the point seems to be that in

some cases, DNA evidence will only confirm the jury's guilty verdict. That is the point that Virginia prosecutors have advanced in opposing DNA testing for death row inmate Derek Barnabei. But as the Washington Post pointed out in a March 20th editorial about the Barnabei case, the possibility that DNA testing will confirm an inmate's guilt is no reason to deny testing:

It is hard to see why a state, before putting someone to death, would be unwilling to demonstrate a jury verdict's consistency with all of the evidence. Indeed, this is precisely the type of case in which the state should have no choice. Under [the Innocence Protection Act], states would be obligated in such circumstances to allow post-conviction DNA testing. Such a law would not merely offer a layer of protection to innocent people but would increase public confidence in the convictions of guilty people.

I am grateful for the Post's endorsement.

As the Post has pointed out, this is a common sense reform. As opinion polls have shown, the idea of ensuring DNA testing is available in appropriate cases enjoys the support of the vast majority of Americans. And as the recent cases that I have discussed make clear, this is a matter of national urgency. I hope we can move forward expeditiously.

Post-conviction DNA testing is an essential safeguard that can save innocent lives when the trial process has failed to uncover the truth. As the Governor of New York has recognized, DNA testing also serves as a window into the systemic flaws of our capital punishment apparatus. In May, Governor Pataki proposed the creation of a panel to investigate the facts behind DNA exonerations and to determine what went wrong.

When DNA uncovers one miscarriage of justice after another, it is neither just nor sensible to stop at making post-conviction DNA testing more available. It is unjust because innocent people should not have to wait for years after trial to be exonerated and freed. It is not sensible because society should not have to wait for years to know the truth. When dozens of innocent people are being sentenced to death, and dozens of guilty people are working free because the State has convicted the wrong person, we must ask ourselves what went wrong in the trial process, and we must take what steps we can to make sure it does not happen again.

There is a recurring theme in wrongful conviction cases— incompetent and grossly underpaid defense counsel. That theme is well illustrated by the case of Federico Macias. He spent nine years on Texas's death row and came within two days of execution because his trial lawyer did almost nothing to prepare for trial. No doubt, being paid less than \$12 an hour was a disincentive for the lawyer to conduct a more thorough investigation.

This lawyer failed to call available witnesses who could have refuted the State's case, and based his trial deci-

sions on a fundamental misunderstanding of Texas law. The lawyer also admitted he did no investigation at all for the sentencing phase. His only preparation was to speak to his client and his client's wife during the lunch break of the sentencing proceeding.

Macias was eventually cleared of all charges and released from prison, thanks to volunteer work by a Washington lawyer who intervened just before the scheduled execution. Here is what the Federal Court of Appeals had to say when it overturned Macias's conviction:

We are left with the firm conviction that Macias was denied his constitutional right to adequate counsel in a capital case in which actual innocence was a close question. The state paid defense counsel \$11.84 per hour. Unfortunately, the justice system got only what it paid for.

Federico Macias's case was not unique. In the Texas criminal justice system, there is a whole category of capital cases known as the sleeping lawyer cases, to which the majority of the Texas Court of Criminal Appeals has responded with apathy. This attitude was chillingly conveyed by one Texas judge who reasoned that, while the Constitution requires a defendant to be represented by a lawyer, it "doesn't say the lawyer has to be awake."

But this is not just a Texas problem, this is a nationwide problem. In case after case across the country, capital defendants have found their lives placed in the hands of lawyers who are hopelessly incompetent—lawyers who were drunk during the trial; lawyers who never bothered to investigate the case or even meet with their client before trial; and lawyers who were suspended or disbarred.

Oklahoma spent all of \$3,200 on the defense of Ronald Keith Williamson; it got what it paid for when Williamson's lawyer failed to investigate and present to the jury a simple fact—the fact that another man had confessed to the murder. Both Williamson and his codefendant were eventually cleared of any crime.

In Illinois, Dennis Williams was defended by a lawyer who was simultaneously defending himself in disbarment proceedings. Williams was eventually exonerated in 1996, after 18 years on death row, with the help of three journalism students from Northwestern University.

That is not how the American adversarial system of criminal justice is meant to work. Americans on trial for their lives should not be condemned to rely on sleeping lawyers, drunk lawyers, disbarred lawyers, or lawyers who do not have the resources to do the job. In our society, lawyers and journalists both serve important fact-finding functions. But, as one of the Northwestern University journalism students so aptly said after proving the innocence of yet another death row inmate, Anthony Porter, "Twenty-one-year-olds are not supposed to be responsible for

finding the innocent people on death row."

The need for competent and adequately funded lawyers to make our adversarial system work is not a novel insight, and the lack of such lawyers and funding is not a novel discovery. In 1991, Retired Chief Justice Harold Clarke of Georgia told the Georgia State Bar that:

Providing lawyers for poor people accused of crimes is a state obligation. The Constitution teaches us that. But more important, common sense and human decency tell us that. Yet we haven't listened to those voices.

In repeated resolutions dating back to the 1980s, the Conference of Chief Justices has urged States to do more to ensure that capital defendants are provided quality representation. In 1995, for example, the Chief Justices resolved that each State should "establish standards and a process that will assure the timely appointment of competent counsel, with adequate resources, to represent defendants in capital cases at each stage of such proceedings."

As we enter the 21st century, a few States have heeded this advice. But many are still not listening to the voices of the people who know first hand what a mockery incompetent and underfunded defense lawyers can make of our criminal justice system. I have described two cases, from Texas and Oklahoma, in which the State grossly underfunded appointed counsel and got what it paid for. There are many more examples, including an Alabama case within the past year in which the court, after a full trial, limited the fee for investigating and defending against a charge of capital murder to about \$4,000. After paying his investigator and paralegal, the lawyer pocketed \$1,212, which worked out to \$5.05 an hour—less than the minimum wage.

We should not sit back and rely on 21-year-old journalism students to save innocent people from execution. And a quarter of a century of experience with the death penalty since the Supreme Court restored it in 1976 teaches us that we cannot sit back and rely on the States to provide adequate counsel to those whom they seek to execute.

We in Congress can never guarantee that the innocent will not be convicted. But we have a responsibility, at a minimum, to ensure that when people in this country are on trial for their lives, they will be defended by lawyers who meet reasonable minimum standards of competence and who have sufficient funds to investigate the facts and prepare thoroughly for trial. That goal can be achieved by cooperation between the States and the Federal Government whereby we give the States money to fund their criminal justice systems conditioned on their meeting a floor of minimum standards, and leave the States free to improve on those standards if they are so inclined. That is what our bill seeks to achieve.

What do we owe to the innocent people who are able to win their release

from prison? How do we compensate them for all the years they spent behind bars, sometimes on death row, for all the lost wages, for all the pain and suffering. In most cases, there is no compensation, or at least not much. Federal law provides a miserly \$5,000 in cases of unjust imprisonment, regardless of the time served. In the case of Clyde Charles, who spent 18 years in Louisiana's Angola prison, that would come out to about 75 cents a day. Is that what society owes to Clyde Charles, for the walls placed between him and his family for 18 years, for missing his daughter's childhood, and for the diabetes and tuberculosis he contracted in prison? Does that seem about right—75 cents a day?

How about nothing at all? In 36 States, people who have been unjustly convicted and incarcerated for crimes they did not commit are barred from recovering any damages against the State. Louisiana, which destroyed the life of Clyde Charles, has no compensation statute. The States that have compensation statutes generally put a cap on payments, although none sets the cap as low as the current Federal cap of \$5,000.

Let us step back and put this situation in perspective. A few years ago, a Maryland jury found that three young men had been falsely imprisoned by a security guard at an Eddie Bauer clothing store. The guard detained these men for about 10 minutes on suspicion of shoplifting, and forced one of them to remove his shirt. How much did the jury award for those 10 minutes of false imprisonment? \$1 million.

Now compare what happened to Walter McMillian. In 1986, in a small town in Alabama, an 18-year-old white woman was shot to death. Walter McMillian was a black man who lived in the next town. From the day of his arrest, McMillian was placed on death row. No physical evidence linked him to the crime, and several people testified at the trial that he could not have committed the murder because he was with them all day. All three witnesses who connected McMillian with the murder later recanted their testimony. The one supposed "eyewitness" said that prosecutors had pressured him to implicate McMillian in the crime.

The jury in the trial recommended a life sentence, but the judge overruled this recommendation and sentenced McMillian to death. His case went through four rounds of appeal, all of which were denied. New attorneys, not paid by the State of Alabama, voluntarily took over the case and eventually found that the prosecutors had illegally withheld exculpatory evidence. A story about the case appeared on 60 Minutes in November 1992. Finally, the State agreed to investigate its earlier handling of the case and admitted that a grave mistake had been made. McMillian was freed into the welcoming arms of his family and friends on March 3, 1993.

Despite many years of litigation, McMillian has never been given any

recompense for the years he was unjustly held on death row. His attorney has taken the issue of just compensation all the way to the U.S. Supreme Court, but to no avail.

Let us take another example in another State. In Oklahoma, 4 inmates have been exonerated by DNA testing over the past few years. When you add it up, they spent about 40 years in prison. Two of them were on death row. One came within 5 days of execution. None has received compensation—not a dime.

Putting one's life back together after such an experience is difficult enough, even with financial support. Without such support, a wrongly convicted person might never be able to establish roots that would allow him to contribute to society.

We need to do more to help repair the lives that are shattered by wrongful convictions. The Innocence Protection Act does this by raising the Federal cap on compensation, and by pushing the States to provide meaningful compensation to any person who is unjustly convicted and sentenced to death.

Money damages will never compensate for the mental anguish of being falsely convicted, for the lost years, or for the day-to-day brutality and deprivations of prison. But we must do what we can. Society owes a moral debt to the wrongfully imprisoned; that debt should be paid.

Finally, we as a Nation need to go back to first principles when it comes to deciding who is eligible for the death penalty. The United States stands alongside Iran, Nigeria, Pakistan, and Saudi Arabia as the only nations still executing people for crimes committed as juveniles. Is this the company that we want to keep?

The execution of juvenile offenders is also barred by several major human rights treaties, including the U.N. Convention on the Rights of the Child, the American Convention on Human Rights, and the International Covenant on Civil and Political Rights—perhaps the most important human rights documents in the world today. As a leader in the human rights community, it would be fitting if the United States agreed to respect the precepts of international human rights law and comply with the terms of these treaties.

This country should also stop executing the mentally retarded. People with mental retardation have a diminished capacity to understand right from wrong. They are more prone to confess to crimes they did not commit simply to please their interrogators, and they are often unable to assist their lawyer in preparing a defense. Executing them is wrong; it is immoral. In addition, the execution of the mentally retarded, like the execution of juvenile offenders, severely damages U.S. standing in the international community.

Today, 13 States with capital punishment forbid the execution of defend-

ants with mental retardation. The State Senator who sponsored the Nebraska bill in 1998 later said that it should not have been necessary because "no civilized, mature society would ever entertain the possibility of executing anybody who was mentally retarded."

The legislation that I introduce today proposes that the United States Congress speak as the conscience of the Nation in condemning the continued execution of juvenile offenders and the mentally retarded.

There can be no longer be any question that our capital punishment system is in crisis. The Innocence Protection Act is the absolute minimum we must do to prevent and catch these mistakes and to restore the public's confidence in our criminal justice system.

I ask unanimous consent that the bill, a summary of the bill, and additional material be included in the RECORD.

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

S. 2690

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Innocence Protection Act of 2000".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXONERATING THE INNOCENT THROUGH DNA TESTING

Sec. 101. Findings and purposes.

Sec. 102. DNA testing in Federal criminal justice system.

Sec. 103. DNA testing in State criminal justice systems.

Sec. 104. Prohibition pursuant to section 5 of the 14th amendment.

TITLE II—ENSURING COMPETENT LEGAL SERVICES IN CAPITAL CASES

Sec. 201. Amendments to Byrne grant programs.

Sec. 202. Effect on procedural default rules.

Sec. 203. Capital representation grants.

TITLE III—COMPENSATING THE UNJUSTLY CONDEMNED

Sec. 301. Increased compensation in Federal cases.

Sec. 302. Compensation in State death penalty cases.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Accommodation of State interests in Federal death penalty prosecutions.

Sec. 402. Alternative of life imprisonment without possibility of release.

Sec. 403. Right to an informed jury.

Sec. 404. Annual reports.

Sec. 405. Discretionary appellate review.

Sec. 406. Sense of Congress regarding the execution of juvenile offenders and the mentally retarded.

TITLE I—EXONERATING THE INNOCENT THROUGH DNA TESTING

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Over the past decade, deoxyribonucleic acid testing (referred to in this section as "DNA testing") has emerged as the most reliable forensic technique for identifying

criminals when biological material is left at a crime scene.

(2) Because of its scientific precision, DNA testing can, in some cases, conclusively establish the guilt or innocence of a criminal defendant. In other cases, DNA testing may not conclusively establish guilt or innocence, but may have significant probative value to a finder of fact.

(3) While DNA testing is increasingly commonplace in pretrial investigations today, it was not widely available in cases tried prior to 1994. Moreover, new forensic DNA testing procedures have made it possible to get results from minute samples that could not previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce. Consequently, in some cases convicted inmates have been exonerated by new DNA tests after earlier tests had failed to produce definitive results.

(4) Since DNA testing is often feasible on relevant biological material that is decades old, it can, in some circumstances, prove that a conviction that predated the development of DNA testing was based upon incorrect factual findings. Uniquely, DNA evidence showing innocence, produced decades after a conviction, provides a more reliable basis for establishing a correct verdict than any evidence proffered at the original trial. DNA testing, therefore, can and has resulted in the post-conviction exoneration of innocent men and women.

(5) In the past decade, there have been more than 65 post-conviction exonerations in the United States and Canada based upon DNA testing. At least 8 individuals sentenced to death have been exonerated through post-conviction DNA testing, some of whom came within days of being executed.

(6) The 2 States that have established statutory processes for post-conviction DNA testing, Illinois and New York, have the most post-conviction DNA exonerations, 14 and 7, respectively.

(7) The advent of DNA testing raises serious concerns regarding the prevalence of wrongful convictions, especially wrongful convictions arising out of mistaken eyewitness identification testimony. According to a 1996 Department of Justice study entitled "Convicted by Juries, Exonerated by Science: Case Studies of Post-Conviction DNA Exonerations", in approximately 20 to 30 percent of the cases referred for DNA testing, the results excluded the primary suspect. Without DNA testing, many of these individuals might have been wrongfully convicted.

(8) Laws in more than 30 States require that a motion for a new trial based on newly discovered evidence of innocence be filed within 6 months or less. These laws are premised on the belief—inapplicable to DNA testing—that evidence becomes less reliable over time. Such time limits have been used to deny inmates access to DNA testing, even when guilt or innocence could be conclusively established by such testing. For example, in *Dedge v. Florida*, 723 So.2d 322 (Fla. Dist. Ct. App. 1998), the court without opinion affirmed the denial of a motion to release trial evidence for the purpose of DNA testing. The trial court denied the motion as procedurally barred under the 2-year limitation on claims of newly discovered evidence established by the State of Florida, which has since adopted a 6-month limitation on such claims.

(9) Even when DNA testing has been done and has persuasively demonstrated the actual innocence of an inmate, States have sometimes relied on time limits and other procedural barriers to deny release.

(10) The National Commission on the Future of DNA Evidence, a Federal panel estab-

lished by the Department of Justice and comprised of law enforcement, judicial, and scientific experts, has issued a report entitled "Recommendations For Handling Post-Conviction DNA Applications" that urges post-conviction DNA testing in 2 carefully defined categories of cases, notwithstanding procedural rules that could be invoked to preclude such testing, and notwithstanding the inability of the inmate to pay for the testing.

(11) The number of cases in which post-conviction DNA testing is appropriate is relatively small and will decrease as pretrial testing becomes more common and accessible.

(12) The cost of DNA testing has also decreased in recent years. The typical case, involving the analysis of 8 samples, currently costs between \$2,400 and \$5,000, depending upon jurisdictional differences in personnel costs.

(13) In 1994, Congress authorized funding to improve the quality and availability of DNA analysis for law enforcement identification purposes. Since then, States have been awarded over \$50,000,000 in DNA-related grants.

(14) Although the Supreme Court has never announced a standard for addressing constitutional claims of innocence, in *Herrera v. Collins*, 506 U.S. 390 (1993), a majority of the Court expressed the view that, "a truly persuasive demonstration of 'actual innocence' made after trial would render imposition of punishment by a State unconstitutional.

(15) If biological material is not subjected to DNA testing in appropriate cases, there is a significant risk that persuasive evidence of innocence will not be detected and, accordingly, that innocent persons will be constitutionally incarcerated or executed.

(16) To prevent violations of the Constitution of the United States that the Supreme Court anticipated in *Herrera v. Collins*, it is necessary and proper to enact national legislation that ensures that the Federal Government and the States will permit DNA testing in appropriate cases.

(17) There is also a compelling need to ensure the preservation of biological material for post-conviction DNA testing. Since 1992, the Innocence Project at the Benjamin N. Cardozo School of Law has received thousands of letters from inmates who claim that DNA testing could prove them innocent. In over 70 percent of those cases in which DNA testing could have been dispositive of guilt or innocence if the biological material were available, the material had been destroyed or lost. In two-thirds of the cases in which the evidence was found, and DNA testing conducted, the results have exonerated the inmate.

(18) In at least 14 cases, post-conviction DNA testing that has exonerated a wrongly convicted person has also provided evidence leading to the apprehension of the actual perpetrator, thereby enhancing public safety. This would not have been possible if the biological evidence had been destroyed.

(b) PURPOSES.—The purposes of this title are to—

(1) substantially implement the Recommendations of the National Commission on the Future of DNA Evidence in the Federal criminal justice system, by ensuring the availability of DNA testing in appropriate cases;

(2) prevent the imposition of unconstitutional punishments through the exercise of power granted by clause 1 of section 8 and clause 2 of section 9 of article I of the Constitution of the United States and section 5 of the 14th amendment to the Constitution of the United States; and

(3) ensure that wrongfully convicted persons have an opportunity to establish their innocence through DNA testing, by requiring the preservation of DNA evidence for a limited period.

SEC. 102. DNA TESTING IN FEDERAL CRIMINAL JUSTICE SYSTEM.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by inserting after chapter 155 the following:

"CHAPTER 156—DNA TESTING

"Sec.

"2291. DNA testing.

"2292. Preservation of biological material.

"§ 2291. DNA testing

"(a) APPLICATION.—Notwithstanding any other provision of law, a person in custody pursuant to the judgment of a court established by an Act of Congress may, at any time after conviction, apply to the court that entered the judgment for forensic DNA testing of any biological material that—

"(1) is related to the investigation or prosecution that resulted in the judgment;

"(2) is in the actual or constructive possession of the Government; and

"(3) was not previously subjected to DNA testing, or can be subjected to retesting with new DNA techniques that provide a reasonable likelihood of more accurate and probative results.

"(b) NOTICE TO GOVERNMENT.—

"(1) IN GENERAL.—The court shall notify the Government of an application made under subsection (a) and shall afford the Government an opportunity to respond.

"(2) PRESERVATION OF REMAINING BIOLOGICAL MATERIAL.—Upon receiving notice of an application made under subsection (a), the Government shall take such steps as are necessary to ensure that any remaining biological material that was secured in connection with the case is preserved pending the completion of proceedings under this section.

"(c) ORDER.—The court shall order DNA testing pursuant to an application made under subsection (a) upon a determination that testing may produce noncumulative, exculpatory evidence relevant to the claim of the applicant that the applicant was wrongfully convicted or sentenced.

"(d) COST.—The cost of DNA testing ordered under subsection (c) shall be borne by the Government or the applicant, as the court may order in the interests of justice, if it is shown that the applicant is not indigent and possesses the means to pay.

"(e) COUNSEL.—The court may at any time appoint counsel for an indigent applicant under this section.

"(f) POST-TESTING PROCEDURES.—

"(1) PROCEDURES FOLLOWING RESULTS UNFAVORABLE TO APPLICANT.—If the results of DNA testing conducted under this section are unfavorable to the applicant, the court—

"(A) shall dismiss the application; and

"(B) in the case of an applicant who is not indigent, may assess the applicant for the cost of such testing.

"(2) PROCEDURES FOLLOWING RESULTS FAVORABLE TO APPLICANT.—If the results of DNA testing conducted under this section are favorable to the applicant, the court shall—

"(A) order a hearing, notwithstanding any provision of law that would bar such a hearing; and

"(B) enter any order that serves the interests of justice, including an order—

"(i) vacating and setting aside the judgment;

"(ii) discharging the applicant if the applicant is in custody;

"(iii) resentencing the applicant; or

"(iv) granting a new trial.

"(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the

circumstances under which a person may obtain DNA testing or other post-conviction relief under any other provision of law.

“§ 2292. Preservation of biological material

“(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), the Government shall preserve any biological material secured in connection with a criminal case for such period of time as any person remains incarcerated in connection with that case.

“(b) EXCEPTION.—The Government may destroy biological material before the expiration of the period of time described in subsection (a) if—

“(1) the Government notifies any person who remains incarcerated in connection with the case, and any counsel of record or public defender organization for the judicial district in which the judgment of conviction for such person was entered, of—

“(A) the intention of the Government to destroy the material; and

“(B) the provisions of this chapter;

“(2) no person makes an application under section 2291(a) within 90 days of receiving notice under paragraph (1) of this subsection; and

“(3) no other provision of law requires that such biological material be preserved.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 155 the following:

**“156. DNA Testing 2291”.
SEC. 103. DNA TESTING IN STATE CRIMINAL JUSTICE SYSTEMS.**

(a) DNA IDENTIFICATION GRANT PROGRAM.—Section 2403 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796kk-2) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “shall” and inserting “will”;
(B) in subparagraph (C), by striking “is charged” and inserting “was charged or convicted”; and

(C) in subparagraph (D), by striking “and” at the end;

(2) in paragraph (3)—

(A) by striking “shall” and inserting “will”; and

(B) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(4) the State will—

“(A) preserve all biological material secured in connection with a State criminal case for not less than the period of time that biological material is required to be preserved under section 2292 of title 28, United States Code, in the case of a person incarcerated in connection with a Federal criminal case; and

“(B) make DNA testing available to any person convicted in State court to the same extent, and under the same conditions, that DNA testing is available under section 2291 of title 28, United States Code, to any person convicted in a court established by an Act of Congress.”.

(b) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 503(a)(12) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(12)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii), by striking “is charged” and inserting “was charged or convicted”; and

(B) in clause (iv), by striking “and” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(D) the State will—

“(i) preserve all biological material secured in connection with a State criminal case for not less than the period of time that biological material is required to be preserved under section 2292 of title 28, United States Code, in the case of a person incarcerated in connection with a Federal criminal case; and

“(ii) make DNA testing available to a person convicted in State court to the same extent, and under the same conditions, that DNA testing is available under section 2291 of title 28, United States Code, to a person convicted in a court established by an Act of Congress.”.

(c) PUBLIC SAFETY AND COMMUNITY POLICING GRANT PROGRAM.—Section 1702(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-1(c)) is amended—

(1) in paragraph (10), by striking “and” at the end;

(2) in paragraph (11), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(12) if any part of funds received from a grant made under this subchapter is to be used to develop or improve a DNA analysis capability in a forensic laboratory, or to obtain or analyze DNA samples for inclusion in the Combined DNA Index System (CODIS), certify that—

“(A) DNA analyses performed at such laboratory will satisfy or exceed the current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 210303 of the DNA Identification Act of 1994 (42 U.S.C. 14131);

“(B) DNA samples and analyses obtained and performed by such laboratory will be accessible only—

“(i) to criminal justice agencies for law enforcement purposes;

“(ii) in judicial proceedings, if otherwise admissible under applicable statutes and rules;

“(iii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant was charged or convicted; or

“(iv) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes;

“(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program that meets the standards issued under section 210303 of the DNA Identification Act of 1994 (42 U.S.C. 14131); and

“(D) the State will—

“(i) preserve all biological material secured in connection with a State criminal case for not less than the period of time that biological material is required to be preserved under section 2292 of title 28, United States Code, in the case of a person incarcerated in connection with a Federal criminal case; and

“(ii) make DNA testing available to any person convicted in State court to the same extent, and under the same conditions, that DNA testing is available under section 2291 of title 28, United States Code, to a person convicted in a court established by an Act of Congress.”.

SEC. 104. PROHIBITION PURSUANT TO SECTION 5 OF THE 14TH AMENDMENT.

(a) REQUEST FOR DNA TESTING.—

(1) IN GENERAL.—No State shall deny a request, made by a person in custody resulting from a State court judgment, for DNA testing of biological material that—

(A) is related to the investigation or prosecution that resulted in the conviction of the person or the sentence imposed on the person;

(B) is in the actual or constructive possession of the State; and

(C) was not previously subjected to DNA testing, or can be subjected to retesting with new DNA techniques that provide a reasonable likelihood of more accurate and probative results.

(2) EXCEPTION.—A State may deny a request under paragraph (1) upon a judicial determination that testing could not produce noncumulative evidence establishing a reasonable probability that the person was wrongfully convicted or sentenced.

(b) OPPORTUNITY TO PRESENT RESULTS OF DNA TESTING.—No State shall rely upon a time limit or procedural default rule to deny a person an opportunity to present noncumulative, exculpatory DNA results in court, or in an executive or administrative forum in which a decision is made in accordance with procedural due process.

(c) REMEDY.—A person may enforce subsections (a) and (b) in a civil action for declaratory or injunctive relief, filed either in a State court of general jurisdiction or in a district court of the United States, naming either the State or an executive or judicial officer of the State as defendant. No State or State executive or judicial officer shall have immunity from actions under this subsection.

TITLE II—ENSURING COMPETENT LEGAL SERVICES IN CAPITAL CASES

SEC. 201. AMENDMENTS TO BYRNE GRANT PROGRAMS.

(a) CERTIFICATION REQUIREMENT; FORMULA GRANTS.—Section 503 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753) is amended—

(1) in subsection (a), by adding at the end the following:

“(13) If the State prescribes, authorizes, or permits the penalty of death for any offense, a certification that the State has established and maintains an effective system for providing competent legal services to indigents at every phase of a State criminal prosecution in which a death sentence is sought or has been imposed, up to and including direct appellate review and post-conviction review in State court.”; and

(2) in subsection (b)—

(A) by striking “(b) Within 30 days after the date of enactment of this part, the” and inserting the following:

“(b) REGULATIONS.—

“(1) IN GENERAL.—The”;

(B) by adding at the end the following:

“(2) CERTIFICATION REGULATIONS.—The Director of the Administrative Office of the United States Courts, after notice and an opportunity for comment, shall promulgate regulations specifying the elements of an effective system within the meaning of subsection (a)(13), which elements shall include—

“(A) a centralized and independent appointing authority, which shall have authority and responsibility to—

“(i) recruit attorneys who are qualified to represent indigents in the capital proceedings specified in subsection (a)(13);

“(ii) draft and annually publish a roster of qualified attorneys;

“(iii) draft and annually publish qualifications and performance standards that attorneys must satisfy to be listed on the roster and procedures by which qualified attorneys are identified;

“(iv) periodically review the roster, monitor the performance of all attorneys appointed, provide a mechanism by which members of the Bar may comment on the

performance of their peers, and delete the name of any attorney who fails to complete regular training programs on the representation of clients in capital cases, fails to meet performance standards in a case to which the attorney is appointed, or otherwise fails to demonstrate continuing competence to represent clients in capital cases;

"(v) conduct or sponsor specialized training programs for attorneys representing clients in capital cases;

"(vi) appoint lead counsel and co-counsel from the roster to represent a defendant in a capital case promptly upon receiving notice of the need for an appointment from the relevant State court; and

"(vii) report the appointment, or the failure of the defendant to accept such appointment, to the court requesting the appointment;

"(B) compensation of private attorneys for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases;

"(C) reimbursement of private attorneys and public defender organizations for attorney expenses reasonably incurred in the representation of a client in a capital case, computed on an hourly basis reflecting the local market for such services; and

"(D) reimbursement of private attorneys and public defender organizations for the reasonable costs of law clerks, paralegals, investigators, experts, scientific tests, and other support services necessary in the representation of a defendant in a capital case, computed on an hourly basis reflecting the local market for such services."

(b) **CERTIFICATION REQUIREMENT; DISCRETIONARY GRANTS.**—Section 517(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3763(a)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(5) satisfies the certification requirement established by section 503(a)(13)."

(c) **DIRECTOR'S REPORTS TO CONGRESS.**—Section 522(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766(b)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) descriptions and a comparative analysis of the systems established by each State in order to satisfy the certification requirement established by section 503(a)(13), except that the descriptions and the comparative analysis shall include—

"(A) the qualifications and performance standards established pursuant to section 503(b)(2)(A)(iii);

"(B) the rates of compensation paid under section 503(b)(2)(B); and

"(C) the rates of reimbursement paid under subparagraphs (C) and (D) of section 503(b)(2); and"

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the amendments made by this section shall apply with respect to any application submitted on or after the date that is 1 year after the date of enactment of this Act.

(2) **EXCEPTION.**—The amendments made by this section shall not take effect until the amount made available for a fiscal year to carry out part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968

equals or exceeds an amount that is \$50,000,000 greater than the amount made available to carry out that part for fiscal year 2000.

(e) **REGULATIONS.**—The Director of the Administrative Office of the United States Courts shall issue all regulations necessary to carry out the amendments made by this section not later than 180 days before the effective date of those regulations.

SEC. 202. EFFECT ON PROCEDURAL DEFAULT RULES.

Section 2254(e) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking "In a proceeding" and inserting "Except as provided in paragraph (3), in a proceeding"; and

(2) by adding at the end the following:

"(3) In a proceeding instituted by an indigent applicant under sentence of death, the court shall neither presume a finding of fact made by a State court to be correct nor decline to consider a claim on the ground that the applicant failed to raise such claim in State court at the time and in the manner prescribed by State law, unless—

"(A) the State provided the applicant with legal services at the stage of the State proceedings at which the State court made the finding of fact or the applicant failed to raise the claim; and

"(B) the legal services the State provided satisfied the regulations promulgated by the Director of the Administrative Office of the United States Courts pursuant to section 503(b)(2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968."

SEC. 203. CAPITAL REPRESENTATION GRANTS.

Section 3006A of title 18, United States Code, is amended—

(1) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(2) by inserting after subsection (h) the following:

"(i) **CAPITAL REPRESENTATION GRANTS.**—

"(1) **DEFINITIONS.**—In this subsection—

"(A) the term 'capital case'—

"(i) means any criminal case in which a defendant prosecuted in a State court is subject to a sentence of death or in which a death sentence has been imposed; and

"(ii) includes all proceedings filed in connection with the case, including trial, appellate, and Federal and State post-conviction proceedings;

"(B) the term 'defense services' includes—

"(i) recruitment of counsel;

"(ii) training of counsel;

"(iii) legal and administrative support and assistance to counsel;

"(iv) direct representation of defendants, if the availability of other qualified counsel is inadequate to meet the need in the jurisdiction served by the grant recipient; and

"(v) investigative, expert, or other services necessary for adequate representation; and

"(C) the term 'Director' means the Director of the Administrative Office of the United States Courts.

"(2) **GRANT AWARD AND CONTRACT AUTHORITY.**—Notwithstanding subsection (g), the Director shall award grants to, or enter into contracts with, public agencies or private nonprofit organizations for the purpose of providing defense services in capital cases.

"(3) **PURPOSES.**—Grants and contracts awarded under this subsection shall be used in connection with capital cases in the jurisdiction of the grant recipient for 1 or more of the following purposes:

"(A) Enhancing the availability, competence, and prompt assignment of counsel.

"(B) Encouraging continuity of representation between Federal and State proceedings.

"(C) Decreasing the cost of providing qualified counsel.

"(D) Increasing the efficiency with which such cases are resolved.

"(4) **GUIDELINES.**—The Director, in consultation with the Judicial Conference of the United States, shall develop guidelines to ensure that defense services provided by recipients of grants and contracts awarded under this subsection are consistent with applicable legal and ethical proscriptions governing the duties of counsel in capital cases.

"(5) **CONSULTATION.**—In awarding grants and contracts under this subsection, the Director shall consult with representatives of the highest State court, the organized bar, and the defense bar of the jurisdiction to be served by the recipient of the grant or contract."

TITLE III—COMPENSATING THE UNJUSTLY CONDEMNED

SEC. 301. INCREASED COMPENSATION IN FEDERAL CASES.

Section 2513 of title 28, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) **DAMAGES.**—

"(1) **IN GENERAL.**—The amount of damages awarded in an action described in subsection (a) shall not exceed \$50,000 for each 12-month period of incarceration, except that a plaintiff who was unjustly sentenced to death may be awarded not more than \$100,000 for each 12-month period of incarceration.

"(2) **FACTORS FOR CONSIDERATION IN ASSESSING DAMAGES.**—In assessing damages in an action described in subsection (a), the court shall consider—

"(A) the circumstances surrounding the unjust conviction of the plaintiff, including any misconduct by officers or employees of the Federal Government;

"(B) the length and conditions of the unjust incarceration of the plaintiff; and

"(C) the family circumstances, loss of wages, and pain and suffering of the plaintiff."

SEC. 302. COMPENSATION IN STATE DEATH PENALTY CASES.

(a) **CRIMINAL JUSTICE FACILITY CONSTRUCTION GRANT PROGRAM.**—Section 603(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769b(a)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) reasonable assurance that the applicant, or the State in which the applicant is located—

"(A) does not prescribe, authorize, or permit the penalty of death for any offense; or

"(B)(i) has established and maintains an effective procedure by which any person unjustly convicted of an offense against the State and sentenced to death may be awarded reasonable damages upon substantial proof that the person did not commit any of the acts with which the person was charged; and

"(ii)(I) the conviction of that person was reversed or set aside on the ground that the person was not guilty of the offense or offenses of which the person was convicted;

"(II) the person was found not guilty of such offense or offenses on new trial or rehearing; or

"(III) the person was pardoned upon the stated ground of innocence and unjust conviction."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to any application submitted on or after the date that is 1 year after the date of enactment of this Act.

TITLE IV—MISCELLANEOUS PROVISIONS**SEC. 401. ACCOMMODATION OF STATE INTERESTS IN FEDERAL DEATH PENALTY PROSECUTIONS.**

(a) RECOGNITION OF STATE INTERESTS.—Chapter 228 of title 18, United States Code, is amended by adding at the end the following:

“§ 3599. Accommodation of State interests; certification requirement

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall not seek the death penalty in any case initially brought before a district court of the United States that sits in a State that does not prescribe, authorize, or permit the imposition of such penalty for the alleged conduct, except upon the certification in writing of the Attorney General or the designee of the Attorney General that—

“(1) the State does not have jurisdiction or refuses to assume jurisdiction over the defendant with respect to the alleged conduct;

“(2) the State has requested that the Federal Government assume jurisdiction; or

“(3) the offense charged is an offense described in section 32, 229, 351, 794, 1091, 1114, 1118, 1203, 1751, 1992, 2340A, or 2381, or chapter 113B.

“(b) ‘STATE DEFINED.—In this section, the term ‘State’ means each of the several States of the United States, the District of Columbia, and the territories and possessions of the United States.’”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 228 of title 18, United States Code, is amended by adding at the end the following:

“3599. Accommodation of State interests; certification requirement.”

SEC. 402. ALTERNATIVE OF LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

Section 408(l) of the Controlled Substances Act (21 U.S.C. 848(l)), is amended by striking the first 2 sentences and inserting the following: “Upon a recommendation under subsection (k) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law.”

SEC. 403. RIGHT TO AN INFORMED JURY.

(a) ADDITIONAL REQUIREMENTS.—Section 20105 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705) is amended by striking subsection (b) and inserting the following:

“(b) ADDITIONAL REQUIREMENTS.—To be eligible to receive a grant under section 20103 or 20104, a State shall provide assurances to the Attorney General that—

“(1) the State has implemented policies that provide for the recognition of the rights and needs of crime victims; and

“(2) in any capital case in which the jury has a role in determining the sentence imposed on the defendant, the court, at the request of the defendant, shall inform the jury of all statutorily authorized sentencing options in the particular case, including applicable parole eligibility rules and terms.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any application for a grant under section 20103 or 20104 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13703; 13704) that is submitted on or after the date that is 1 year after the date of enactment of this Act.

SEC. 404. ANNUAL REPORTS.

(a) REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Attorney General shall prepare and transmit to Congress a report concerning the administration of capital punishment laws by the Federal Government and the States.

(b) REPORT ELEMENTS.—The report required under subsection (a) shall include substantially the same categories of information as are included in the Bureau of Justice Statistics Bulletin entitled “Capital Punishment 1998” (December 1999, NCJ 179012), and the following additional categories of information:

(1) The percentage of death-eligible cases in which a death sentence is sought, and the percentage in which it is imposed.

(2) The race of the defendants in death-eligible cases, including death-eligible cases in which a death sentence is not sought, and the race of the victims.

(3) An analysis of the effect of *Witherspoon v. Illinois*, 391 U.S. 510 (1968), and its progeny, on the composition of juries in capital cases, including the racial composition of such juries, and on the exclusion of otherwise eligible and available jurors from such cases.

(4) An analysis of the effect of peremptory challenges, by the prosecution and defense respectively, on the composition of juries in capital cases, including the racial composition of such juries, and on the exclusion of otherwise eligible and available jurors from such cases.

(5) The percentage of capital cases in which life without parole is available as an alternative to a death sentence, and the sentences imposed in such cases.

(6) The percentage of capital cases in which life without parole is not available as an alternative to a death sentence, and the sentences imposed in such cases.

(7) The percentage of capital cases in which counsel is retained by the defendant, and the percentage in which counsel is appointed by the court.

(8) A comparative analysis of systems for appointing counsel in capital cases in different States.

(9) A State-by-State analysis of the rates of compensation paid in capital cases to appointed counsel and their support staffs.

(10) The percentage of cases in which a death sentence or a conviction underlying a death sentence is vacated, reversed, or set aside, and the reasons therefore.

(c) PUBLIC DISCLOSURE.—The Attorney General or the Director of the Bureau of Justice Assistance, as appropriate, shall ensure that the reports referred to in subsection (a) are—

(1) distributed to national print and broadcast media; and

(2) posted on an Internet website maintained by the Department of Justice.

SEC. 405. DISCRETIONARY APPELLATE REVIEW.

Section 2254(c) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following:

“(2) For purposes of paragraph (1), if the highest court of a State has discretion to decline appellate review of a case or a claim, a petition asking that court to entertain a case or a claim is not an available State court procedure.”

SEC. 406. SENSE OF CONGRESS REGARDING THE EXECUTION OF JUVENILE OFFENDERS AND THE MENTALLY RETARDED.

It is the sense of Congress that the death penalty is disproportionate and offends contemporary standards of decency when applied to a person who is mentally retarded or who had not attained the age of 18 years at the time of the offense.

**INNOCENCE PROTECTION ACT OF 2000—SECTION-BY-SECTION SUMMARY
OVERVIEW**

The Innocence Protection Act of 2000 is a comprehensive package of criminal justice reforms aimed at reducing the risk that in-

nocent persons may be executed. Most urgently, the bill would (1) ensure that convicted offenders are afforded an opportunity to prove their innocence through DNA testing; (2) help States to provide competent legal services at every stage of a death penalty prosecution; (3) enable those who can prove their innocence to recover some measure of compensation for their unjust incarceration; and (4) provide the public with more reliable and detailed information regarding the administration of the nation's capital punishment laws.

TITLE I—EXONERATING THE INNOCENT THROUGH FEDERAL POST-CONVICTION REVIEW

Sec. 101. Findings and purposes. Legislative findings and purposes in support of this title.

Sec. 102. DNA testing in Federal criminal justice system. Establishes rules and procedures governing applications for DNA testing by convicted offenders in the Federal system. An applicant must allege that evidence to be tested (1) is related to the investigation or prosecution that resulted in the applicant's conviction; (2) is in the government's actual or constructive possession; and (3) was not previously subjected to DNA testing, or to the form of DNA testing now requested. The court may, in its discretion, appoint counsel for an indigent applicant.

Because access to DNA testing is of no value unless evidence containing DNA has been preserved, this section also prohibits the government from destroying any biological material in a criminal case while any person remains incarcerated in connection with that case, unless such person is notified of the government's intent to destroy the material, and afforded at least 90 days to request DNA testing under this title.

Sec. 103. DNA testing in State criminal justice system. Conditions receipt of Federal grants for DNA-related programs on an assurance that the State will adopt adequate procedures for preserving biological material and making DNA testing available to its inmates.

Sec. 104. Prohibition pursuant to section 5 of the 14th amendment. Prohibits States from (1) denying requests for DNA testing that could produce new exculpatory evidence or (2) denying inmates a meaningful opportunity to prove their innocence using the results of DNA testing. Creates an authority to sue for declaratory or injunctive relief to enforce these prohibitions.

TITLE II—ENSURING COMPETENT LEGAL SERVICES IN CAPITAL CASES

Sec. 201. Amendments to Byrne grant programs. Conditions Federal funding under the Byrne grant programs—when such funding equals or exceeds an amount that is \$50 million greater than the amount appropriated for such programs in FY 2000—on certification that the State has established and maintains an “effective system” for providing competent legal services to indigent defendants at every stage of death penalty prosecution, from pre-trial proceedings through post-conviction review. The Director of the Administrative Office of the United States Courts is charged with specifying the elements of an “effective system,” which must include a centralized and independent authority for appointing attorneys in capital cases, and adequate compensation and reimbursement of such attorneys.

Sec. 202. Effect on procedural default rules. Provides that certain procedural barriers to Federal habeas corpus review shall not apply if the State failed to provide the petitioner with adequate legal services.

Sec. 203. Capital representation grants. Amends the Criminal Justice Act, 18 U.S.C. § 3006A, to make more Federal funding available to public agencies and private non-profit organizations for purposes of enhancing

the availability and competence of counsel in capital cases, encouraging the continuity of representation in such cases, decreasing the cost of providing qualified death penalty counsel, and increasing the efficiency with which capital cases are resolved.

TITLE III—COMPENSATING THE UNJUSTLY CONDEMNED

Sec. 301. Increased compensation in Federal cases. Raises the total amount of damages that may be awarded against the United States in cases of unjust imprisonment from \$5,000 to \$50,000 a year in a non-death penalty case, or \$100,000 a year in a death penalty case. Identifies factors for court to consider in assessing damages.

Sec. 302. Compensation in State death cases. Encourages States to permit any person who was unjustly convicted and sentenced to death to be awarded reasonable damages, upon substantial proof of innocence and formal exoneration, by adding a new condition for Federal funding to assist in construction of correctional facility projects.

TITLE IV—MISCELLANEOUS

Sec. 401. Accommodation of State interests in Federal death-penalty prosecutions. Protects the interests of States (including the District of Columbia and any commonwealth, territory or possession of the United States) by limiting the Federal government's authority to seek the death penalty in States that do not permit the imposition of such penalty. Department of Justice guidelines provide that in cases of concurrent jurisdiction, "a Federal indictment for an offense subject to the death penalty will be obtained only when the Federal interest in the prosecution is more substantial than the interests of the State or local authorities." Section 401 builds on that principle by requiring the Attorney General or her designee to certify that (1) the State does not have jurisdiction or refuses to assume jurisdiction over the defendant; (2) the State has requested that the Federal government assume jurisdiction; or (3) the offense charged involves genocide; terrorism; use of chemical weapons or weapons of mass-destruction; destruction of aircraft, trains, or other instrumentalities or facilities of interstate commerce; hostage taking; torture; espionage; treason; the killing of certain high public officials; or murder by a Federal prisoner.

Sec. 402. Alternative of life imprisonment without possibility of release. Provides juries in Federal death penalty prosecutions brought under the drug kingpin statute, 21 U.S.C. §848(l), the option of recommending life imprisonment without possibility of release. This amendment brings the drug kingpin statute into conformity with the more recently-enacted death penalty procedures in title 18, which govern most Federal death penalty prosecutions. See 18 U.S.C. §3594.

Sec. 403. Right to an informed jury. Conditions Federal truth-in-sentencing grants upon certification that, in any capital case in which the jury has a role in determining the defendant's sentence, the defendant has the right to have the jury informed of all statutorily-authorized sentencing options in the particular case, including applicable parole eligibility rules and terms. The purpose is to give full effect to the due process principles underlying the Supreme Court's decision in *Simmons v. South Carolina*, 512 U.S. 154 (1994), which held that a defendant who has been convicted of a capital offense is entitled to an instruction informing the sentencing jury that he is ineligible for parole under State law.

Sec. 404. Annual reports. Directs the Justice Department to prepare an annual report regarding the administration of the nation's capital punishment laws. The report must be

submitted to Congress, distributed to the press and posted on the Internet.

Sec. 405. Discretionary appellate review. Respects State procedural rules by allowing Federal habeas corpus petitioners to raise claims that State courts discouraged them from raising when seeking discretionary review in the State's highest court. Responds to the Supreme Court's decision in *O'Sullivan v. Boerckel*, 119 S. Ct. 1728 (1999), which held that a State prisoner must present his claims to a State supreme court in a petition for discretionary review in order to satisfy the exhaustion requirement of 28 U.S.C. §2254(b)(1), (c).

Sec. 406. Sense of the Congress regarding the execution of juvenile offenders and the mentally retarded. Expresses the sense of the Congress that the death penalty is disproportionate and offends contemporary standards of decency when applied to juvenile offenders and the mentally retarded.

[From the Washington Times, June 6, 2000]

THOUGHTS ON EXECUTIONS

In his decision to halt Thursday evening's execution of a convicted killer for a period of 30 days, Texas Gov. George W. Bush did what had to be done. Where there is no shadow of a doubt, the death penalty can sometimes be the right course of action. Yet, where doubt, any doubt, remains, the consequences are awesome. In the case of Ricky Nolan McGinn, who was sentenced to death for raping and murdering his 13-year-old stepdaughter in 1993, there seems to be some uncertainty, in which case every means should be used to establish the truth. When you take a man's life, you take everything he's got. There simply is no way to make up for a mistake made in the execution chamber.

Mr. Bush cannot be accused of being soft on criminals. During his five and a half years in office, Mr. Bush has presided over more executions than any other governor in the country: 131, all told. Most famously, Mr. Bush refused to reduce the sentence of Karla Faye Tucker in 1998. She had been convicted of the particularly horrible execution-style murder of two persons during a gas station robbery, and while in prison had become a born-again Christian. Though religious leaders such as Pat Robertson pleaded for her life, Mr. Bush allowed the execution to go forward. The fact that he has chosen to grant a 30-day reprieve in this one case can hardly be said to indicate a change of heart on the death penalty.

Nevertheless, in the partisan heat of a presidential election year, Mr. Bush has been accused of playing politics with the death penalty. If this is the case, he is doing so on the side of giving someone on death row a final chance. This contrasts with Gov. Bill Clinton's decision to proceed with the execution of a severely retarded Arkansas man during the 1992 presidential election campaign, which was meant to establish his tough-on-crime credentials.

But beyond the question of politics, there's science. Mr. Bush is catching a nationwide movement, based on advances that are making DNA testing increasingly sophisticated. The increased use of DNA analysis has in fact revealed serious flaws in the way the justice system exacts the supreme penalty. The trend towards state moratoria on executions has been led by Gov. George Ryan of Illinois, a Republican. In Illinois, during the course of the 23 years since the death penalty was reinstated, a dozen persons have been put to death—but 13 have been cleared of capital murder charges through DNA testing after having been sentenced to death. This is a stunning and sobering fact. Unless Illinois is vastly different from the rest of the United States, that statistic ought to

produce second thoughts for everyone. (One of those second thoughts might be that for every innocent man executed, a guilty man is still out there, unpunished.)

We do not suggest here that the United States should stop punishing the guilty to the fullest extent of the law, even if that means death. However, if this country is to have the death penalty, we must be as certain as is humanly possible that executions are restricted to the guilty. States should be encouraged to make sure that is the case. Even if 66 percent of Americans support the death penalty, it is no argument to say (as some conservatives have done) that the death of an innocent person here or there is not enough to reconsider what we are doing. This argument has been put forward by the Rev. Jerry Falwell. Some have even argued that this may be the price of the death penalty's deterrent effect; Rep. Bill McCollum, Florida Republican, suggested as much in an article for the *Atlantic Monthly* last year.

Perhaps the most cogent argument against the death penalty is that it degrades the sensibilities of otherwise good and reasonable men and women, who have come to believe in it so obsessively that they would impose it on the innocent if that is the only way to keep the death penalty in the law.

During a moratorium, the state would keep its electricity and gas bills paid and its stockpiles of potassium chloride intact against the day when the moratorium ends and executions resume—presumably following improvements in the way convictions are produced. Surely no one could reasonably object to making sure we execute only the guilty.

[From the Washington Post, Apr. 6, 2000]

INNOCENT ON DEATH ROW

(By George F. Will)

"Don't you worry about it," said the Oklahoma prosecutor to the defense attorney. "We're gonna needle your client. You know, lethal injection, the needle. We're going to needle Robert."

Oklahoma almost did. Robert Miller spent nine years on death row, during six of which the state had DNA test results proving his sperm was not that of the man who raped and killed the 92-year-old woman. The prosecutor said the tests only proved that another man had been with Miller during the crime. Finally, the weight of scientific evidence, wielded by an implacable defense attorney, got Miller released and another man indicted.

You could fill a book with such hair-curling true stories of blighted lives and justice traduced. Three authors have filled one. It should change the argument about capital punishment and other aspects of the criminal justice system. Conservatives, especially, should draw this lesson from the book: Capital punishment, like the rest of the criminal justice system, is a government program, so skepticism is in order.

Horror, too, is a reasonable response to what Barry Scheck, Peter Neufeld and Jim Dwyer demonstrate in "Actual Innocence: Five Days to Execution and Other Dispatches From the Wrongly Convicted." You will not soon read a more frightening book. It is a catalog of appalling miscarriages of justice, some of them nearly lethal. Their cumulative weight compels the conclusion that many innocent people are in prison, and some innocent people have been executed.

Scheck and Neufeld (both members of O.J. Simpson's "dream team" of defense attorneys) founded the pro-bono Innocence Project at the Benjamin N. Cardozo School of Law in New York to aid persons who convincingly claim to have been wrongly convicted. Dwyer, winner of two Pulitzer Prizes,

is a columnist for the New York Daily News. Their book is a heartbreaking and infuriating compendium of stories of lives ruined by:

Forensic fraud, such as that by the medical examiner who, in one death report, included the weight of the gallbladder and spleen of a man from whom both organs had been surgically removed long ago.

Mistaken identifications by eyewitnesses or victims, which contributed to 84 percent of the convictions overturned by the Innocence Project's DNA exonerations.

Criminal investigations, especially of the most heinous crimes, that become "echo chambers" in which, because of the normal human craving for retribution, the perceptions of prosecutors and jurors are shaped by what they want to be true. (The authors cite evidence that most juries will convict even when admissions have been repudiated by the defendant and contradicted by physical evidence.)

The sinister culture of jailhouse snitches, who earn reduced sentences by fabricating "admissions" by fellow inmates to unsolved crimes.

Incompetent defense representation, such as that by the Kentucky attorney in a capital case who gave his business address as Kelly's Keg tavern.

The list of ways the criminal justice system misfires could be extended, but some numbers tell the most serious story: In the 24 years since the resumption of executions under Supreme Court guidelines, about 620 have occurred, but 87 condemned persons—one for every seven executed—had their convictions vacated by exonerating evidence. In eight of these cases, and in many more exonerations not involving death row inmates, the evidence was from DNA.

One inescapable inference from these numbers is that some of the 620 persons executed were innocent. Which is why, after the exoneration of 13 prisoners on Illinois' death row since 1987, for reasons including exculpatory DNA evidence, Gov. George Ryan, a Republican, has imposed a moratorium on executions.

Scheck, Neufeld and Dwyer note that when a plane crashes, an intensive investigation is undertaken to locate the cause and prevent recurrences. Why is there no comparable urgency about demonstrable, multiplying failures in the criminal justice system? They recommend many reforms, especially pertaining to the use of DNA and the prevention of forensic incompetence and fraud. Sen. Patrick Leahy's Innocence Protection Act would enable inmates to get DNA testing pertinent to a conviction or death sentence, and ensure that courts will hear resulting evidence.

The good news is that science can increasingly serve the defense of innocence. But there is other news.

Two powerful arguments for capital punishment are that it saves lives, if its deterrence effect is not vitiated by sporadic implementation, and it heightens society's valuation of life by expressing proportionate anger at the taking of life. But that valuation is lowered by careless or corrupt administration of capital punishment, which "Actual Innocence" powerfully suggests is intolerably common.

[From the Washington Times, Apr. 25, 2000]

DEATH EDICT FOR THE GUILTY ONLY

(By Bruce Fein)

Can reasonable people dispute that the government should confine the death penalty to persons guilty of the crime charged? And can reasonable people deny that the climbing number of exonerations of death row inmates on the ground of actual innocence creates chilling worries on that scores?

Those questions make both urgent and compelling enactment of the cool-headed bill (S. 2071) by Sen. Patrick Leahy, Vermont Democrat, to upgrade the reliability of verdicts in capital cases.

Manifold reasons justify the death penalty (which the U.S. Supreme Court has restricted to crimes of homicide): retribution against offenders whose killings are earmarked by shocking and barbaric wickedness, something akin to the Adolf Eichmann example; to control prison inmates already laboring under life sentences with no parole possibilities; to deter the murder of police or crime witnesses in the hope of escaping punishment of a lesser crime; and encouraging guilty pleas contingent on cooperation with prosecutors in murder conspiracy cases in exchange for a non-capital sentence.

Whether death sentences in general deter crime is hotly disputed, but if they do, their effects would not even begin to dent the crime problem.

A decent respect for life also demands scrupulous concern for the reliability of verdicts in capital punishment trials. Otherwise, the death penalty game is not worth the gamble of executing the innocent—a shameful stain on any system of Justice—and life sentences (perhaps in solitary confinement) without parole should be the maximum.

The Leahy bill laudably aims to preserve the death penalty by slashing the prevailing and highly worrisome risk of executing the innocent through greater DNA testing and competent defense counsel.

Unzip your ears to these facts. Since the Supreme Court in 1976 affirmed the constitutionality of the death penalty for heinous and aggravated murders, 610 death sentences have been implemented. Concurrently, 85 death row prisoners have been released not for technical procedural flukes but because of exculpatory evidence establishing their innocence. In other words, for every seven executions approximately one capital sentence has been levied on an innocent defendant.

Moreover, the detections of these grim injustices has been more haphazard than systematic. The case Randall Dale Adams and Antony Porter are emblematic.

The former was released after attracting the attention of cinematic genius, Earl Morris. His gripping movie, "The Thin Blue Line," discredited the prosecution's case to a nationally awakened audience.

Mr. Porter had lived with the Sword of Damocles for 16 years, and in 1998 his hourglass fell to 48 hours. He was saved from wrongful execution by the plucky work of Northwestern University undergraduate journalism students, who proved Mr. Antony's innocence, a verdict that the State of Illinois conceded.

Quirks and citizen altruism, however, are woefully inadequate safeguards against executing the innocent. While nothing in life is absolutely certain but death and taxes, the Leahy bill would add two muscular measures to make the truth-finding process in capital cases as reliable as is reasonably feasible.

First, post-conviction DNA testing of biological material would be available to an inmate through court order upon a demonstration that the test could provide noncumulative exculpatory evidence; that the material is actually or constructively possessed by the government; and that no previous DNA test had been conducted or that new DNA techniques might reasonably yield more accurate and probative evidence. Jurisdctions also would be directed to preserve biological material gathered in the course of an investigation during the period of the criminal's incarceration for the purpose of possible DNA testing.

Of vastly greater importance to reliable death penalty verdicts, however, is securing

competent defense counsel in lieu of incompetence or worse. The U.S. Supreme Court has repeatedly celebrated the indispenability of reasonably skilled lawyers to reliable verdicts. In the infamous *Scottsboro, Ala., criminal justice farce*, *Powell vs. Alabama* (1932), Justice George Sutherland, speaking for a unanimous court, lectured: "Left without the aid of counsel [the accused] may be put on trial without a proper charge, and convicted on incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge to prepare his defense, even though he has a perfect one. He requires the guiding hand of counsel at every step of the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence."

Capital cases generally feature indigent defendants. And their court-appointed lawyers are frequently deficient because of austere rates of reimbursement or plain laziness.

For instance, the lawyer appointed to represent Ronald Keith Williamson was uncurious about the fact that another had confessed to the crime. He neglected to raise the exculpatory confession at trial. Williamson was convicted, and was later proven innocent through DNA testing after a 1997 federal appeals court decision overturned the trial verdict because of inert or anemic lawyering.

The Leahy legislation would end this blight in death penalty prosecutions by instructing the director of the Administrative Office of the United States Courts to creating a scheme for credentialing attorneys and providing reasonable pay in capital prosecutions against indigent defendants.

Aren't executions too definitive to be left to chancy discoveries of innocence? If the government does not want to pay the price of turning square corners in capital cases, shouldn't the prosecution accept a lesser maximum punishment?

[From the Washington Post, Feb. 28, 2000]

INNOCENT ON DEATH ROW

Sen. Patrick Leahy (D-Vt.) has introduced a bill that seeks to strengthen safeguards against wrongful executions. Those who support capital punishment should be as determined as its opponents to ensure that innocent people are not executed. By that logic, this legislation should enjoy wide support.

The bill would require both state and federal courts to permit post-conviction DNA testing in cases in which there is a significant question of innocence. It also would encourage states to retain biological evidence, thereby ensuring that there is a material to test when innocence questions arise. Perhaps more important, the bill would make federal criminal justice funds to the states contingent on their improving legal representation for the accused in all stages of death-penalty litigation.

This is a critical reform, as the absence of competent counsel is a pervasive theme in wrongful convictions. The bill would raise the insultingly low limit for damages against the federal government—\$5,000 per year in jail—for those wrongly convicted of federal crimes. And it would encourage states to offer reasonable compensation as well.

These are common-sense improvements to the basic infrastructure of the death penalty. For those who favor the abolition of capital punishment, they may seem inadequate. But by focusing only on protecting the innocent—not on a broader agenda of halting all executions—Mr. Leahy places the spotlight on what should be bedrock principle for all

who believe in due process. To support these reforms, one need only believe that people accused of capital crimes should have reasonably able counsel and that—when substantial questions arise about the rightness of their convictions—they should have the ability to prove their innocence.

[From the New York Times, Feb. 19, 2000]

NEW LOOKS AT THE DEATH PENALTY

America is at last beginning to grapple honestly with the profound flaws of the death penalty system. Late last month Gov. George Ryan of Illinois, a Republican, became the first governor in a death penalty state to declare a moratorium on executions, citing well-founded concerns about his state's "shameful record of convicting innocent people and putting them on death row." That has now been followed by moves in Congress and the executive branch to review death penalty policies from a national perspective.

Senator Russell Feingold of Wisconsin has urged President Clinton to suspend all federal executions pending a review of death penalty procedures similar to the one Governor Ryan has initiated in Illinois. Problems of inadequate legal representation, lack of access to DNA testing, police misconduct, racial bias and even simple errors are not unique to Illinois, Mr. Feingold noted.

The Justice Department has also initiated its own review to determine whether the federal death penalty system unfairly discriminates against racial minorities. At his news conference this week, Mr. Clinton praised the death penalty moratorium in Illinois, but indicated he thought a federal moratorium was unnecessary. Mr. Feingold has urged him to reconsider. Given his lame-duck status, the president can afford to call a halt without worrying about being falsely labeled soft on crime. Moreover, the fact that a Republican governor was first to announce a moratorium should minimize any concern about Vice President Al Gore being so labeled.

Congress need not wait for the administration to act. Last week Senator Patrick Leahy, Democrat of Vermont, introduced legislation to address "the growing national crisis" in how capital punishment is administered. This promising measure, the Innocence Protection Act of 2000, stops short of abolishing the death penalty, the course we hope the nation will eventually follow. But key provisions would lessen the chance of unfairness and deadly error by making DNA testing available to both state and federal inmates, and by setting national standards to ensure that competent lawyers are appointed for capital defendants.

Without such protections, there is a grave possibility of judicial error. Nationally, 612 people have been executed since the Supreme Court reinstated capital punishment in 1976. During the same period, 81 people in 21 states have been found innocent and released from death row—some within hours of being executed. That suggests that many who were executed might also have been innocent.

Neither the states nor the courts are providing adequate protection against awful miscarriages of justice. In Texas, the nation's leader in executions, courts have upheld death sentences in cases where defense lawyers slept during big portions of the trial. Lately, Congress and the Supreme Court have exacerbated the danger of mistaken executions by curtailing appeal and habeas corpus rights. They have also ignored the festering problem of inadequate legal representation that caused the American Bar Association to call for a death penalty moratorium three years ago. Even death penalty supporters have to be troubled by a system

shown to have a high risk of executing the innocent.

[From the Washington Post, Mar. 20, 2000]

ON VIRGINIA'S DEATH ROW

Derek Barnabei evokes no sympathy. He is on death row in Virginia for the rape and murder of his girlfriend, Sarah Wisnosky, in 1993. The evidence of his guilt seems strong. But that strong probability of guilt makes Virginia's unwillingness to permit DNA testing of potentially key evidence all the more puzzling. Mr. Barnabei has maintained his innocence, and the case has a few troubling aspects. In light of this, it only makes sense to test bloodstained physical evidence retained but never tested by investigators. Yet Virginia balks on the grounds that Mr. Barnabei's guilt is so clear.

The likelihood is that the blood is Ms. Wisnosky's, which would neither bolster nor undermine the jury's verdict in the case. It also could be Mr. Barnabei's, which would reinforce the integrity of the verdict. But the presence of someone else's blood would make Mr. Barnabei's claims more credible.

It is hard to see why a state, before putting someone to death, would be unwilling to demonstrate a jury verdict's consistency with all of the evidence. Indeed, this is precisely the type of case in which the state should have no choice. Under a bill being pushed by Sen. Patrick Leahy (D-Vt.), states would be obligated in such circumstances to allow post-conviction DNA testing. Such a law would not merely offer a lawyer of protection to innocent people but would increase public confidence in the convictions of guilty people.●

Mr. SMITH of Oregon. Mr. President, I am a supporter of the death penalty. I believe there are some times when humankind can act in a manner so odious so heinous, and so depraved that the right to life is forfeited. Notwithstanding this belief—indeed, because of this belief—I rise today to talk about the importance of protecting innocent people in this country from wrongful imprisonment and execution. Today, Senator LEAHY and I are introducing the Innocence Protection Act of 2000 that will use the technological advances of the 21st century to ensure that justice is served swiftly and fairly.

It has been difficult to open a newspaper in recent months without finding discussion of the death penalty and possible miscarriages of justice. You have almost certainly seen or heard reports of inmates being freed from death row based on results of new genetic tests that were unavailable at the time of trial. There have been a number of cases where this has, in fact, occurred.

This is a cause for concern for a number of cases. First and foremost, of course, is the possibility that an innocent person could lose his or her life if wrongfully convicted. In such cases, this also leads to the double tragedy that the true guilty party remains free to roam the country in search of future victims. Clearly, capturing and convicting the true perpetrator of a crime is in everyone's best interests.

The Innocence Protection Act of 2000 would provide a national standard for post-conviction DNA testing of inmates who believe they have been wrongly incarcerated. Although many inmates were convicted before modern

methods of genetic fingerprinting were available, not all states routinely allow post-conviction DNA testing.

This does not make sense. If we are to have a system that is just, transparent, and defensible, we must make absolutely certain that every person who is behind bars deserves to be there. One of the best ways to do this is to make the most advanced technology available for cases in which physical evidence could have an influence on the verdict.

Making DNA testing available will result in some convictions being overturned. In such cases, people who have been unjustly incarcerated must be afforded fair compensation for the lost years of their lives. The Leahy-Smith Innocence Protection Act of 2000 has a provision that would do this. Sometimes a person who has been wrongly imprisoned is released from prison with bus fare and the clothes on his or her back. This practice simply heaps one wrong upon another.

While officers of America's courts and law enforcement work extremely hard to ensure that the true perpetrators of heinous crimes are caught and convicted, there have been instances where defendants have been represented by overworked, underpaid, or even unqualified counsel, and this situation cannot be tolerated in a system of criminal justice. The Leahy-Smith Innocence Protection Act of 2000 would ensure that defendants who are put on trial for their lives receive competent legal representation at every stage in their cases.

The Innocence Protection Act of 2000 will allow us, as a nation, to continue our confidence in the American judicial system and in the fair and just application of the death penalty. We must have confidence in the integrity of justice, that it will both protect the innocent and punish the guilty. This legislation will not prevent true criminals from being executed; rather, it will increase support for the death penalty by providing added assurances that American justice is administered fairly across the country.

Therefore, I urge my colleagues on both sides of the aisle, whether you support or oppose capital punishment, to join Senator LEAHY and me in backing the Innocence Protection Act of 2000, which will put the fingerprint of the 21st century on our criminal justice system, ensuring that innocent lives are not unjustly taken in this country.

Ms. COLLINS. Mr. President, I am pleased to join as a cosponsor of the "Innocence Protection Act."

Since the reinstatement of capital punishment in 1976, 610 people have been executed in our nation. In that same period of time, an astounding 87 people who were sentenced to die have been found innocent and released from death row. Each of these individuals has lived the Kafkaesque nightmare of condemnation and imprisonment for crimes they have not committed. It is

difficult to imagine the despair and betrayal these individuals must have felt as they were accused, tried, convicted and sentenced, all the time knowing they were not guilty. And during all those years they remained in prison, the real perpetrators remained at large.

I am an opponent of the death penalty, and I am proud to be from the State of Maine which outlawed the death penalty in 1887. The legislation we introduce today is, however, not an anti-death penalty measure.

The legislation we introduce today simply requires logical safeguards to be put in place to prevent wrongful convictions. Its two most important provisions compel DNA testing where it can yield evidence of innocence, and puts in place a new process to ensure defendants receive competent counsel in death penalty cases.

The "Innocence Protection Act" calls on the federal government and the states to make DNA testing available in circumstances where it could yield new evidence of innocence. The incidents in which DNA testing has exonerated individuals are not isolated—64 people have been released from prison or death row due to DNA testing.

Linus Pauling once said that "science is the search for truth." Through DNA testing, science provides a tool that can uncover the truth, and lend certainty to our moral obligation in a civilized society—proper administration of our criminal justice system.

The legislation we introduce today assists the wrongfully convicted, and will help prevent the miscarriages of justice that have seemed sadly common. It will also serve the interests of justice and protect crime victims. Justice is never served until the true perpetrator of a crime is identified, convicted and punished. We owe it to the victims and their families to pursue every avenue to find and hold accountable the true criminals who have injured them.

Our American ideals and sense of justice simply cannot tolerate the current risk for mistaken executions. The case of Mr. Anthony Porter should shock the conscience of America. Mr. Porter spent over 16 years on death row, and at one point he was only two days short of receiving a lethal injection, having been convicted of two murders. A determined group of journalism students investigated his case and uncovered evidence that exonerated Mr. Porter. It was only through their efforts that the identity of the real murderer was determined, a review of the case compelled, and Mr. Porter ultimately freed. The peculiar good fortune that lead to the release of Mr. Porter undeniably highlights a weakness in our system of justice that cries out for remedy.

Nothing that we can do here today can restore those years to Mr. Porter, or others who have been wrongly convicted, but we can demand safeguards be put in place to protect the innocent

from conviction, and protect society from real criminals who may remain loose on our streets. Regardless of one's views about the death penalty, I hope we all can agree to needed safeguards to help ensure that justice is served.

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

• Mr. FEINGOLD. Mr. President, I am extremely pleased to join my distinguished colleague from Vermont and ranking member of the Judiciary Committee, Senator LEAHY, as a cosponsor of the Innocence Protection Act of 2000. I commend him for his leadership on this important legislation. The insight and unique experience that he brings to this issue as a former federal prosecutor is invaluable. I have no doubt that because of his leadership and diligence, Americans have recently become more aware of the important role that the certainty of science can have in our criminal justice system. Improvements in DNA testing have allowed us to determine with greater accuracy whether certain offenders committed the crime that sent them to prison, including, very importantly, of course, those who have been condemned to death row.

Since the 1970s, 87 people sentenced to die were later proven innocent. Some of those innocent death row inmates were able to prove their innocence based on modern DNA testing of biological evidence. But, Mr. President, this is not just about ensuring that we not condemn the innocent. DNA testing can also ensure that the guilty person not go free. DNA testing can be a tool for the prosecution to determine whether they have the right person.

Over the last several months, I have spoken often on the floor about the serious flaws in the administration of capital punishment across the nation. I strongly support Senator LEAHY's bill. It is a much over-due package of reforms that goes after some of the worst failings in our nation's administration of capital punishment—those that are unfair, unjust and plain just un-American.

Very simply, Senator LEAHY's bill can help save lives. His bill would make it less likely for an innocent man or woman to be sent to death row, where biological evidence is central to the issue of guilt or innocence. The bill also would make it more likely that a poor person receive adequate defense representation and less likely that a poor person gets stuck with a lawyer that sleeps through trial. Yesterday, I spoke on the floor about specific examples of such cases of egregious failings of defense counsel.

We must ensure the utmost fairness in the administration of this ultimate punishment. I hope our colleagues—both those who support the death penalty in principle and those who oppose it—will join together in fixing this broken system and restoring fairness and justice. All Americans demand and deserve no less.

Mr. President, I think it is very significant that this important bill now has bipartisan support. I want to thank and commend my colleagues, Senators GORDON SMITH, SUSAN COLLINS and JAMES JEFFORDS, for recognizing that flaws exist in our system of justice and acknowledging that something has to be done about it. I hope this is a sign that we can work together with the very real goal of passing this bill this year. Until we do so, the lives of innocent people literally hang in the balance. •

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 2691. A bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

THE LITTLE SANDY WATERSHED PROTECTION ACT

Mr. WYDEN. Mr. President, I rise today to introduce the Little Sandy Watershed Protection Act.

I promised Oregonians that my first legislative business when Congress reconvened after the Memorial Day Recess would be the introduction of this bill.

Therefore, joined by my friends Senator GORDON SMITH and Congressman EARL BLUMENAUER, I introduce this legislation to make sure that Portland families can go to their kitchen faucets and get a glass of safe and pure drinking water today, tomorrow, and on, into the 21st century.

The Bull Run has been the primary source of water for Portland since 1895. The Bull Run Watershed Management Unit, Mount Hood National Forest, was protected by Congressional action in 1904, 1977 and then again, most recently, in 1996 (P.L. 95-200, 16, U.S.C. 482b note) because it was recognized as Portland's primary municipal water supply. It still is.

Today I propose to finish the job of the Oregon Resources and Conservation Act of 1996. That law, which I worked on with Senator Mark Hatfield, finally provided full protection to the Bull Run watershed, but only provided temporary protection for the adjacent Little Sandy watershed. I promised in 1996 that I would return to finish the job of protecting Portland's drinking water supply and intend to continue to push this legislation until the job is complete.

The bill I introduce today expands the Bull Run Watershed Management Unit boundary from approximately 95,382 acres to approximately 98,272 acres by adding the southern portion of the Little Sandy River watershed, an increase of approximately 2,890 acres.

The protection this bill offers will not only assure clean drinking water, but also increase the potential for fish recovery. Reclaiming suitable habitat for our region's threatened fish populations must be an all-out effort.

Through the cooperation of Portland General Electric and the City of Portland, the Little Sandy can be an important part of that effort.

My belief is that the children of the 21st century deserve water that is as safe and pure as any that the Oregon pioneers found in the 19th century. This legislation will go a long way toward bringing about that vision.

Mr. SMITH of Oregon. Mr. President, let me begin by saying that I am pleased to be a cosponsor of this legislation aimed at protecting the Little Sandy Watershed for future generations. The Little Sandy lies adjacent to the Bull Run Watershed, which is the primary municipal water supply for the City of Portland, Oregon. The water that filters through these forests and mountainsides to the east of Portland is of the highest quality in the nation and does not require artificial filtration or treatment.

The Bull Run Watershed Management Unit was established by congressional action in 1977, creating a management partnership between the USDA Forest Service and the City of Portland for the review of water quality and quantity. Additional protection was given to the Bull Run by the Northwest Forest Plan in 1993, restricting all timber harvests in sensitive areas. Neither of these actions, however, extended a satisfactory level of protection to the nearby Little Sandy Watershed. Population growth and heightened water quality expectations have brought the preservation of the Little Sandy Watershed to the forefront of the public's interest in recent years.

The legislation that I have cosponsored would expand the boundary of the Bull Run Watershed Management Unit to include the southern portion of the Little Sandy. This would add nearly 3,000 acres to the Management Unit, including a number of acres currently managed by the Bureau of Land Management (BLM). I am aware that questions have just arisen as to whether some of this acreage is currently managed by O & C lands. If so, there are concerns that O & C land would be devalued by a change in management designation. If this is the case, as the bill moves through the legislative process, I will seek the redesignation of other lands outside the preserve in order to maintain the wholeness of O & C land and the timber base.

By Ms. MIKULSKI (for herself,

Mr. KENNEDY, and Mr. DURBIN):

S. 2692. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve safety of imported products, and for other purposes; to the Committee on Health Education, Labor, and Pensions.

IMPORTED PRODUCTS SAFETY IMPROVEMENT
AND DISEASE PREVENTION ACT OF 2000

Ms. MIKULSKI. Mr. President, I rise today to reintroduce the "Imported Products Safety Improvement and Disease Prevention Act of 2000." I am

proud to be the sponsor of this important legislation which guarantees the improved safety of imported foods, and I have high hopes that we will act on it this year.

The health of Americans is not something to take chances with. It is important that we make food safety a top priority. Every person should have the confidence that their food is fit to eat. We should be confident that imported food is as safe as food produced in this country. Cars can't be imported unless they meet U.S. safety requirements. Prescription drugs can't be imported unless they meet FDA standards. You shouldn't be able to import food that isn't up to U.S. standards, either.

We import increasing quantities of fresh fruits and vegetables, seafood, and many other foods. In the past seven years, the amount of food imported into the U.S. has more than doubled. Out of all the produce we eat, 40% of it is imported. Our food supply has gone global, so we need to have global food safety.

The impact of unsafe food is staggering. There have been several frightening examples of food poisoning incidents in the U.S. When Michigan schoolchildren were contaminated with Hepatitis A from imported strawberries in 1997, Americans were put on alert. Thousands of cases of cyclospora infection from imported raspberries—resulting in severe, prolonged diarrhea, weight loss, vomiting, chills and fatigue were also reported that year. Imported cantaloupe eaten in Maryland sickened 25 people. As much as \$663 million was spent on food borne illness in Maryland alone. Overall, as many as 33 million people per year become ill and over 9000 die as a result of food borne illness. It is our children and our seniors who suffer the most. Most of the food-related deaths occur in these two populations.

These incidents have scared us and have jump-started the efforts to do more to protect our nation's food supply. Now, I believe in free trade, but I also believe in fair trade. FDA's current system of testing import samples at ports of entry does not protect Americans. It is ineffective and resource-intensive. Less than 2 percent of imported food is being inspected under the current system. At the same time, the quantity of the imported foods continues to increase.

What this law does is simple: It improves food safety and aims at preventing food borne illness of all imported foods regulated by the FDA. This bill takes a long overdue, big first step.

First, it requires that FDA make equivalence determinations on imported food. This was developed with the FDA by Senator KENNEDY and myself in consultation with the consumer groups.

Today, FDA has no authority to protect Americans against imported food that is unsafe until it is too late. According to the GAO, the FDA lacks the

authority to require that food coming into the U.S. is produced, prepared, packed or held under conditions that provide the same level of food safety protection as those in the U.S. This means that currently, food offered for import to the U.S., can be imported under any conditions, even if those conditions are unsanitary. The Imported Products Safety Improvement and Disease Prevention Act of 2000 will allow FDA to look at the production at its source. This means that FDA will be able to take preventive measures. FDA will be able to be proactive, rather than just reactive.

That means that when you pack your children's lunches for school or sit down at the dinner table, you can rest assured that your food will be safe. Whether your strawberries were grown in a foreign country or on the Eastern Shore, in Maryland, those strawberries will be held to the same standard. You won't have to worry or wonder where your food is coming from. You won't have to worry that your children or families are going to get sick. You will know that the food coming into this country will be subject to equivalent standards.

Second, this bill contains strong enforcement measures. Last year, the Permanent Subcommittee on Investigations, under the leadership of Senator SUE COLLINS, held numerous hearings on the safety of imported food. These enforcement measures are largely a product of those facts uncovered during those hearings.

Finally, this bill covers emergency situations by allowing FDA to ban imported food that has been connected to outbreaks of food borne illness. When our children, parents and communities are getting seriously sick, the Secretary of Health and Human Services can immediately issue an emergency ban. We don't have to wait till someone else gets seriously sick or dies. We no longer have to go through the current bureaucratic mechanism that is inefficient and resource intensive. We can stop the food today, to protect our citizens.

My goal is to strengthen the food supply, whatever the source of the food may be. This bill won't create trade barriers. It just calls for free trade of safe food. It calls for international concern and consensus on guaranteeing standards for public health.

This bill is important because it will save lives and makes for a safer world. Everyone should have security in knowing that the food they eat is fit to eat. I look forward to working on a bipartisan basis to enact this legislation. I pledge my commitment to fight for ways to make America's food supply safer. This bill is an important step in that direction.

Mr. President, I ask unanimous consent that the text of the bill and a summary be added to the RECORD.

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

S. 2692

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 "Imported Products Safety Improvement and Disease Prevention Act of 2000".

TITLE I—IMPROVEMENTS TO THE PRODUCT SAFETY IMPORT SYSTEM

SEC. 101. EQUIVALENCE AUTHORITY TO PROTECT THE PUBLIC HEALTH FROM CONTAMINATED IMPORTED PRODUCTS.

(a) EQUIVALENCE DETERMINATIONS, AND MEASURES, SYSTEMS, AND CONDITIONS TO ACHIEVE PUBLIC HEALTH PROTECTION.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (c) the following:

"(d)(1) Subject to paragraphs (2) and (3), any covered product offered for import into the United States shall be prepared (including produced), packed, and held under a system or conditions, or subject to measures, that meet the requirements of this Act or that have been determined by the Secretary to be equivalent to a system, conditions, or measures for such covered product in the United States and to achieve the level of public health protection for such covered product prepared, packed, and held in the United States. Consistent with section 492 of the Trade Agreements Act of 1979 (19 U.S.C. 2578a), the Secretary shall make, where appropriate, equivalence determinations described in that section relating to sanitary or phytosanitary measures (including systems and conditions) that apply to the preparation, packing, and holding of covered products offered for import into the United States.

"(2) In carrying out this subsection, the Secretary shall conduct systematic evaluations of the systems, conditions, and measures in foreign countries that apply to the preparation, packing, and holding of covered products offered for import into the United States.

"(3) The Secretary shall develop a plan for the implementation of the authority under this subsection within 2 years after the date of enactment of the Imported Products Safety Improvement and Disease Prevention Act of 2000. In developing the plan, the Secretary shall provide an opportunity for, and take into consideration, public comment on a proposed plan."

(b) GENERAL AUTHORITY.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381), as amended in subsection (a), is further amended by inserting after subsection (d) the following:

"(e)(1)(A) The Secretary shall establish a system, for use by the Secretary of the Treasury, to deny the entry of any covered product offered for import into the United States if the Secretary of Health and Human Services makes and publishes—

"(i) a written determination that the covered product—

"(I) has been associated with repeated and separate outbreaks of disease borne in a covered product or has been repeatedly determined by the Secretary to be adulterated within the meaning of section 402;

"(II) presents a reasonable probability of causing significant adverse health consequences or death; and

"(III) is likely, without systemic intervention or changes, to cause disease or be adulterated again; or

"(ii) an emergency written determination that the covered product has been strongly

associated with a single outbreak of disease borne in a covered product that has caused serious adverse health consequences or death.

"(B)(i) The Secretary shall make a determination described in subparagraph (A) with respect to—

"(I) a covered product from a specific producer, manufacturer, or shipper; or

"(II) a covered product from a specific growing area or country; that meets the criteria described in subparagraph (A).

"(ii) Only the covered product from the specific producer, manufacturer, shipper, growing area, or country for which the Secretary makes the determination shall be subject to denial of entry under this subsection.

"(C) The denial of entry of any covered product under this paragraph shall be done in a manner consistent with bilateral, regional, and multilateral trade agreements and the rights and obligations of the United States under the agreements.

"(D)(i) Before making any written determination under subparagraph (A)(i), the Secretary shall consider written comments, on a proposed determination, made by any party affected by the proposed determination and any remedial actions taken to address the findings made in the proposed determination. In making the written determination, the Secretary may modify or rescind the proposed determination in accordance with such comments.

"(ii)(I) The Secretary may immediately issue an emergency written determination under subparagraph (A)(ii) without first considering comments on a proposed determination.

"(II) Within 30 days after the issuance of the emergency determination, the Secretary shall consider written comments on the determination that are made by a party described in clause (i) and received within the 30-day period. The Secretary may affirm, modify, or rescind the emergency determination in accordance with the comments.

"(III) The emergency determination shall be in effect—

"(aa) for the 30-day period; or

"(bb) if the Secretary affirms or modifies the determination, until the Secretary rescinds the determination.

"(2)(A) The covered product initially denied entry under paragraph (1) may be imported into the United States if the Secretary finds that—

"(i) the written determination made under paragraph (1) no longer justifies the denial of entry of the covered product; or

"(ii) evidence of remedial action submitted from the producer, manufacturer, shipper, specific growing area, or country for which the Secretary made the written determination under paragraph (1) addresses the determination.

"(B)(i) The Secretary shall take action on evidence submitted under subparagraph (A)(ii) within 90 days after the date of the submission of the evidence.

"(ii) The Secretary's action may include—

"(I) lifting the denial of entry of the covered product; or

"(II) continuing to deny entry of the covered product while requesting additional information or specific remedial action from the producer, manufacturer, shipper, specific growing area, or country.

"(iii) If the Secretary does not take action on evidence submitted under subparagraph (A)(ii) within 90 days after the date of submission, effective on the 91st day after the date of submission, the covered product initially denied entry under paragraph (1) may be imported into the United States.

"(3) The Secretary shall by regulation establish criteria and procedures for the sys-

tem described in paragraph (1). The Secretary may by regulation modify those criteria and procedures, as the Secretary determines appropriate."

(C) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 351(h) of the Public Health Service Act (42 U.S.C. 262(h)) is amended by striking "section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e))" and inserting "section 801(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(g)(1))".

(2) Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(A) in paragraph (t), by striking "section 801(d)(1)" and inserting "section 801(f)(1)"; and

(B) in paragraph (w)—

(i) by striking "sections 801(d)(3)(A) and 801(d)(3)(B)" and inserting "subparagraphs (A) and (B) of section 801(f)(3)";

(ii) except as provided in clause (i), by striking "section 801(d)(3)" each place it appears and inserting "section 801(f)(3)"; and

(iii) by striking "section 801(e)" and inserting "section 801(g)".

(3) Section 303(b)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(b)(1)(A)) is amended by striking "section 801(d)(1)" and inserting "section 801(f)(1)".

(4) Section 304(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(d)(1)) is amended—

(A) by striking "section 801(e)(1)" and inserting "section 801(g)(1)"; and

(B) except as provided in subparagraph (A), by striking "section 801(e)" each place it appears and inserting "section 801(g)".

(5) Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended—

(A) in subsection (a), in the third sentence, by striking "subsection (b) of this section" and inserting "subsection (b) or subsection (e)(2)(A) (in the case of a covered product described in that subsection)";

(B) in paragraph (3)(A) of subsection (f), as redesignated in subsection (a), by striking "section 801(e) or 802" and inserting "subsection (g), section 802,"; and

(C) in paragraph (1) of subsection (h), as redesignated in subsection (a), by striking "subsection (e)" and inserting "subsection (g)".

(6) Section 802 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 382) is amended—

(A) in subsection (a)(2)(C), by striking "section 801(e)(2)" and inserting "section 801(g)(2)";

(B) in subsection (f)(3), by striking "section 801(e)(1)" and inserting "section 801(g)(1)"; and

(C) in subsection (i), by striking "section 801(e)(1)" and inserting "section 801(g)(1)".

SEC. 102. PROHIBITION AGAINST THE DISTRIBUTION OF CERTAIN PRODUCTS.

(a) ADULTERATED PRODUCTS.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(h)(1) If—

"(A) it is a covered product being imported or offered for import into the United States;

"(B) the covered product has been designated by the Secretary for sampling, examination, or review for the purpose of determining whether the covered product is in compliance with this Act;

"(C) the Secretary requires, under section 801(a)(2)(B), that the covered product not be distributed until the Secretary authorizes the distribution of the covered product; and

"(D) the covered product is distributed before the Secretary authorizes the distribution.

"(2) In this paragraph, the term 'distributed', used with respect to a covered product, means—

"(A) moved for the purpose of selling the covered product, offering the covered product for sale, or delivering the covered product for the purpose of selling the covered product or offering the covered product for sale; or

"(B) delivered contrary to any bond requirement."

(b) PROHIBITION.—Section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) is amended—

(1) in the third sentence, by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(2) by striking "(a) The" and inserting "(a)(1) The";

(3) in the last sentence, by striking "Clause (2)" and inserting "Subparagraph (B)";

(4) by moving the fourth sentence to the end;

(5) in the sentence so moved, by striking "The Secretary" and inserting the following: "(2)(A) The Secretary"; and

(6) by adding at the end the following:

"(B) The Secretary of Health and Human Services may require that a covered product being imported or offered for import into the United States not be distributed until the Secretary authorizes distribution of the covered product."

SEC. 103. REQUIREMENT OF SECURE STORAGE OF CERTAIN IMPORTED PRODUCTS.

(a) ADULTERATED PRODUCTS.—Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended in section 102(a), is further amended by adding at the end the following:

"(i) If—

"(1) it is a covered product being imported or offered for import into the United States;

"(2) the Secretary requires, under section 801(a)(2)(C), that the covered product be held in a secure storage facility until the Secretary authorizes distribution of the covered product; and

"(3) the covered product is not held in a secure storage facility as described in section 801(a)(2)(C) until the Secretary authorizes the distribution."

(b) REQUIREMENT.—Section 801(a)(2) of the Federal Food, Drug, and Cosmetic Act, as amended in section 102(b), is further amended by adding at the end the following:

"(C)(i) The Secretary of Health and Human Services may require that a covered product that is being imported or offered for import into the United States be held, at the expense of the owner or consignee of the covered product, in a secure storage facility until the Secretary authorizes distribution of the covered product, if the Secretary makes the determination that the covered product is—

"(I) being imported or offered for import into the United States by a person described in clause (ii); or

"(II) owned by or consigned to a person described in clause (ii).

"(ii) An importer, owner, or consignee referred to in subclause (I) or (II) of clause (i) is a person against whom the Secretary of the Treasury has assessed liquidated damages not less than twice under subsection (b) for failure to redeliver, at the request of the Secretary of the Treasury, a covered product subject to a bond under subsection (b)."

SEC. 104. REQUIREMENT OF ADMINISTRATIVE DESTRUCTION OF CERTAIN IMPORTED PRODUCTS.

(a) ADULTERATED PRODUCTS.—Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended in section 103(a), is further amended by adding at the end the following:

"(j) Notwithstanding subsections (a)(2)(A) and (b) of section 801, if—

"(1) it is a covered product being imported or offered for import into the United States;

"(2) the covered product presents a reasonable probability of causing significant adverse health consequences or death;

"(3) the Secretary, after the covered product has been refused admission under section 801(a), requires under section 801(a)(2)(D) that the covered product be destroyed; and

"(4) the owner or consignee of the covered product fails to comply with that destruction requirement."

(b) REQUIREMENT.—Section 801(a)(2) of the Federal Food, Drug, and Cosmetic Act, as amended in section 103(b), is further amended by adding at the end the following:

"(D) The Secretary of Health and Human Services may require destruction, at the expense of the owner or consignee, of a covered product imported or offered for import into the United States that presents a reasonable probability of causing significant adverse health consequences or death."

SEC. 105. PROHIBITION AGAINST PORT SHOPPING.

Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended in section 104(a), is further amended by adding at the end the following:

"(k) If it is a covered product being imported or offered for import into the United States, and the covered product previously has been refused admission under section 801(a), unless the person reoffering the article affirmatively establishes, at the expense of the owner or consignee of the article, that the article complies with the applicable requirements of this Act, as determined by the Secretary."

SEC. 106. PROHIBITION OF IMPORTS BY DEBARRED PERSONS.

Section 402 of the Federal Food, Drug, and Cosmetic Act, as amended in section 105, is further amended by adding at the end the following:

"(l) If it is a covered product being imported or offered for import into the United States by a person debarred under section 306(b)(4)."

SEC. 107. AUTHORITY TO MARK REFUSED ARTICLES.

(a) MISBRANDED PRODUCTS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

"(t) If—

"(1) it has been refused admission under section 801(a);

"(2) the covered product has not been required to be destroyed under subparagraph (A) or (B) of section 801(a)(2); and

"(3) the packaging of the covered product does not bear a label or labeling described in section 801(a)(2)(E)."

(b) REQUIREMENT.—Section 801(a)(2) of the Federal Food, Drug, and Cosmetic Act, as amended in section 104(b), is further amended by adding at the end the following:

"(E) The Secretary of Health and Human Services may require the owner or consignee of a covered product that has been refused admission under paragraph (1), and has not been required to be destroyed under subparagraph (A) or (B), to affix to the packaging of the covered product a label or labeling that—

"(i) clearly and conspicuously bears the following statement: 'United States: Refused Entry';

"(ii) is affixed to the packaging until the covered product is brought into compliance with this Act; and

"(iii) has been provided at the expense of the owner or consignee of the covered product."

SEC. 108. EXPORT OF REFUSED ARTICLES.

Paragraph (2)(A) of section 801(a) of the Federal Food, Drug, and Cosmetic Act (21

U.S.C. 381(a)), as designated in section 102(b), is amended by striking "ninety days" and inserting "30 days".

SEC. 109. COLLECTION AND ANALYSIS OF SAMPLES OF PRODUCT IMPORTS.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381), as amended in section 101(a), is further amended by adding at the end the following:

"(i) The Secretary may issue regulations or guidance as necessary to govern the collection and analysis by entities other than the Food and Drug Administration of samples of a covered product imported or offered for import into the United States to ensure the integrity of the samples collected and the validity of the analytical results."

SEC. 110. DEFINITION.

Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'covered product' means an article that is described in subparagraph (1), (2), or (3) of paragraph (f) and that is not a dietary supplement. The term shall not include an article to the extent that the Secretary of Agriculture exercises inspection authority over the article at the time of import into the United States."

TITLE II—ENFORCEMENT AND PENALTIES FOR IMPORTING CONTAMINATED PRODUCTS

SEC. 201. ENHANCED BONDING REQUIREMENTS FOR PRIOR INVOLVEMENT IN IMPORTING ADULTERATED OR MISBRANDED PRODUCTS.

Section 801(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of the Treasury, acting through the Commissioner of Customs, shall issue regulations that establish a rate for a bond required to be executed under paragraph (1) for a covered product if an owner, consignee, or importer of the covered product has committed a covered violation.

"(B) The regulations shall require the owner or consignee to execute such a bond—

"(i) at twice the usual rate; or

"(ii) if the owner, consignee, or importer has committed more than 1 covered violation, at a rate that increases with the number of covered violations committed, as determined in accordance with a sliding scale established in the regulations.

"(C) In this paragraph:

"(i) The term 'committed' means been convicted of, or found liable for, a violation by an appropriate court or administrative officer.

"(ii) The term 'covered violation' means a violation relating to—

"(I) importing or offering for import into the United States—

"(aa) a covered product during a period of debarment under section 306(b)(4);

"(bb) a covered product that is adulterated within the meaning of paragraph (h), (i), (j), (k), or (l) of section 402; or

"(cc) a covered product that is misbranded within the meaning of section 403(t); or

"(II) making a false or misleading statement in conduct relating to the import or offering for import of a covered product into the United States.

"(iii) The term 'usual rate', used with respect to a bond, means the rate that would be required under paragraph (1) for the bond by a person who has not committed a covered violation."

SEC. 202. DEBARMENT OF REPEAT OFFENDERS AND SERIOUS OFFENDERS.

(a) IN GENERAL.—Section 306(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)) is amended—

(1) in paragraph (1), in the paragraph heading, by striking "IN GENERAL.—" and inserting "DEBARMENT FOR VIOLATIONS RELATING TO DRUGS.—";

(2) in paragraph (2), in the paragraph heading, by striking "PERSONS SUBJECT TO PERMISSIVE DEBARMENT.—" and inserting "PERSONS SUBJECT TO PERMISSIVE DEBARMENT FOR VIOLATIONS RELATING TO DRUGS.—";

(3) in paragraph (3), in the paragraph heading, by striking "STAY OF CERTAIN ORDERS.—" and inserting "STAY OF CERTAIN ORDERS RELATING TO DEBARMENT FOR VIOLATIONS RELATING TO DRUGS.—"; and

(4) by adding at the end the following:

"(A) DEBARMENT FOR VIOLATIONS RELATING TO PRODUCT IMPORTS.—

"(A) IN GENERAL.—The Secretary may debar a person from importing a covered product or offering a covered product for import into the United States, if—

"(i) the Secretary finds that the person has been convicted for conduct that is a felony under Federal law and relates to the importation or offering for importation of any covered product into the United States; or

"(ii) the Secretary makes a written determination that the person has repeatedly or deliberately imported or offered for import into the United States a covered product adulterated within the meaning of paragraph (h), (i), (j), or (k) of section 402, or misbranded within the meaning of section 403(t).

"(B) IMPACT.—On debarring a person under subparagraph (A), the Secretary shall provide notice of the debarment to the Secretary of the Treasury, who shall deny entry of a covered product offered for import by the person."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a) is amended—

(A) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (B), by striking ", and" at the end and inserting a comma;

(II) by redesignating subparagraph (C) as subparagraph (D); and

(III) by inserting after subparagraph (B) the following:

"(C) shall, during the period of a debarment under subsection (b)(4), prohibit the debarred person from importing a covered product or offering a covered product for import into the United States, and";

(ii) in paragraph (2)(A), by inserting after clause (iii) the following:

"(iv) The period of debarment of any person under subsection (b)(4) shall be not less than 1 year."; and

(iii) in paragraph (3)—

(I) in subparagraph (C)—

(aa) by striking "suspect drugs" and inserting "suspect drugs or covered products"; and

(bb) by striking "fraudulently obtained" and inserting "fraudulently obtained or on a covered product wrongfully imported into the United States"; and

(II) in subparagraph (E), by inserting "in the case of a debarment relating to a drug," after "(E)";

(B) in subsection (d)—

(i) in paragraph (3)—

(I) in subparagraph (A)—

(aa) in clause (i), by striking "or (b)(2)(A)" and inserting "or paragraph (2)(A) or (4) of subsection (b)"; and

(bb) in clause (ii)(II), by inserting "in the case of a debarment relating to a drug," after "(II)"; and

(II) in subparagraph (B)—

(aa) in clause (i), by striking "or clause (i), (ii), (iii) or (iv) of subsection (b)(2)(B)" and inserting "clause (i), (ii), (iii), or (iv) of subsection (b)(2)(B), or subsection (b)(4)"; and

(bb) in clause (ii), by striking "subsection (b)(2)(B)" and inserting "paragraph (2)(B) or (4) of subsection (b)"; and

(ii) in paragraph (4)—

(I) in subparagraph (A), by striking "(a)(2)" and inserting "(a)(2) or (b)(4)";

(II) in subparagraph (B)—

(aa) in clause (ii), by striking "involving the development or approval of any drug subject to section 505" and inserting "involving, as appropriate, the development or approval of any drug subject to section 505 or the importation of any covered product"; and

(bb) in clause (iv), by striking "drug" each place it appears and inserting "drug or covered product"; and

(III) in subparagraph (D), in the matter following clause (ii), by inserting "in the case of a debarment relating to a drug," before "protects"; and

(C) in subsection (1)(2), in the second sentence, by striking "(b)(2)(B)" and inserting "(b)(2)(B), subsection (b)(4)".

(2) CIVIL PENALTIES.—Paragraphs (6) and (7) of section 307(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335b(a)) are amended by striking "306" and inserting "306 (except section 306(b)(4))".

SEC. 203. INCREASED ENFORCEMENT TO IMPROVE THE SAFETY OF IMPORTED PRODUCTS.

Subchapter A of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

"SEC. 712. POSITIONS TO IMPROVE THE SAFETY OF IMPORTED PRODUCTS.

"There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2001 through 2003 to enable the Commissioner, in carrying out chapters IV and VIII, to decrease the health risks associated with imported covered products through the creation of additional employment positions for laboratory, inspection, and compliance personnel."

TITLE III—IMPROVEMENTS TO PUBLIC HEALTH INFRASTRUCTURE AND AWARENESS

SEC. 301. IMPROVEMENTS.

Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

"PART C—PUBLIC HEALTH INFRASTRUCTURE AND AWARENESS

"SEC. 251. DEFINITIONS.

"In this part:

"(1) COVERED PRODUCT.—The term 'covered product' has the meaning given the term in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention.

"SEC. 252. PUBLIC HEALTH SURVEILLANCE ENHANCEMENT.

"(a) IN GENERAL.—The Secretary may—

"(1) make grants to, enter into cooperative agreements with, and provide technical assistance to eligible agencies to enable the agencies to enhance their capacity to carry out activities relating to surveillance and prevention of pathogen-related disease borne in a covered product, particularly pathogen-related disease associated with imported covered products, as described in subsection (b)(1); and

"(2) carry out the activities described in subsection (b)(2).

"(b) USE OF ASSISTANCE.—

"(1) AGENCIES.—An eligible agency that receives assistance under subsection (a) shall use the assistance to enhance the capacity of the agency—

"(A) to identify, investigate, and contain threats of pathogen-related disease borne in a covered product, particularly pathogen-related disease associated with imported covered products; and

"(B) to conduct additional surveillance and studies to address prevention and control of the disease.

"(2) CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Secretary may use not more than 30 percent of the funds appropriated to carry out this section—

"(A) to assist an agency described in paragraph (1) in enhancing the capacity described in paragraph (1) by providing standards, technologies, information, materials, and other resources; and

"(B) to enhance national surveillance systems, including the ability of domestic and international agencies and entities to respond to product safety issues associated with imported covered products that are identified through such systems.

"(c) ELIGIBLE AGENCIES.—To be eligible to receive assistance under subsection (a)(1), an agency shall be a State or local health department.

"(d) APPLICATION.—To be eligible to receive assistance under subsection (a)(1), an agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2001 through 2003.

"SEC. 253. PATHOGEN DETECTION RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—The Secretary may conduct applied research, directly or by grant or contract, to develop new or improved methods for detecting and subtyping emerging pathogens (borne in covered products) in human specimens, covered products, and relevant environmental samples. The Secretary may use funds appropriated to carry out this section to support applied research by State health departments or institutions of higher education.

"(b) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2001 through 2003.

"SEC. 254. TRAINING, EDUCATION, AND PUBLIC INFORMATION.

"(a) IN GENERAL.—The Secretary may—

"(1) make grants and enter into contracts with eligible entities, to support training activities and other collaborative activities with the entities to inform health professionals about disease borne in covered products, including strengthening training networks serving State, local, and private entities; and

"(2) increase and improve the activities carried out by the Centers for Disease Control and Prevention to provide information to the public on disease borne in covered products.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under subsection (a), an entity shall be a medical school, a nursing school, an entity carrying out clinical laboratory training programs, a school of public health, another institution of higher education, a professional organization, or an international organization.

“(c) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(d) CONSULTATION.—In carrying out this section, the Secretary shall consult with Federal, State, and local agencies, international organizations, and other interested parties.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2001 through 2003.

“SEC. 255. INTERNATIONAL PUBLIC HEALTH TRAINING AND TECHNICAL ASSISTANCE.

“(a) IN GENERAL.—The Secretary shall, directly or by agreement, provide training and technical assistance to agencies and entities in foreign countries, to strengthen the surveillance and investigation capacities of the agencies and entities relating to disease borne in covered products, including establishing or expanding activities or programs such as the Field Epidemiology and Training Program of the Centers for Disease Control and Prevention.

“(b) APPLICATION.—To be eligible to enter into an agreement under subsection (a), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2001 through 2003.

“SEC. 256. SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

“(a) IN GENERAL.—On the request of a recipient of assistance under section 252, 253, 254, or 255, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the section involved and, for such purpose, may detail to the grant recipient any officer or employee of the Department of Health and Human Services. Such detail shall be without interruption or loss of civil service status or privilege.

“(b) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under the section involved by an amount equal to the cost of detailing the officer or employee and the fair market value of the supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such a request, expend the amounts withheld.”.

SUMMARY OF IMPORTED PRODUCTS SAFETY IMPROVEMENT AND DISEASE PREVENTION ACT OF 2000

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TITLE I: IMPROVEMENTS TO THE PRODUCT SAFETY IMPORT SYSTEM
TITLE II: ENFORCEMENT AND PENALTIES FOR IMPORTING CONTAMINATED PRODUCTS
TITLE III: IMPROVEMENTS TO PUBLIC HEALTH INFRASTRUCTURE AND AWARENESS

Imported Products Safety Act of 2000—Title I: Improvements to the Product Safety Import System—Amends the Federal Food, Drug, and Cosmetic Act to require imported covered products to be prepared, packed, and held under a system meeting the requirements of such Act, or determined by the Secretary of Health and Human Services (Secretary) to be equivalent to domestic requirements. (“Covered product” means a food as defined under Section 201(f) of the Act and

that is not a dietary supplement.) Directs the Secretary to: (1) develop an implementation plan; and (2) conduct overseas covered product system evaluations.

Directs the Secretary to establish, for use by the Secretary of the Treasury, a system to deny the entry of imported covered products from a specific area, producer, manufacturer, or transporter into the United States that: (1) has been repeatedly adulterated or associated with repeated outbreaks of foodborne disease, presents a health danger, and is likely without systematic changes to cause disease or be adulterated again; or (2) in an emergency determination, has been strongly associated with a serious outbreak of foodborne disease.

Makes a conforming amendment to the Public Health Service Act.

(Sec. 102) Deems as adulterated an imported (of offered for import) covered product: (1) withheld for review that is distributed prior to the Secretary’s authorization of distribution; (2) ordered to be held in secure storage prior to distribution that is not so held; (3) required to be destroyed that is not so destroyed; (4) previously denied admission that is subsequently offered for admission without a showing of appropriate compliance (port shopping); or (5) owned or consigned by a debarred person.

Authorizes the Secretary to: (1) prohibit distribution of an imported covered product until the Secretary so authorizes; (2) prohibit distribution and require the secure storage of an imported covered product if the importer, owner, or consignee of such product is a person against whom the Secretary of the Treasury has assessed certain liquidated damages for failure to redeliver covered products subject to a bond; (3) order dangerous imported covered products to be destroyed; and (4) require marking of refused entry (but not ordered destroyed) covered product until brought into appropriate compliance. Deems as misbranded a covered product refused entry that is not so marked.

(Sec. 108) Shortens the period before a refused entry article which is not exported shall be destroyed.

(Sec. 109) Authorizes the Secretary to provide for the collection and analysis of imported covered products by entities other than the Food and Drug Administration.

Title II: Enforcement and Penalties for Importing Contaminated Food—Amends the Federal Food, Drug, and Cosmetic Act to establish bonding requirements for persons involved in prior importing of adulterated or misbranded covered products.

(Sec. 202) Authorizes the Secretary to debar a person from importing covered products into the United States for covered product import-related repeat or felony activities.

(Sec. 203) Authorizes appropriations for additional Food and Drug Administration laboratory, inspection, and compliance personnel.

Title III: Improvements to Public Health Infrastructure and Awareness—Amends the Public Health Service Act to authorize the Secretary, through the Centers for Disease Control and Prevention, to make grants to, enter into contracts with, and provide technical assistance to State and local health entities for enhanced surveillance and prevention of foodborne disease, particularly related to imported covered products. Authorizes appropriations.

Authorizes the Secretary, with respect to foodborne disease, to: (1) conduct pathogen detection research and development; and (2) provide for training, education, and public information. Authorizes appropriations.

Directs the Secretary to provide related international public health training and technical assistance. Authorizes appropriations.

Mr. KENNEDY. I am reintroducing this important bill because of the seriousness of the problem it addresses and to spur this Congress to take action. I commend Senator MIKULSKI for her continued leadership on this legislation to close the critical gaps in our imported food safety laws.

Citizens deserve to know that the foods they eat are safe and wholesome, regardless of their source. The United States has one of the safest food supplies in the world. Yet, every year, millions of Americans become sick, and thousands die, from eating contaminated food. Food-borne illnesses cause billions of dollars a year in medical costs and lost productivity. Often, the source of the problem is imported food.

The number of reports in the press of illnesses caused by eating contaminated imported foods has grown steadily over the past few years.

For example, in 1997, school children in five states contracted Hepatitis A from frozen strawberries served in the school cafeterias. Fecal contamination is a potential source of Hepatitis A, and the strawberries the children ate came from a farm in Mexico where workers had little access to sanitary facilities.

Earlier this year, cases of typhoid fever in Florida were linked to a frozen tropical fruit product from Guatemala. Again, poor sanitary conditions appear to be at the root of the problem.

Gastrointestinal illness has been linked to soft cheeses from Europe. Bacterial food poisoning has been attributed to canned mushrooms from the Far East.

The emergence of highly virulent strains of bacteria, and an increase in the number of organisms that are resistant to antibiotics, make microbial contamination of food a major public health challenge.

Ensuring the safety of imported food is a huge task. Americans now enjoy a wide variety of foods from around the world and have access to fresh fruits and vegetables year round. In 1997, the Food Safety Inspection Service of the Department of Agriculture handled 118,000 entries of imported meat and poultry. The FDA handled far more—2.7 million entries of other imported food. Current FDA procedures and resources allowed for less than two percent of those 2.7 million imports to be physically inspected. Clearly, we need to do better.

The FDA lacks sufficient authority to prevent contaminated food imports from reaching our shores. The agency has no legal authority to require that food imported into the United States has been prepared, packed and stored under conditions that provide the same level of public health protection as similar food produced in the United States. Under current procedures, the FDA takes random samples of imports as they arrive at the border. The imports often continue on their way to stores in all parts of the country while testing is being done, and it is often

difficult to recall the food if a problem is found. Unscrupulous importers make the most of the loopholes in the law, including substituting cargo, falsifying laboratory results, and attempting to bring a refused shipment in again, at a later date or at a different port.

The legislation we are reintroducing today will give the Secretary of Health and Human Services the additional authority needed to assure that food imports are as safe as food grown and prepared in this country.

It will give the FDA greater authority to deal with outbreaks of food-borne illness and to bar further imports of dangerous foods until improvements at the source can guarantee the safety of future shipments. This authority covers foods that have repeatedly been associated with food-borne disease, have repeatedly been found to be adulterated, or have been linked to a catastrophic outbreak of food-borne illness.

The legislation will also close loopholes in the law and give the FDA better tools to deal with unscrupulous importers.

In addition, the legislation will authorize the Centers for Disease Control and Prevention to target resources toward enhanced surveillance and prevention activities to deal with food-borne illnesses, including new diagnostic tests, better training of health professionals, and increased public awareness about food safety.

Too many citizens today are at unnecessary risk of food-borne illness. The measure we are proposing is designed to reduce that risk as much as possible, both immediately and for the long term. We know that there are powerful special interests that put profits ahead of safety. But Americans need and deserve laws that better protect their food supply. This is essential legislation, and I look forward to working with my colleagues to see that it is enacted as soon as possible.

ADDITIONAL COSPONSORS

S. 345

At the request of Mr. ALLARD, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 656

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 779

At the request of Mr. ABRAHAM, the names of the Senator from Indiana (Mr. BAYH) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 779, a bill to provide

that no Federal income tax shall be imposed on amounts received by Holocaust victims or their heirs.

S. 801

At the request of Mr. SANTORUM, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 866

At the request of Mr. CONRAD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 866, a bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of participation for hospitals and ambulatory surgical centers under the Medicare program relating to certified registered nurse anesthetists' services to make the regulations consistent with State supervision requirements.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1074

At the request of Mr. TORRICELLI, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) were 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. 1109

At the request of Mr. MCCONNELL, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1109, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1110

At the request of Mr. LOTT, the names of the Senator from California (Mrs. BOXER) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1110, a bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging and Engineering.

S. 1472

At the request of Mr. SARBANES, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1472, a bill to amend chapters 83 and 84 of title 5, United States Code, to modify employee contributions to the Civil Service Retirement System and the Federal Employees Re-

tirement System to the percentages in effect before the statutory temporary increase in calendar year 1999, and for other purposes.

S. 1562

At the request of Mr. NICKLES, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1562, a bill to amend the Internal Revenue Code of 1986 to classify certain franchise operation property as 15-year depreciable property.

S. 1762

At the request of Mr. COVERDELL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1762, a bill to amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resources projects previously funded by the Secretary under such Act or related laws.

S. 1851

At the request of Mr. CAMPBELL, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1851, a bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs.

S. 2018

At the request of Mrs. HUTCHISON, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the Medicare program.

S. 2045

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 2045, a bill to amend the Immigration and Nationality Act with respect to H-1B nonimmigrant aliens.

S. 2068

At the request of Mr. GREGG, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Florida (Mr. MACK) were added as cosponsors of S. 2068, a bill to prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations.

S. 2083

At the request of Mr. ROBB, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2083, a bill to amend the Internal Revenue Code of 1986 to provide a uniform dollar limitation for all types of transportation fringe benefits excludable from gross income, and for other purposes.

S. 2217

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2217, a bill to require the Secretary of the Treasury to mint coins in

commemoration of the National Museum of the American Indian of the Smithsonian Institution, and for other purposes.

S. 2225

At the request of Mr. GRASSLEY, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2225, a bill to amend the Internal Revenue Code for 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 2274

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 2274, a bill to amend title XIX of the Social Security Act to provide families and disabled children with the opportunity to purchase coverage under the medicaid program for such children.

S. 2287

At the request of Mr. L. CHAFEE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2287, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 2293

At the request of Mr. EDWARDS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2293, a bill to amend the Federal Deposit Insurance Act and the Federal Home Loan Bank Act to provide for the payment of Financing Corporation interest obligations from balances in the deposit insurance funds in excess of an established ratio and, after such obligations are satisfied, to provide for rebates to insured depository institutions of such excess reserves.

S. 2299

At the request of Mr. L. CHAFEE, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 2299, a bill to amend title XIX of the Social Security Act to continue State Medicaid disproportionate share hospital (DSH) allotments for fiscal year 2001 at the levels for fiscal year 2000.

S. 2308

At the request of Mr. MOYNIHAN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2308, a bill to amend title XIX of the Social Security Act to assure preservation of safety net hospitals through maintenance of the Medicaid disproportionate share hospital program.

S. 2330

At the request of Mr. ROTH, the name of the Senator from Missouri (Mr.

ASHCROFT) was added as a cosponsor of S. 2330, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services.

S. 2363

At the request of Mr. CRAPO, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2363, a bill to subject the United States to imposition of fees and costs in proceedings relating to State water rights adjudications.

S. 2365

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2365, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services.

S. 2397

At the request of Mr. HUTCHINSON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2397, a bill to amend title 10, United States Code, to deny Federal educational assistance funds to local educational agencies that deny the Department of Defense access to secondary school students or directory information about secondary school students for military recruiting purposes; and for other purposes.

S. 2408

At the request of Mr. BINGAMAN, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 2408, a bill to authorize the President to award a gold medal on behalf of the Congress to the Navajo Code Talkers in recognition of their contributions to the Nation.

S. 2458

At the request of Mr. FEINGOLD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2458, a bill to designate the facility of the United States Postal Service located at 1818 Milton Avenue in Janesville, Wisconsin, as the "Les Aspin Post Office Building."

S. 2460

At the request of Mr. FEINGOLD, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 2460, a bill to authorize the payment of rewards to individuals furnishing information relating to persons subject to indictment for serious violations of international humanitarian law in Rwanda, and for other purposes.

S. 2519

At the request of Mr. VOINOVICH, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2519, a bill to authorize compensation and other benefits for employees of the Department of Energy, its contractors, subcontractors, and certain vendors who sustain illness or death related to exposure to beryl-

lium, ionizing radiation, silica, or hazardous substances in the performance of their duties, and for other purposes.

S. 2524

At the request of Ms. SNOWE, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2524, a bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the Medicare Program to all individuals at clinical risk for osteoporosis.

S. 2546

At the request of Mr. BOND, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2546, a bill to amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether, to provide flexibility within the oxygenate requirement of the reformulated gasoline program of the Environmental Protection Agency, to promote the use of renewable ethanol, and for other purposes.

S. 2585

At the request of Mr. GRAHAM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2585, a bill to amend titles IV and XX of the Social Security Act to restore funding for the Social Services Block Grant, to restore the ability of the States to transfer up to 10 percent of TANF funds to carry out activities under such block grant, and to require an annual report on such activities by the Secretary of Health and Human Services.

S. 2587

At the request of Mr. NICKLES, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2587, a bill to amend the Internal Revenue Code of 1986 to simplify the excise tax on heavy truck tires.

S. 2600

At the request of Ms. SNOWE, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2600, a bill to amend title XVIII of the Social Security Act to make enhancements to the critical access hospital program under the medicare program.

S. 2609

At the request of Mr. CRAIG, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2609, a bill to amend the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act to enhance the funds available for grants to States for fish and wildlife conservation projects, and to increase opportunities for recreational hunting, bow hunting, trapping, archery, and fishing, by eliminating chances for waste, fraud, abuse, maladministration, and unauthorized expenditures for administration and implementation of those Acts, and for other purposes.

S. 2669

At the request of Mr. WARNER, the names of the Senator from Arkansas

(Mr. HUTCHINSON), the Senator from South Carolina (Mr. THURMOND), the Senator from Oklahoma (Mr. INHOFE), the Senator from Maine (Ms. SNOWE), the Senator from Massachusetts (Mr. KERRY), the Senator from Texas (Mrs. HUTCHISON), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Nebraska (Mr. HAGEL), and the Senator from Rhode Island (Mr. L. CHAFFEE) were added as cosponsors of S. 2669, a bill to amend title 10, United States Code, to extend to persons over age 64 eligibility for medical care under CHAMPUS and TRICARE; to extend the TRICARE Senior Prime demonstration program in conjunction with the extension of eligibility under CHAMPUS and TRICARE to such persons, and for other purposes.

S. CON. RES. 105

At the request of Mr. ABRAHAM, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. Con. Res. 105, a concurrent resolution designating April 13, 2000, as a day of remembrance of the victims of the Katyn Forest massacre.

S. CON. RES. 113

At the request of Mr. MOYNIHAN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Con. Res. 113, a concurrent resolution expressing the sense of the Congress in recognition of the 10th anniversary of the free and fair elections in Burma and the urgent need to improve the democratic and human rights of the people of Burma.

SENATE RESOLUTION 317—A RESOLUTION EXPRESSING THE SENSE OF THE SENATE TO CONGRATULATE AND THANK THE MEMBERS OF THE UNITED STATES ARMED FORCES WHO PARTICIPATED IN THE JUNE 6, 1944, D-DAY INVASION OF EUROPE FOR FOREVER CHANGING THE COURSE OF HISTORY BY HELPING BRING AN END TO WORLD WAR II

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 317

Whereas General George C. Marshall, President Roosevelt's chief of staff, appointed General Dwight D. Eisenhower, to the war plans division of the United States Army in December 1941 and commissioned General Eisenhower to design an operational scheme for Allied victory in World War II;

Whereas in January 1943, the plan was adopted and given the code name Operation "Overlord";

Whereas the June 6, 1944, invasion of Europe, commonly known as "the D-Day invasion", was the largest single assault in the most massive military conflict in history;

Whereas participants in that invasion included 156,000 British, Canadian, and United States servicemembers and approximately 30,000 vehicles and 600,000 tons of supplies, and those servicemembers, backed by paratroopers and bombers, stormed a 50-mile stretch of beach in Normandy, France;

Whereas on June 6, 1944, D-Day, and in the seven months that followed, approximately

3,500,000 British, Canadian, and United States servicemembers embarked for Europe from Southampton, England;

Whereas approximately 31,000 United States servicemembers and more than 3,000 vehicles embarked for the D-Day invasion on 208 vessels at Weymouth and Portland, England;

Whereas between 15,000 and 20,000 tons of bombs were dropped in support of the D-Day invasion in the 24 hours between the night of June 5 and the night of June 6, 1944;

Whereas landing forces in the D-Day invasion were compelled to cross more than 200 yards of treacherous beach blanketed by mines, heavy machine-gun fire, and rifle fire;

Whereas the D-Day invasion was supported by more than 13,000 fighter, bomber, and transport aircraft, against which the German Air Force, the Luftwaffe, was able to deploy fewer than 400 aircraft of all types;

Whereas by June 11, 1944, the invasion force had established a bridgehead 50 miles wide and 12 miles deep, into which were landed 326,547 men, 54,186 vehicles, and 104,428 tons of supplies;

Whereas of the 156,000 British, Canadian, and United States servicemembers who took part in the initial D-Day invasion landings, 10,000 were casualties on the first day of the invasion;

Whereas total United States casualties on D-Day numbered 6,303, including 2,499 casualties among members of two airborne divisions participating in the invasion;

Whereas those casualties included 1,465 killed in action, 3,184 wounded in action, 1,928 missing in action, and 26 prisoners of war;

Whereas the success of the D-Day invasion was responsible for starting the liberation of occupied Europe from Nazi Germany and marked the beginning of the end of World War II; and

Whereas of the approximately living 25,000,000 United States veterans, approximately 1,500 die each day of whom two-thirds are veterans of World War II: Now, therefore, be it

Resolved, That it is the sense of the Senate to congratulate and thank the members of the United States Armed Forces who participated in the June 6, 1944, D-Day invasion of Europe for forever changing the course of history by helping bring an end to World War II.

• Ms. LANDRIEU. Mr. President, I rise today to honor the thousands of America, British, Canadian, and French veterans of the greatest amphibious invasion in military history. On June 6, 1944, the D-Day Allied Expeditionary Force included 150,000 troops, 1,500 tanks, 5,300 ships and landing craft, 12,000 airplanes, and 20,000 airborne troops. Ultimately, their task was to establish a western foothold on the European continent, and commence an overwhelming thrust against France's Nazi occupiers. General Dwight D. Eisenhower was convinced that launching Operation Overlord would hasten the end to World War II, as he stated on D-Day morning to his American troops, "In company with our brave Allies and brothers-in-arms on other Fronts you will bring about the destruction of the German war machine, the elimination of Nazi tyranny over oppressed peoples in Europe, and security for ourselves in a free world."

The invasion of Normandy far surpassed its goals, accomplishing four monumental tasks: it initiated the lib-

eration of France and dismantlement of the Nazi Third Reich, established a critical milestone in military strategic history, inaugurated an era of American preeminence, and, ultimately, made the world safe for democracy. But victory could not be achieved without any cost. By the end of D-Day, U.S. forces, including two deployed airborne divisions, suffered 6,603 casualties, with 1,465 killed, 3,184 wounded, and 1,928 missing in action. To these men who paid the ultimate price for our freedom, the world owes an incalculable measure of gratitude. Today, the people of the United States salute their memory, and continue honoring the courageous service of other D-Day veterans, like the senior senator from South Carolina, who risked similar fates in southern France.

Now, 56 years after the first Higgins Landing Craft beached on the Normandy shores, our country's first National D-Day Museum will open in my hometown of New Orleans. Built in the heart of Downtown, this institution will not only commemorate an awesome military success, but exhibit the unified vision of a nation's political, strategic, and industrial leaders. From the formulation of Operation Overlord to innovations in amphibious technology, every aspect of war-planning and implementation will be on display; contributors to our victory from various sectors of society will be studied—the decision-makers, the war tacticians, the equipment manufacturers, and the Americans in uniform. Esteemed political scientist, Stephen Ambrose has dedicated this museum to the American Spirit, the teamwork, optimism, courage and sacrifice of the men and women who won World War II. As they embarked on their "Great Crusade," Eisenhower reminded America's soldiers that "the eyes of the world are upon you." Well, today I say to the veterans of Normandy that the hopes and prayers of liberty-loving people everywhere continue to march with you. Forever embodied in the National D-Day Museum, we have distinguished one of America's finest generations with an indelible place in our country's history, sustaining a promising legacy for our country's future generations. ●

SENATE RESOLUTION 318—HONORING THE 129 SAILORS AND CIVILIANS LOST ABOARD THE U.S.S. "THRESHER" (SSN 593) ON APRIL 10, 1963; EXTENDING THE GRATITUDE OF THE NATION FOR THEIR LAST, FULL MEASURE OF DEVOTION; AND ACKNOWLEDGING THE CONTRIBUTIONS OF THE NAVAL SUBMARINE SERVICE AND THE PORTSMOUTH NAVAL SHIPYARD TO THE DEFENSE OF THE NATION

Ms. SNOWE (for herself, Mr. SMITH of New Hampshire, Mr. GREGG, Ms. COLLINS, Mr. WARNER, Mr. ROBB, Mr. SESSIONS, Mr. LEVIN, and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to:

S. RES. 318

Whereas this is the 100th year of service to the people of the United States by the United States Navy submarine force, the "Silent Service";

Whereas this is the 200th year of service to the Nation of the Portsmouth Naval Shipyard;

Whereas Portsmouth Naval Shipyard launched the first Navy built submarine, the L-8, on April 23, 1917;

Whereas 52 years and 133 submarines later, on November 11, 1969, Portsmouth Naval Shipyard launched the last submarine built by the Navy, the U.S.S. *Sand Lance*;

Whereas the U.S.S. *Thresher* was launched at Portsmouth Naval Shipyard on July 9, 1960;

Whereas the U.S.S. *Thresher* departed Portsmouth Naval Shipyard on April 9, 1963, with a crew of 129 composed of 16 officers, 96 sailors, and 17 civilians;

Whereas the mix of that crew reflects the unity of the naval submarine service, military and civilian, in the protection of the Nation;

Whereas at approximately 7:45 a.m. on April 10, 1963, at a location near 41.46 degrees North latitude and 65.03 degrees West longitude, the U.S.S. *Thresher* began her final mission;

Whereas the U.S.S. *Thresher* was declared lost with all hands on April 10, 1963;

Whereas from the loss of that submarine, there arose the SUBSAFE program which has kept America's submariners safe at sea ever since as the strongest, safest submarine force in history;

Whereas from the loss of the U.S.S. *Thresher*, there arose in our Nation's universities the ocean engineering curricula that enables America's preeminence in submarine warfare; and

Whereas the "last full measure of devotion" shown by the crew of the U.S.S. *Thresher* characterizes the sacrifice of all submariners, past and present, military and civilian, in the service of this Nation: Now, therefore, be it

Resolved, That the Senate—

(1) remembers with profound sorrow the loss of the U.S.S. *Thresher* and her gallant crew of sailors and civilians on April 10, 1963;

(2) expresses its deepest gratitude to all submariners on "eternal patrol", forever bound together by their dedicated and honorable service to the United States of America;

(3) recognizes with appreciation and respect the commitment and sacrifices made by the Naval Submarine Service for the past 100 years in providing for the common defense of the United States; and

(4) offers its admiration and gratitude for the workers of the Portsmouth Naval Shipyard whose 200 years of dedicated service to the United States Navy has contributed directly to the greatness and freedom of the United States.

SEC. 2. TRANSMISSION OF RESOLUTION.

The Secretary of the Senate shall transmit this resolution to the Chief of Naval Operations and to the Commanding Officer of the Portsmouth Naval Shipyard who shall accept this resolution on behalf of the families and shipmates of the crew of the U.S.S. *Thresher*.

Ms. SNOWE. Mr. President, I rise today to introduce a resolution that recognizes the contributions and sacrifices to our nation's defense provided by the men and women of the United States Naval Submarine Service and the Portsmouth Naval Shipyard at Kittery, Maine, and to specifically recognize that "last full measure of devotion" shown by the crew of the USS *Thresher* on April 10, 1963.

As you are aware, this year the U.S. Navy is celebrating the 100th year of service to our country by the Naval Submarine Service. From the acquisition of its first submarine, the USS *Holland*, in April 1900 to the present day, the U.S. Naval Submarine Service has served America bravely, gallantly, and steadfastly. We are all aware of the debt we owe the Submarine Service for their role in World War II when, in the immediate dark days after the attack on Pearl Harbor, the "Silent Service" took the war to the enemy. Although they lost 52 submarines and more than 3,500 submariners, they accounted for 55 percent of all enemy ships lost and significantly contributed to the final victory in the Pacific. Since that time the Submarine Service has continued to protect the nation through its deterrence patrols and many other missions. In just the past few years the ability of our submarines to provide a stealthy, land-attack capability in support of operations in the Persian Gulf and in Kosovo has proven once again that their adaptability and capability are vital to the security interests of this nation.

A significant supporter of the Submarine Service for the past 100 years and this nation for the past 200 years has been the Portsmouth Naval Shipyard in Kittery, Maine. Beginning in 1800, the shipyard provided the U.S. Navy with "ships of the line" and during the War of 1812 it became a Navy command. But it is the shipyard's contributions to the Submarine Service that I want to talk about here today.

In April 1917, the first submarine built in a government shipyard, the L-8, was launched at the Portsmouth Naval Shipyard and in the ensuing 52 years, the shipyard launched another 133 submarines, including a record 31 in 1944 alone. In November 1971, the last submarine built in a government yard, the USS *Sand Lance*, was launched at Portsmouth before they took on their new role to overhaul, repair, and refuel nuclear submarines. But during their 52 years of building submarines Portsmouth delivered many firsts to the Submarine Service: First U.S. submarine built with an all-welded steel hull—the *Snapper*; first U.S. submarine built of high tensile steel—the *Balao*; first snorkel installed in a U.S. submarine—the *Irex*; first truly submersible hull developed using dirigible form, a breakthrough in hydrodynamic design—the *Albacore*; and the first nuclear powered submarine built in a government shipyard—the *Swordfish*.

But the shipyard and the Submarine Service could not have accomplished these important contributions to our nation's security without the unfailing valor and unselfish service of the submarine crews and shipyard workers that put them to sea. Perhaps there is no greater example of our American virtue of standing together for the common defense than the story of the USS *Thresher*, a nuclear submarine launched at Portsmouth Naval Shipyard on July 9, 1960.

When she was launched the *Thresher* represented a new class of submarine for the Navy. The *Thresher*-class was designed to be the world's first modern, quiet, deep-diving fast-attack submarine. Some of her innovative features included machinery rafts for sound silencing, a large bow-mounted sonar, torpedo tubes amidships and a hydrodynamically streamlined hull. After two and a half years of trials, evaluations, and the development of new fast-attack tactics, the *Thresher* returned to her home yard. On April 9, 1963, she got underway for a series of deep-diving trials to be held about 220 nautical miles east of Cape Cod. On board was a crew of 129 made up of sailors, officers, Portsmouth Naval Shipyard workers and contractors. Shortly after beginning her dive, something went horribly wrong and the *Thresher* and all 129 souls on board were lost at sea.

But another example of our American character is the drive to create success from adversity and from the loss of the *Thresher* came two initiatives that have permitted the Submarine Service to gain unchallenged preeminence in undersea warfare.

First was the implementation of the SubSafe program. This standard dictates that every submarine, every hull integrity-related system and every pressure-related part within those systems must be 100 percent certified safe for use aboard the submarine. And since that time, no submarine has been lost because of a similar casualty.

Second, a recommendation by the Deep Submergence Systems Review Group, which looked into the cause of the tragedy, was that a curriculum be established to train engineers to design and develop systems specifically for use in the ocean environment—the discipline of ocean engineering. Since that time ocean engineering programs have been established in Florida, Rhode Island, Massachusetts, Texas, Virginia, Hawaii and the Naval Academy. From these programs have come the engineers who have designed and developed the *Los Angeles*, the *Ohio*, the *Seawolf* and the *Virginia*-classes of submarines. Engineers like retired Admiral Millard Firebaugh, a former ship superintendent at the Portsmouth Naval Shipyard, who earned a doctorate of science degree in Ocean Engineering from MIT and went on to become the program manager for the design and construction of the *Seawolf*.

We in this nation owe a great debt to the 129 crewmen of the USS *Thresher*, to all who have served aboard submarines over the past 100 years and to the civilians who have accepted the risk and sacrificed alongside their submarine shipmates. When I learned that there had never been a resolution passed in this body acknowledging the loss of this gallant crew and expressing our gratitude for their sacrifice, I believed that in this 100th year of the Submarine Service and the 200th year of their home yard, the Portsmouth

Naval Shipyard, it was entirely appropriate and timely of us to do so.

I therefore ask unanimous consent that an enrolled copy be transmitted to and accepted by the commanding officer of Portsmouth Naval Shipyard on behalf of the families and shipmates of the crew of the *USS Thresher*, the crews of the Naval Submarine Service and the workers of the Portsmouth Naval Shipyard.

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

SENATE CONCURRENT RESOLUTION 120—TO EXPRESS THE SENSE OF CONGRESS REGARDING THE NEED TO PASS LEGISLATION TO INCREASE PENALTIES ON PERPETRATORS OF HATE CRIMES

Mr. ROBB (for himself, Mr. REID, and Mr. KENNEDY) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 120

Whereas diversity and tolerance are essential principles of an open and free society;

Whereas all people deserve to be safe within their communities, free to live, work, and worship without fear of violence and bigotry;

Whereas crimes motivated by hatred against persons because of their race, color, religion, national origin, gender, sexual orientation, or disability undermine the fundamental values of our Nation;

Whereas hate crimes tear at the fabric of American society, leave scars on victims and their families, and weaken our sense of community and purpose; and

Whereas individuals who commit crimes based on hate and bigotry must be held responsible for their actions and must be stopped from spreading violence: : Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that Congress—

(1) needs to pass legislation that amends the Federal criminal code to set penalties for persons who commit acts of violence against other persons because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person;

(2) condemns the culture of hate and the hate groups that foster such violent acts;

(3) commends the communities throughout our Nation that are united in condemning such acts of hate in their neighborhoods;

(4) commends the efforts of Federal, State, and local law enforcement officials; and

(5) reaffirms its commitment to a society that fully respects and protects all people, regardless of race, color, religion, national origin, gender, sexual orientation, or disability.

Mr. ROBB. Mr. President, I rise to introduce a concurrent resolution urging Congress to enact meaningful hate crimes legislation. Today marks the sad second anniversary of the killing of James Byrd, Jr., the victim of a vicious hate crime in Texas. Mr. Byrd, a 49-year-old African-American man, was dragged for approximately two miles while chained to the back of a pickup truck by his white assailants. As a result of this brutal attack, Mr. Byrd's head and right arm were severed from his body.

Reflecting on this terrible act of deep hatred against the dignity of a human being should strengthen our resolve to combat acts of bias in our society. We will not get to where we need to go in this country until we have eradicated the discriminatory hatred that lies in some people's hearts. While we cannot legislate away the prejudice in a person's heart or soul, we can certainly punish those who act upon their feelings of hatred and commit acts of utter brutality. Hate crimes tear at the very fabric of American society and often scar, not just the victims, but the families and communities involved as well. Those who harbor hatred must know that America will punish them for their actions and that we will not tolerate their acts of inhumanity.

Our Nation is composed of a great diversity that contributes to our economic and educational preeminence in the world. We will never achieve all that our Nation is capable of accomplishing unless we are united in addressing the scourge of prejudice and hate crimes in our society. The Congress can lead on this issue by enacting comprehensive legislation, such as the Hate Crimes Prevention Act, that expands existing hate crimes law. Not only should those who are victimized by hate crimes because of their gender, sexual orientation, or disability be afforded access to appropriate justice, but we as a Nation should also pursue swift and serious punishment against violent hate-mongers to send a message that we will not tolerate their hate.

Today, I join with colleagues from both the Senate and the House to introduce this concurrent resolution and spur action to combat the crimes motivated by bias which continue to shock the conscience of our civil society. Federal hate crimes legislation provides another avenue for prosecuting the perpetrators of violent hate, and I look forward to enacting a comprehensive Federal hate crimes statute. I am confident that our abhorrence of hate crimes will move the Congress to action.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

JOHNSON (AND OTHERS)
AMENDMENT NO. 3191

Mr. JOHNSON (for himself, Mr. MCCAIN, Mr. BINGAMAN, Mrs. MURRAY, Mr. REID, Mr. JEFFORDS, Mr. DORGAN, Mr. ROBB, AND Mr. WELLSTONE) proposed an amendment to the bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 241, strike line 17 and all that follows through page 243, line 19, and insert the following:

SEC. 703. HEALTH CARE FOR MILITARY RETIREES.

(a) FINDINGS.—Congress makes the following findings:

(1) No statutory health care program existed for members of the uniformed services who entered service prior to June 7, 1956, and retired after serving a minimum of 20 years or by reason of a service-connected disability.

(2) Recruiters for the uniformed services are agents of the United States government and employed recruiting tactics that allowed members who entered the uniformed services prior to June 7, 1956, to believe they would be entitled to fully-paid lifetime health care upon retirement.

(3) Statutes enacted in 1956 entitled those who entered service on or after June 7, 1956, and retired after serving a minimum of 20 years or by reason of a service-connected disability, to medical and dental care in any facility of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.

(4) After 4 rounds of base closures between 1988 and 1995 and further drawdowns of remaining military medical treatment facilities, access to "space available" health care in a military medical treatment facility is virtually nonexistent for many military retirees.

(5) The military health care benefit of "space available" services and Medicare is no longer a fair and equitable benefit as compared to benefits for other retired Federal employees.

(6) The failure to provide adequate health care upon retirement is preventing the retired members of the uniformed services from recommending, without reservation, that young men and women make a career of any military service.

(7) The United States should establish health care that is fully paid by the sponsoring agency under the Federal Employees Health Benefits program for members who entered active duty on or prior to June 7, 1956, and who subsequently earned retirement.

(8) The United States should reestablish adequate health care for all retired members of the uniformed services that is at least equivalent to that provided to other retired Federal employees by extending to such retired members of the uniformed services the option of coverage under the Federal Employees Health Benefits program, the Civilian Health and Medical Program of the uniformed services, or the TRICARE Program.

(b) COVERAGE OF MILITARY RETIREES UNDER FEHBP.—

(1) EARNED COVERAGE FOR CERTAIN RETIREES AND DEPENDENTS.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8905, by adding at the end the following new subsection:

"(h) For purposes of this section, the term 'employee' includes a retired member of the uniformed services (as defined in section 101(a)(5) of title 10) who began service before June 7, 1956. A surviving widow or widower of such a retired member may also enroll in an approved health benefits plan described by section 8903 or 8903a of this title as an individual."; and

(B) in section 8906(b)—

(i) by striking "paragraphs (2) and (3)" and inserting "paragraphs (2) through (5)"; and

(ii) by adding at the end the following new paragraph:

"(5) In the case of an employee described in section 8905(h) or the surviving widow or

widower of such an employee, the Government contribution for health benefits shall be 100 percent, payable by the department from which the employee retired.”.

(2) COVERAGE FOR OTHER RETIREES AND DEPENDENTS.—(A) Section 1108 of title 10, United States Code, is amended to read as follows:

“§ 1108. Health care coverage through Federal Employees Health Benefits program

“(a) FEHBP OPTION.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to provide coverage to eligible beneficiaries described in subsection (b) under the health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5.

“(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An eligible beneficiary under this subsection is—

“(A) a member or former member of the uniformed services described in section 1074(b) of this title;

“(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G);

“(C) an individual who is—

“(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

“(ii) a member of family as defined in section 8901(5) of title 5; or

“(D) an individual who is—

“(i) a dependent of a living member or former member described in section 1076(b)(1) of this title; and

“(ii) a member of family as defined in section 8901(5) of title 5.

“(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes any dependent of the member or former member who is a family member for purposes of such chapter.

“(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D)) as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under this section.

“(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

“(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

“(6) An eligible beneficiary who enrolls in the Federal Employees Health Benefits program under this section shall not be eligible to receive health care under section 1086 or section 1097. Such a beneficiary may continue to receive health care in a military medical treatment facility, in which case the treatment facility shall be reimbursed by the Federal Employees Health Benefits program for health care services or drugs received by the beneficiary.

“(c) CHANGE OF HEALTH BENEFITS PLAN.—An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change health benefits plans

and coverage in the same manner as any other Federal Employees Health Benefits program beneficiary may change such plans.

“(d) GOVERNMENT CONTRIBUTIONS.—The amount of the Government contribution for an eligible beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section may not exceed the amount of the Government contribution which would be payable if the electing beneficiary were an employee (as defined for purposes of such chapter) enrolled in the same health benefits plan and level of benefits.

“(e) SEPARATE RISK POOLS.—The Director of the Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 to maintain a separate risk pool for purposes of establishing premium rates for eligible beneficiaries who enroll in such a plan in accordance with this section.”.

(B) The item relating to section 1108 at the beginning of such chapter is amended to read as follows:

“1108. Health care coverage through Federal Employees Health Benefits program.”.

(C) The amendments made by this paragraph shall take effect on January 1, 2001.

(c) EXTENSION OF COVERAGE OF CHAMPUS.—Section 1086 of title 10, United States Code, is amended—

(1) in subsection (c), by striking “Except as provided in subsection (d), the”, and inserting “The”;

(2) by striking subsection (d); and

(3) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

KERREY AMENDMENT NO. 3192

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 200, following line 23, add the following:

SEC. 566. PREPARATION, PARTICIPATION, AND CONDUCT OF ATHLETIC COMPETITIONS AND SMALL ARMS COMPETITIONS BY THE NATIONAL GUARD AND MEMBERS OF THE NATIONAL GUARD.

(a) PREPARATION AND PARTICIPATION OF MEMBERS GENERALLY.—Subsection (a) of section 504 of title 32, United States Code, is amended—

(1) by striking “or” at the end of paragraph (2);

(2) in paragraph (3)—

(A) by inserting “prepare for and” before “participate”; and

(B) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) prepare for and participate in qualifying athletic competitions.”.

(b) CONDUCT OF COMPETITIONS.—That section is further amended by adding at the end the following new subsection:

“(c)(1) Units of the National Guard may conduct small arms competitions and athletic competitions in conjunction with training required under this chapter if such activities would meet the requirements set forth in paragraphs (1), (3), and (4) of section 508(a) of this title if such activities were services to be provided under that section.

“(2) Facilities and equipment of the National Guard, including military property and vehicles described in section 508(c) of this title, may be used in connection with activities under paragraph (1).”.

(c) AVAILABILITY OF FUNDS.—That section is further amended by adding at the end the following new subsection:

“(d) Subject to provisions of appropriations Acts, amounts appropriated for the National Guard may be used in order to cover the costs of activities under subsection (c) and of expenses of members of the National Guard under paragraphs (3) and (4) of subsection (a), including expenses of attendance and participation fees, travel, per diem, clothing, equipment, and related expenses.”.

(d) QUALIFYING ATHLETIC COMPETITIONS DEFINED.—That section is further amended by adding at the end the following new subsection:

“(e) In this section, the term ‘qualifying athletic competition’ means a competition in athletic events that require skills relevant to military duties or involve aspects of physical fitness that are evaluated by the armed forces in determining whether a member of the National Guard is fit for military duty.”.

(e) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

“§ 504. National Guard schools; small arms competitions; athletic competitions”.

(2) The table of sections at the beginning of chapter 5 of that title is amended by striking the item relating to section 504 and inserting the following new item:

“504. National Guard schools; small arms competitions; athletic competitions.”.

BINGAMAN AMENDMENTS NOS.

3193–3195

(Ordered to lie on the table.)

Mr. BINGAMAN submitted three amendments intended to be proposed by him to the bill, S. 2549, supra; as follows:

AMENDMENT NO. 3193

At the end of title X, insert the following:
SEC. 10. CONGRESSIONAL MEDALS FOR NAVAJO CODE TALKERS.

(a) FINDINGS.—Congress finds that—

(1) on December 7, 1941, the Japanese Empire attacked Pearl Harbor and war was declared by Congress on the following day;

(2) the military code developed by the United States for transmitting messages had been deciphered by the Japanese, and a search was made by United States Intelligence to develop new means to counter the enemy;

(3) the United States Government called upon the Navajo Nation to support the military effort by recruiting and enlisting 29 Navajo men to serve as Marine Corps Radio Operators;

(4) the number of Navajo enlistees later increased to more than 350;

(5) at the time, the Navajos were often treated as second-class citizens, and they were a people who were discouraged from using their own native language;

(6) the Navajo Marine Corps Radio Operators, who became known as the “Navajo Code Talkers”, were used to develop a code using their native language to communicate military messages in the Pacific;

(7) to the enemy’s frustration, the code developed by these Native Americans proved to be unbreakable, and was used extensively throughout the Pacific theater;

(8) the Navajo language, discouraged in the past, was instrumental in developing the most significant and successful military code of the time;

(9) at Iwo Jima alone, the Navajo Code Talkers passed more than 800 error-free messages in a 48-hour period;

(10) use of the Navajo Code was so successful, that—

(A) military commanders credited it in saving the lives of countless American soldiers and in the success of the engagements of the United States in the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima, and Okinawa;

(B) some Code Talkers were guarded by fellow Marines, whose role was to kill them in case of imminent capture by the enemy; and

(C) the Navajo Code was kept secret for 23 years after the end of World War II;

(11) following the conclusion of World War II, the Department of Defense maintained the secrecy of the Navajo Code until it was declassified in 1968; and

(12) only then did a realization of the sacrifice and valor of these brave Native Americans emerge from history.

(b) CONGRESSIONAL MEDALS AUTHORIZED.—To express recognition by the United States and its citizens in honoring the Navajo Code Talkers, who distinguished themselves in performing a unique, highly successful communications operation that greatly assisted in saving countless lives and hastening the end of World War II in the Pacific, the President is authorized—

(1) to award to each of the original 29 Navajo Code Talkers, or a surviving family member, on behalf of the Congress, a gold medal of appropriate design, honoring the Navajo Code Talkers; and

(2) to award to each person who qualified as a Navajo Code Talker (MOS 642), or a surviving family member, on behalf of the Congress, a silver medal of appropriate design, honoring the Navajo Code Talkers.

(c) DESIGN AND STRIKING.—For purposes of the awards authorized by subsection (b), the Secretary of the Treasury (in this section referred to as the "Secretary") shall strike gold and silver medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(d) DUPLICATE MEDALS.—The Secretary may strike and sell duplicates in bronze of the medals struck pursuant to this section, under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the medals.

(e) NATIONAL MEDALS.—The medals struck pursuant to this section are national medals for purposes of chapter 51, of title 31, United States Code.

(f) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, not more than \$30,000, to pay for the costs of the medals authorized by this section.

(g) PROCEEDS OF SALE.—Amounts received from the sale of duplicate medals under this section shall be deposited in the United States Mint Public Enterprise Fund.

AMENDMENT No. 3194

On page 236, between lines 6 and 7, insert the following:

SEC. 646. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIREMENTS TO MILITARY RESERVE TECHNICIANS.

(a) TECHNICIANS COVERED BY FERS.—Paragraph (1) of section 8414(c) of title 5, United States Code, is amended by striking "after becoming 50 years of age and completing 25 years of service" and inserting "after completing 25 years of service or after becoming 50 years of age and completing 20 years of service".

(b) TECHNICIANS COVERED BY CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(p) Section 8414(c) of this title applies—
"(1) under paragraph (1) of such section to a military reserve technician described in

that paragraph for purposes of determining entitlement to an annuity under this subchapter; and

"(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter."

(c) TECHNICAL AMENDMENT.—Section 1109(a)(2) of Public Law 105-261 (112 Stat. 2143) is amended by striking "adding at the end" and inserting "inserting after subsection (n)".

(d) APPLICABILITY.—Subsection (c) of section 8414 of such title (as amended by subsection (a)), and subsection (p) of section 8336 of title 5, United States Code (as added by subsection (b)), shall apply according to the provisions thereof with respect to separations from service referred to in such subsections that occur on or after October 5, 1999.

AMENDMENT No. 3195

On page 53, after line 23, add the following:

SEC. 243. ENHANCEMENT OF AUTHORITIES REGARDING EDUCATION PARTNERSHIPS FOR PURPOSES OF ENCOURAGING SCIENTIFIC STUDY.

(a) ASSISTANCE IN SUPPORT OF PARTNERSHIPS.—Subsection (b) of section 2194 of title 10, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting ", and is encouraged to provide," after "may provide";

(2) in paragraph (1), by inserting before the semicolon the following: "for any purpose and duration in support of such agreement that the director considers appropriate"; and

(3) by striking paragraph (2) and inserting the following new paragraph (2):

"(2) notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any provision of law or regulation relating to transfers of surplus property, transferring to the institution any defense laboratory equipment (regardless of the nature of type of such equipment) surplus to the needs of the defense laboratory that is determined by the director to be appropriate for support of such agreement;"

(b) DEFENSE LABORATORY DEFINED.—Subsection (e) of that section is amended to read as follows:

"(e) In this section:

"(1) The term 'defense laboratory' means any laboratory, product center, test center, depot, training and educational organization, or operational command under the jurisdiction of the Department of Defense.

"(2) The term 'local educational agency' has the meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)."

BINGAMAN (AND MURRAY)

AMENDMENT No. 3196

(Ordered to lie on the table.)
Mr. BINGAMAN (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 239, following line 22, add the following:

SEC. 656. ADDITIONAL BENEFITS AND PROTECTIONS FOR PERSONNEL INCURRING INJURY, ILLNESS, OR DISEASE IN THE PERFORMANCE OF FUNERAL HONORS DUTY.

(a) INCAPACITATION PAY.—Section 204 of title 37, United States Code, is amended—

(1) in subsection (g)(1)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(C) by adding at the end the following:

"(E) in line of duty while—

"(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

"(ii) traveling to or from the place at which the duty was to be performed; or

"(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence."; and

(2) in subsection (h)(1)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(C) by adding at the end the following:

"(E) in line of duty while—

"(i) serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

"(ii) traveling to or from the place at which the duty was to be performed; or

"(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.";

(b) TORT CLAIMS.—Section 2671 of title 28, United States Code, is amended by inserting "115," in the second paragraph after "members of the National Guard while engaged in training or duty under section".

(c) APPLICABILITY.—(1) The amendments made by subsection (a) shall apply with respect to months beginning on or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to acts and omissions occurring before, on, or after the date of the enactment of this Act.

MCCAIN (AND OTHERS)

AMENDMENT No. 3197

(Ordered to lie on the table.)

Mr. MCCAIN (for himself, Mr. LEVIN, Mr. ROBB, Mr. VOINOVICH, Mr. REED, Mr. DEWINE, and Mr. WYDEN) submitted an amendment to be proposed by them to the bill, S. 2549, supra; as follows:

On page 530, after line 21, add the following:

SEC. 2822. AUTHORITY TO CARRY OUT BASE CLOSURE ROUNDS IN 2003 AND 2005.

(a) COMMISSION MATTERS.—

(1) APPOINTMENT.—Subsection (c)(1) of section 2902 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (B)—

(i) by striking "and" at the end of clause (ii);

(ii) by striking the period at the end of clause (iii) and inserting a semicolon; and

(iii) by adding at the end the following new clauses (iv) and (v):

"(iv) by no later than January 24, 2003, in the case of members of the Commission whose terms will expire at the end of the first session of the 108th Congress; and

"(v) by no later than March 15, 2005, in the case of members of the Commission whose terms will expire at the end of the first session of the 109th Congress."; and

(B) in subparagraph (C), by striking "or for 1995 in clause (iii) of such subparagraph" and inserting ", for 1995 in clause (iii) of that subparagraph, for 2003 in clause (iv) of that subparagraph, or for 2005 in clause (v) of that subparagraph".

(2) MEETINGS.—Subsection (e) of that section is amended by striking "and 1995" and inserting "1995, 2003, and 2005".

(3) STAFF.—Subsection (i)(6) of that section is amended in the matter preceding subparagraph (A) by striking “and 1994” and inserting “, 1994, and 2004”.

(4) FUNDING.—Subsection (k) of that section is amended by adding at the end the following new paragraph (4):

“(4) If no funds are appropriated to the Commission by the end of the second session of the 107th Congress for the activities of the Commission in 2003 or 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in either of those years such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.”.

(5) TERMINATION.—Subsection (l) of that section is amended by striking “December 31, 1995” and inserting “December 31, 2005”.

(b) PROCEDURES.—

(1) FORCE-STRUCTURE PLAN.—Subsection (a)(1) of section 2903 of that Act is amended by striking “and 1996,” and inserting “1996, 2004, and 2006,”.

(2) SELECTION CRITERIA.—Subsection (b) of such section 2903 is amended—

(A) in paragraph (1), by inserting “and by no later than December 31, 2001, for purposes of activities of the Commission under this part in 2003 and 2005,” after “December 31, 1990,”;

(B) in paragraph (2)(A)—

(i) in the first sentence, by inserting “and by no later than February 15, 2002, for purposes of activities of the Commission under this part in 2003 and 2005,” after “February 15, 1991,”; and

(ii) in the second sentence, by inserting “, or enacted on or before March 31, 2002, in the case of criteria published and transmitted under the preceding sentence in 2001” after “March 15, 1991,”; and

(C) by adding at the end a new paragraph: “(3) Any selection criteria proposed by the Secretary relating to the cost savings or return on investment from the proposed closure or realignment of a military installation shall be based on the total cost and savings to the Federal Government that would result from the proposed closure or realignment of such military installation.”.

(3) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c) of such section 2903 is amended—

(A) in paragraph (1), by striking “and March 1, 1995,” and inserting “March 1, 1995, March 14, 2003, and May 16, 2005,”;

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

“(4)(A) In making recommendations to the Commission under this subsection in any year after 1999, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

“(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan and final criteria otherwise applicable to such recommendations under this section.

“(C) The recommendations made by the Secretary under this subsection in any year after 1999 shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to an installation covered by such recommendations. The statement shall set forth the reasons for the result.”; and

(D) in paragraph (7), as so redesignated—

(i) in the first sentence, by striking “paragraph (5)(B)” and inserting “paragraph (6)(B)”;

(ii) in the second sentence, by striking “24 hours” and inserting “48 hours”.

(4) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of such section 2903 is amended—

(A) in paragraph (2)(A), by inserting “or by no later than July 7 in the case of recommendations in 2003, or no later than September 8 in the case of recommendations in 2005,” after “pursuant to subsection (c),”;

(B) in paragraph (4), by inserting “or after July 7 in the case of recommendations in 2003, or after September 8 in the case of recommendations in 2005,” after “under this subsection,”; and

(C) in paragraph (5)(B), by inserting “or by no later than June 7 in the case of such recommendations in 2003 and 2005,” after “such recommendations,”.

(5) REVIEW BY PRESIDENT.—Subsection (e) of such section 2903 is amended—

(A) in paragraph (1), by inserting “or by no later than July 22 in the case of recommendations in 2003, or no later than September 23 in the case of recommendations in 2005,” after “under subsection (d),”;

(B) in the second sentence of paragraph (3), by inserting “or by no later than August 18 in the case of 2003, or no later than October 20 in the case of 2005,” after “the year concerned,”; and

(C) in paragraph (5), by inserting “or by September 3 in the case of recommendations in 2003, or November 7 in the case of recommendations in 2005,” after “under this part,”.

(c) CLOSURE AND REALIGNMENT OF INSTALLATIONS.—Section 2904(a) of that Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

“(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in each such report after 1999 only if privatization in place is a method of closure or realignment of the installation specified in the recommendation of the Commission in such report and is determined to be the most-cost effective method of implementation of the recommendation.”.

(d) RELATIONSHIP TO OTHER BASE CLOSURE AUTHORITY.—Section 2909(a) of that Act is amended by striking “December 31, 1995,” and inserting “December 31, 2005,”.

(e) TECHNICAL AND CLARIFYING AMENDMENTS.—

(1) COMMENCEMENT OF PERIOD FOR NOTICE OF INTEREST IN PROPERTY FOR HOMELESS.—Section 2905(b)(7)(D)(ii)(I) of that Act is amended by striking “that date” and inserting “the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV)”.

(2) OTHER CLARIFYING AMENDMENTS.—

(A) That Act is further amended by inserting “or realigned” after “closure” each place it appears in the following provisions:

(i) Section 2905(b)(3).

(ii) Section 2905(b)(5).

(iii) Section 2905(b)(7)(B)(iv).

(iv) Section 2905(b)(7)(N).

(v) Section 2910(10)(B).

(B) That Act is further amended by inserting “or realigned” after “closed” each place it appears in the following provisions:

(i) Section 2905(b)(3)(C)(ii).

(ii) Section 2905(b)(3)(D).

(iii) Section 2905(b)(3)(E).

(iv) Section 2905(b)(4)(A).

(v) Section 2905(b)(5)(A).

(vi) Section 2910(9).

(vii) Section 2910(10).

(C) Section 2905(e)(1)(B) of that Act is amended by inserting “, or realigned or to be realigned,” after “closed or to be closed”.

REID (AND OTHERS) AMENDMENT NO. 3198

(Ordered to lie on the table.)

Mr. REID (for himself, Mr. INOUE, Ms. LANDRIEU, Mr. JOHNSON, Mr. DASCHLE, Mr. MCCAIN, Mr. DORGAN, Mr. BRYAN, and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

At the appropriate place in title VI, insert the following:

SEC. ____ CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION FOR RETIRED MEMBERS WITH SERVICE- CONNECTED DISABILITIES.

(a) CONCURRENT PAYMENT.—Section 5304(a) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(3) Notwithstanding the provisions of paragraph (1) and section 5305 of this title, compensation under chapter 11 of this title may be paid to a person entitled to receive retired or retirement pay described in such section 5305 concurrently with such person's receipt of such retired or retirement pay.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and apply with respect to payments of compensation for months beginning on or after that date.

(c) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits shall be paid to any person by virtue of the amendment made by subsection (a) for any period before the effective date of this Act as specified in subsection (b).

BIDEN AMENDMENT NO. 3199

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill (S. 2549), supra; as follows:

At the appropriate place, insert the following:

DIVISION ____—VIOLENCE AGAINST WOMEN

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the “Violence Against Women Act II”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Accountability and oversight.

TITLE I—STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN

Sec. 101. Full faith and credit enforcement of protection orders.

Sec. 102. Role of courts.

Sec. 103. Reauthorization of STOP grants.

Sec. 104. Reauthorization of grants to encourage arrest policies.

Sec. 105. Reauthorization of rural domestic violence and child abuse enforcement grants.

Sec. 106. National stalker and domestic violence reduction.

Sec. 107. Amendments to domestic violence and stalking offenses.

Sec. 108. Grants to reduce violent crimes against women on campus.

TITLE II—STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE

Sec. 201. Legal assistance for victims.

- Sec. 202. Shelter services for battered women and children.
- Sec. 203. Transitional housing assistance for victims of domestic violence.
- Sec. 204. National domestic violence and sexual assault hotline.
- Sec. 205. Federal victims counselors.
- Sec. 206. Study of State laws regarding insurance discrimination against victims of violence against women.
- Sec. 207. Study of workplace effects from violence against women.
- Sec. 208. Study of unemployment compensation for victims of violence against women.
- Sec. 209. Enhancing protections for older women from domestic violence and sexual assault.

TITLE III—LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

- Sec. 301. Safe havens for children pilot program.
- Sec. 302. Reauthorization of runaway and homeless youth grants.
- Sec. 303. Reauthorization of victims of child abuse programs.
- Sec. 304. Report on effects of parental kidnapping laws in domestic violence cases.

TITLE IV—STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN

- Sec. 401. Education and training in appropriate responses to violence against women.
- Sec. 402. Rape prevention and education.
- Sec. 403. Education and training to end violence against and abuse of women with disabilities.
- Sec. 404. Community initiatives.
- Sec. 405. Development of research agenda identified by the Violence Against Women Act of 1994.

TITLE V—BATTERED IMMIGRANT WOMEN

- Sec. 501. Short title.
- Sec. 502. Findings and purposes.
- Sec. 503. Improved access to immigration protections of the Violence Against Women Act of 1994 for battered immigrant women.
- Sec. 504. Improved access to cancellation of removal and suspension of deportation under the Violence Against Women Act of 1994.
- Sec. 505. Offering equal access to immigration protections of the Violence Against Women Act of 1994 for all qualified battered immigrant self-petitioners.
- Sec. 506. Restoring immigration protections under the Violence Against Women Act of 1994.
- Sec. 507. Remedying problems with implementation of the immigration provisions of the Violence Against Women Act of 1994.
- Sec. 508. Technical correction to qualified alien definition for battered immigrants.
- Sec. 509. Protection for certain crime victims including crimes against women.
- Sec. 510. Access to Cuban Adjustment Act for battered immigrant spouses and children.
- Sec. 511. Access to the Nicaraguan Adjustment and Central American Relief Act for battered spouses and children.
- Sec. 512. Access to the Haitian Refugee Fairness Act of 1998 for battered spouses and children.
- Sec. 513. Access to services and legal representation for battered immigrants.

TITLE VI—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

- Sec. 601. Extension of Violent Crime Reduction Trust Fund.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term “domestic violence” has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2); and

(2) the term “sexual assault” has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

SEC. 3. ACCOUNTABILITY AND OVERSIGHT.

(a) **REPORT BY GRANT RECIPIENTS.**—The Attorney General or Secretary of Health and Human Services, as applicable, shall require grantees under any program authorized or reauthorized by this Act or an amendment made by this Act to report on the effectiveness of the activities carried out with amounts made available to carry out that program, including number of persons served, if applicable, numbers of persons seeking services who could not be served and such other information as the Attorney General or Secretary may prescribe.

(b) **REPORT TO CONGRESS.**—The Attorney General or Secretary of Health and Human Services, as applicable, shall report annually to the Committees on the Judiciary of the House of Representatives and the Senate on the grant programs described in subsection (a), including the information contained in any report under that subsection.

TITLE I—STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN

SEC. 101. FULL FAITH AND CREDIT ENFORCEMENT OF PROTECTION ORDERS.

(a) **IN GENERAL.**—Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended—

(1) in the heading, by adding “**AND ENFORCEMENT OF PROTECTION ORDERS**” at the end;

(2) in section 2101(b)—

(A) in paragraph (6), by inserting “(including juvenile courts)” after “courts”; and

(B) by adding at the end the following:

“(7) To provide technical assistance and computer and other equipment to police departments, prosecutors, courts, and tribal jurisdictions to facilitate the widespread enforcement of protection orders, including interstate enforcement, enforcement between States and tribal jurisdictions, and enforcement between tribal jurisdictions.”; and

(3) in section 2102—

(A) in subsection (b)—

(i) in paragraph (1), by striking “and” at the end;

(ii) in paragraph (2), by striking the period at the end and inserting “, including the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions);”;

(iii) by adding at the end the following:

“(3) have established cooperative agreements or can demonstrate effective ongoing collaborative arrangements with neighboring jurisdictions to facilitate the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions); and

“(4) will give priority to using the grant to develop and install data collection and communication systems, including computerized systems, and training on how to use these systems effectively to link police, prosecutors, courts, and tribal jurisdictions for the purpose of identifying and tracking protection orders and violations of protection orders, in those jurisdictions where such sys-

tems do not exist or are not fully effective.”; and

(B) by adding at the end the following:

“(c) **DISSEMINATION OF INFORMATION.**—The Attorney General shall annually compile and broadly disseminate (including through electronic publication) information about successful data collection and communication systems that meet the purposes described in this section. Such dissemination shall target States, State and local courts, Indian tribal governments, and units of local government.”.

(b) **PROTECTION ORDERS.**—

(1) **FILING COSTS.**—Section 2006 of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-5) is amended—

(A) in the heading, by striking “**filing**” and inserting “**and protection orders**” after “**charges**”;

(B) in subsection (a)—

(i) by striking paragraph (1) and inserting the following:

“(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; or”;

(ii) in paragraph (2)(B), by striking “2 years” and inserting “2 years after the date of enactment of the Violence Against Women Act II”;

(C) by adding at the end the following:

“(c) **DEFINITION.**—In this section, the term ‘protection order’ has the meaning given the term in section 2266 of title 18, United States Code.”.

(2) **ELIGIBILITY FOR GRANTS TO ENCOURAGE ARREST POLICIES.**—Section 2101 of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(A) in subsection (c), by striking paragraph (4) and inserting the following:

“(4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction.”; and

(B) by adding at the end the following:

“(d) **DEFINITION.**—In this section, the term ‘protection order’ has the meaning given the term in section 2266 of title 18, United States Code.”.

(3) **APPLICATION FOR GRANTS TO ENCOURAGE ARREST POLICIES.**—Section 2102(a)(1)(B) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-1(a)(1)(B)) is amended by inserting before the semicolon the following: “or, in the case of the condition set forth in subsection 2101(c)(4), the expiration of the 2-year period beginning on the date of enactment of the Violence Against Women Act II”.

(4) REGISTRATION FOR PROTECTION ORDERS.—Section 2265 of title 18, United States Code, is amended by adding at the end the following:

“(d) REGISTRATION.—

“(1) IN GENERAL.—A State or Indian tribe according full faith and credit to an order by a court of another State or Indian tribe shall not notify the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State or tribal jurisdiction unless requested to do so by the party protected under such order.

“(2) NO PRIOR REGISTRATION OR FILING REQUIRED.—Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding any requirement that the order be registered or filed in the enforcing State or tribal jurisdiction.

“(e) NOTICE.—A protection order that is otherwise consistent with this section shall be accorded full faith and credit and enforced notwithstanding the failure to provide notice to the party against whom the order is made of its registration or filing in the enforcing State or Indian tribe.

“(f) TRIBAL COURT JURISDICTION.—For purposes of this section, a tribal court shall have full civil jurisdiction over domestic relations actions, including authority to enforce its orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe and in which at least 1 of the parties is an Indian.”

(c) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended in the item relating to part U, by adding “AND ENFORCEMENT OF PROTECTION ORDERS” at the end.

SEC. 102. ROLE OF COURTS.

(a) COURTS AS ELIGIBLE STOP SUBGRANTEES.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2001—

(A) in subsection (a), by striking “Indian tribal governments,” and inserting “State and local courts (including juvenile courts), Indian tribal governments, tribal courts,”; and

(B) in subsection (b)—

(i) in paragraph (1), by inserting “, judges, other court personnel,” after “law enforcement officers”;

(ii) in paragraph (2), by inserting “, judges, other court personnel,” after “law enforcement officers”;

(iii) in paragraph (3), by inserting “, court,” after “police”; and

(2) in section 2002—

(A) in subsection (a), by inserting “State and local courts (including juvenile courts),” after “States,” the second place it appears;

(B) in subsection (c), by striking paragraph (3) and inserting the following:

“(3) of the amount granted—

“(A) not less than 25 percent shall be allocated to police and not less than 25 percent shall be allocated to prosecutors;

“(B) not less than 30 percent shall be allocated to victim services; and

“(C) not less than 5 percent shall be allocated for State and local courts (including juvenile courts); and”;

(C) in subsection (d)(1), by inserting “court,” after “law enforcement,”.

(b) ELIGIBLE GRANTEEES; USE OF GRANTS FOR EDUCATION.—Section 2101 of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(1) in subsection (a), by inserting “State and local courts (including juvenile courts),

tribal courts,” after “Indian tribal governments,”;

(2) in subsection (b)—

(A) by inserting “State and local courts (including juvenile courts),” after “Indian tribal governments”;

(B) in paragraph (2), by striking “policies and” and inserting “policies, educational programs, and”;

(C) in paragraph (3), by inserting “parole and probation officers,” after “prosecutors,”; and

(D) in paragraph (4), by inserting “parole and probation officers,” after “prosecutors,”;

(3) in subsection (c), by inserting “State and local courts (including juvenile courts),” after “Indian tribal governments”; and

(4) by adding at the end the following:

“(e) ALLOTMENT FOR INDIAN TRIBES.—Not less than 5 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribal governments.”

SEC. 103. REAUTHORIZATION OF STOP GRANTS.

(a) REAUTHORIZATION.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (18) and inserting the following:

“(18) There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out part T \$185,000,000 for each of fiscal years 2001 through 2005.”

(b) GRANT PURPOSES.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2001—

(A) in subsection (b)—

(i) in paragraph (5), by striking “racial, cultural, ethnic, and language minorities” and inserting “underserved populations”;

(ii) in paragraph (6), by striking “and” at the end;

(iii) in paragraph (7), by striking the period at the end and inserting “; and”;

(iv) by adding at the end the following:

“(8) supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by State funds, to coordinate the response of State law enforcement agencies, prosecutors, courts, victim services agencies, and other State agencies and departments, to violent crimes against women, including the crimes of sexual assault and domestic violence.”; and

(B) by adding at the end the following:

“(c) STATE COALITION GRANTS.—

“(1) PURPOSE.—The Attorney General shall award grants to each State domestic violence coalition and sexual assault coalition for the purposes of coordinating State victim services activities, and collaborating and coordinating with Federal, State, and local entities engaged in violence against women activities.

“(2) GRANTS TO STATE COALITIONS.—The Attorney General shall award grants to—

“(A) each State domestic violence coalition, as determined by the Secretary of Health and Human Services through the Family Violence Prevention and Services Act (42 U.S.C. 10410 et seq.); and

“(B) each State sexual assault coalition, as determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

“(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by each State domestic violence and sexual assault coalition shall not preclude the coalition from receiving additional grants under this part to carry out the purposes described in subsection (b).”;

(2) in section 2002(b)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(B) in paragraph (1), by striking “4 percent” and inserting “5 percent”;

(C) in paragraph (4), as redesignated, by striking “\$500,000” and inserting “\$600,000”; and

(D) by inserting after paragraph (1) the following:

“(2) 2.5 percent shall be available for grants for State domestic violence coalitions under section 2001(c), with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/3 of the total amount made available under this paragraph for each fiscal year;

“(3) 2.5 percent shall be available for grants for State sexual assault coalitions under section 2001(c), with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/3 of the total amount made available under this paragraph for each fiscal year”;

(3) in section 2003—

(A) in paragraph (7), by striking “geographic location” and all that follows through “physical disabilities” and inserting “race, ethnicity, age, disability, religion, alienage status, language barriers, geographic location (including rural isolation), and any other populations determined to be underserved”; and

(B) in paragraph (8), by striking “assisting domestic violence or sexual assault victims through the legal process” and inserting “providing assistance for victims seeking necessary support services as a consequence of domestic violence or sexual assault”;

(4) in section 2004(b)(3), by inserting “, and the membership of persons served in any underserved population” before the semicolon.

SEC. 104. REAUTHORIZATION OF GRANTS TO ENCOURAGE ARREST POLICIES.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (19) and inserting the following:

“(19) There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out part U \$65,000,000 for each of fiscal years 2001 through 2005.”

SEC. 105. REAUTHORIZATION OF RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT GRANTS.

(a) REAUTHORIZATION.—Section 40295(c) of the Violence Against Women Act of 1994 (42 U.S.C. 13971(c)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 to carry out this section \$40,000,000 for each of fiscal years 2001 through 2005.”; and

(2) by adding at the end the following:

“(3) ALLOTMENT FOR INDIAN TRIBES.—Not less than 5 percent of the total amount made available to carry out this section for each fiscal year shall be available for grants to Indian tribal governments.”

SEC. 106. NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION.

(a) REAUTHORIZATION.—Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended to read as follows:

"SEC. 40603. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 to carry out this subtitle \$3,000,000 for each of fiscal years 2001 through 2005."

(b) **TECHNICAL AMENDMENT.**—Section 40602(a) of the Violence Against Women Act of 1994 (42 U.S.C. 14031 note) is amended by inserting "and implement" after "improve".

SEC. 107. AMENDMENTS TO DOMESTIC VIOLENCE AND STALKING OFFENSES.

(a) **INTERSTATE DOMESTIC VIOLENCE.**—Section 2261 of title 18, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) **OFFENSES.**—

"(1) **TRAVEL OR CONDUCT OF OFFENDER.**—A person who travels in interstate or foreign commerce or enters or leaves Indian country with the intent to kill, injure, harass, or intimidate a spouse or intimate partner, and who, in the course of or as a result of such travel, commits or attempts to commit a crime of violence against that spouse or intimate partner, shall be punished as provided in subsection (b)."

"(2) **CAUSING TRAVEL OF VICTIM.**—A person who causes a spouse or intimate partner to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse or intimate partner, shall be punished as provided in subsection (b)."

(b) **INTERSTATE STALKING.**—Section 2261A of title 18, United States Code, is amended to read as follows:

"§ 2261A. Interstate stalking

"Whoever—

"(1) with the intent to kill, injure, harass, or intimidate another person, engages within the special maritime and territorial jurisdiction of the United States in conduct that places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 2266) to, that person or a member of the immediate family (as defined in section 115) of that person; or

"(2) with the intent to kill, injure, harass, or intimidate another person, travels in interstate or foreign commerce, or enters or leaves Indian country, and, in the course of or as a result of such travel, engages in conduct that places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 2266) to, that person or a member of the immediate family (as defined in section 115) of that person, shall be punished as provided in section 2261(b)."

(c) **INTERSTATE VIOLATION OF PROTECTION ORDER.**—Section 2262 of title 18, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) **OFFENSES.**—

"(1) **TRAVEL OR CONDUCT OF OFFENDER.**—A person who travels in interstate or foreign commerce, or enters or leaves Indian country, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b)."

"(2) **CAUSING TRAVEL OF VICTIM.**—A person who causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, du-

ress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b)."

(d) **DEFINITIONS.**—Section 2266 of title 18, United States Code, is amended to read as follows:

"§ 2266. Definitions

"In this chapter:

"(1) **BODILY INJURY.**—The term 'bodily injury' means any act, except one done in self-defense, that results in physical injury or sexual abuse.

"(2) **ENTER OR LEAVE INDIAN COUNTRY.**—The term 'enter or leave Indian country' includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government.

"(3) **INDIAN COUNTRY.**—The term 'Indian country' has the meaning stated in section 1151 of this title.

"(4) **PROTECTION ORDER.**—The term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court (other than a support or child custody order issued pursuant to State divorce and child custody laws) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

"(5) **SERIOUS BODILY INJURY.**—The term 'serious bodily injury' has the meaning stated in section 2119(2).

"(6) **SPOUSE OR INTIMATE PARTNER.**—The term 'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

"(7) **STATE.**—The term 'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States.

"(8) **TRAVEL IN INTERSTATE OR FOREIGN COMMERCE.**—The term 'travel in interstate or foreign commerce' does not include travel from 1 State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member."

SEC. 108. GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN ON CAMPUS.

Section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152) is amended—

(1) in subsection (f)(1), by inserting "by a person with whom the victim has engaged in a social relationship of a romantic or intimate nature," after "cohabited with the victim,"; and

(2) in subsection (g), by striking "fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years" and inserting "each of fiscal years 2001 through 2005".

TITLE II—STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE**SEC. 201. LEGAL ASSISTANCE FOR VICTIMS.**

(a) **IN GENERAL.**—The purpose of this section is to enable the Attorney General to award grants to increase the availability of legal assistance necessary to provide effective aid to victims of domestic violence, stalking, or sexual assault who are seeking relief in legal matters arising as a consequence of that abuse or violence, at minimal or no cost to the victims.

(b) **DEFINITIONS.**—In this section:

(1) **DOMESTIC VIOLENCE.**—The term "domestic violence" has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

(2) **LEGAL ASSISTANCE FOR VICTIMS.**—The term "legal assistance" includes assistance to victims of domestic violence, stalking, and sexual assault in family, criminal, immigration, administrative, or housing matters, protection or stay away order proceedings, and other similar matters. No funds made available under this section may be used to provide financial assistance in support of any litigation described in paragraph (14) of section 504 of Public Law 104-134.

(3) **SEXUAL ASSAULT.**—The term "sexual assault" has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

(c) **LEGAL ASSISTANCE FOR VICTIMS GRANTS.**—The Attorney General may award grants under this subsection to private non-profit entities, Indian tribal governments, and publicly funded organizations not acting in a governmental capacity such as law schools, and which shall be used—

(1) to implement, expand, and establish cooperative efforts and projects between domestic violence and sexual assault victim services organizations and legal assistance providers to provide legal assistance for victims of domestic violence, stalking, and sexual assault;

(2) to implement, expand, and establish efforts and projects to provide legal assistance for victims of domestic violence, stalking, and sexual assault by organizations with a demonstrated history of providing direct legal or advocacy services on behalf of these victims; and

(3) to provide training, technical assistance, and data collection to improve the capacity of grantees and other entities to offer legal assistance to victims of domestic violence, stalking, and sexual assault.

(d) **GRANT TO ESTABLISH DATABASE OF PROGRAMS THAT PROVIDE LEGAL ASSISTANCE TO VICTIMS.**—

(1) **IN GENERAL.**—The Attorney General may make a grant to establish, operate, and maintain a national computer database of programs and organizations that provide legal assistance to victims of domestic violence, stalking, and sexual assault.

(2) **DATABASE REQUIREMENTS.**—A database established with a grant under this subsection shall be—

(A) designed to facilitate the referral of persons to programs and organizations that provide legal assistance to victims of domestic violence, stalking, and sexual assault; and

(B) operated in coordination with the national domestic violence and sexual assault hotline established under section 316 of the Family Violence Prevention and Services Act.

(e) **EVALUATION.**—The Attorney General may evaluate the grants funded under this section through contracts or other arrangements with entities expert on domestic violence, stalking, and sexual assault, and on evaluation research.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section \$35,000,000 for each of fiscal years 2001 through 2005.

(2) ALLOCATION OF FUNDS.—Of the amount made available under this subsection in each fiscal year, not less than 5 percent shall be used for grants for programs that assist victims of domestic violence, stalking, and sexual assault on lands within the jurisdiction of an Indian tribe.

(3) NONSUPPLANTATION.—Amounts made available under this section shall be used to supplement and not supplant other Federal, State, and local funds expended to further the purpose of this section.

SEC. 202. SHELTER SERVICES FOR BATTERED WOMEN AND CHILDREN.

(a) STATE SHELTER GRANTS.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by striking “populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation” and inserting “populations underserved because of race, ethnicity, age, disability, religion, alienage status, geographic location (including rural isolation), or language barriers, and any other populations determined by the Secretary to be underserved”.

(b) STATE MINIMUM; REALLOTMENT.—Section 304 of the Family Violence Prevention and Services Act (42 U.S.C. 10403) is amended—

(1) in subsection (a), by striking “for grants to States for any fiscal year” and all that follows and inserting the following: “and available for grants to States under this subsection for any fiscal year—

“(1) Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States shall each be allotted not less than $\frac{1}{8}$ of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made; and

“(2) each State shall be allotted for payment in a grant authorized under section 303(a), \$600,000, with the remaining funds to be allotted to each State in an amount that bears the same ratio to such remaining funds as the population of such State bears to the population of all States.”;

(2) in subsection (c), in the first sentence, by inserting “and available” before “for grants”; and

(3) by adding at the end the following: “(e) In subsection (a)(2), the term “State” does not include any jurisdiction specified in subsection (a)(1).”.

(c) SECRETARIAL RESPONSIBILITIES.—Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking “an employee” and inserting “1 or more employees”;

(2) by striking “of this title.” and inserting “of this title, including carrying out evaluation and monitoring under this title.”; and

(3) by striking “The individual” and inserting “Any individual”.

(d) RESOURCE CENTERS.—Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended—

(1) in subsection (a)(2), by inserting “on providing information, training, and technical assistance” after “focusing”; and

(2) in subsection (c), by adding at the end the following:

“(8) Providing technical assistance and training to local entities carrying out domestic violence programs that provide shel-

ter, related assistance, or transitional housing assistance.

“(9) Improving access to services, information, and training, concerning family violence, within Indian tribes and Indian tribal agencies.

“(10) Providing technical assistance and training to appropriate entities to improve access to services, information, and training concerning family violence occurring in underserved populations.”.

(e) CONFORMING AMENDMENT.—Section 309(6) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(6)) is amended by striking “the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands” and inserting “the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States”.

(f) REAUTHORIZATION.—Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title \$175,000,000 for each of fiscal years 2001 through 2005.

“(2) SOURCE OF FUNDS.—Amounts made available under paragraph (1) may be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211).”;

(2) in subsection (b), by striking “under subsection 303(a)” and inserting “under section 303(a)”;

(3) in subsection (c), by inserting “not more than the lesser of \$7,500,000 or” before “5”; and

(4) by adding at the end the following:

“(f) EVALUATION, MONITORING, AND ADMINISTRATION.—Of the amounts appropriated under subsection (a) for each fiscal year, not more than 1 percent shall be used by the Secretary for evaluation, monitoring, and administrative costs under this title.”.

(g) STATE DOMESTIC VIOLENCE COALITION GRANT ACTIVITIES.—Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended—

(1) in subsection (a)(4), by striking “underserved racial, ethnic or language-minority populations” and inserting “underserved populations described in section 303(a)(2)(C)”;

(2) in subsection (c), by striking “the U.S. Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands” and inserting “the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States”.

SEC. 203. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

“SEC. 319. TRANSITIONAL HOUSING ASSISTANCE.

“(a) IN GENERAL.—The Secretary shall award grants under this section to carry out programs to provide assistance to individuals, and their dependents—

“(1) who are homeless or in need of transitional housing or other housing assistance, as a result of fleeing a situation of domestic violence; and

“(2) for whom emergency shelter services are unavailable or insufficient.

“(b) ASSISTANCE DESCRIBED.—Assistance provided under this section may include—

“(1) short-term housing assistance, including rental or utilities payments assistance

and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

“(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

“(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may not receive assistance under this section for a total of more than 12 months.

“(d) REPORTS.—

“(1) REPORT TO SECRETARY.—

“(A) IN GENERAL.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

“(B) CONTENTS.—Each report shall include information on—

“(i) the purpose and amount of housing assistance provided to each individual or dependent assisted under this section;

“(ii) the number of months each individual or dependent received the assistance;

“(iii) the number of individuals and dependents who were eligible to receive the assistance, and to whom the entity could not provide the assistance solely due to a lack of available housing; and

“(iv) the type of support services provided to each individual or dependent assisted under this section.

“(2) REPORT TO CONGRESS.—The Secretary shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in reports submitted under paragraph (1).

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

“(1) \$25,000,000 for each of fiscal years 2001 through 2003; and

“(2) \$30,000,000 for each of fiscal years 2004 and 2005.”.

SEC. 204. NATIONAL DOMESTIC VIOLENCE AND SEXUAL ASSAULT HOTLINE.

(a) REAUTHORIZATION.—Section 316(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(f)) is amended by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section \$2,750,000 for each of fiscal years 2001 through 2005.”.

(b) DOMESTIC VIOLENCE AND SEXUAL ASSAULT.—Section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416) is amended—

(1) in the title of the section, by striking “national domestic violence hotline grant” and inserting “grant for national domestic violence and sexual assault hotline”;

(2) in subsections (a), (d), and (e), by striking “victims of domestic violence” each place it appears and inserting “victims of domestic violence or sexual assault”;

(3) in subsection (e)—

(A) in paragraph (2), by striking "national domestic violence hotline" and inserting "national domestic violence and sexual assault hotline"; and

(B) in paragraph (3), by striking "area of domestic violence" and inserting "area of domestic violence and sexual assault";

(4) by redesignating subsection (f) as subsection (g); and

(5) by inserting after subsection (e) the following:

"(f) REPORT BY GRANT RECIPIENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Violence Against Women Act II, each recipient of a grant under this section shall prepare and submit to the Secretary a report that contains—

"(A) an evaluation of the effectiveness of the activities carried out by the recipient with amounts received under this section; and

"(B) such other information as the Secretary may prescribe.

"(2) NOTICE AND PUBLIC COMMENT.—The Secretary shall—

"(A) publish in the Federal Register a copy of the report submitted by the recipient under this subsection; and

"(B) allow not less than 90 days for notice of and opportunity for public comment on the published report."

SEC. 205. FEDERAL VICTIMS COUNSELORS.

Section 40114 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1910) is amended by striking "(such as District of Columbia)" and all that follows and inserting "(such as District of Columbia), \$1,000,000 for each of fiscal years 2001 through 2005."

SEC. 206. STUDY OF STATE LAWS REGARDING INSURANCE DISCRIMINATION AGAINST VICTIMS OF VIOLENCE AGAINST WOMEN.

(a) IN GENERAL.—The Attorney General shall conduct a national study to identify State laws that address discrimination against victims of domestic violence and sexual assault related to issuance or administration of insurance policies.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the findings and recommendations of the study required by subsection (a).

SEC. 207. STUDY OF WORKPLACE EFFECTS FROM VIOLENCE AGAINST WOMEN.

The Attorney General shall—

(1) conduct a national survey of plans, programs, and practices developed to assist employers and employees on appropriate responses in the workplace related to victims of domestic violence, stalking, or sexual assault; and

(2) not later than 18 months after the date of enactment of this Act, submit to Congress a report describing the results of that survey, which report shall include the recommendations of the Attorney General to assist employers and employees affected in the workplace by incidents of domestic violence, stalking, and sexual assault.

SEC. 208. STUDY OF UNEMPLOYMENT COMPENSATION FOR VICTIMS OF VIOLENCE AGAINST WOMEN.

The Secretary of Labor, in consultation with the Attorney General, shall—

(1) conduct a national study to identify State laws that address the separation from employment of an employee due to circumstances directly resulting from the experience of domestic violence by the employee and circumstances governing that receipt (or nonreceipt) by the employee of unemployment compensation based on such separation; and

(2) not later than 1 year after the date of enactment of this Act, submit to Congress a

report describing the results of that study, together with any recommendations based on that study.

SEC. 209. ENHANCING PROTECTIONS FOR OLDER WOMEN FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT.

(a) DEFINITION.—In this section, the term "older individual" has the meaning given the term in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

(b) PROTECTIONS FOR OLDER INDIVIDUALS FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN PRO-ARREST GRANTS.—Section 2101(b) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended by adding at the end the following:

"(8) To develop or strengthen policies and training for police, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of domestic violence and sexual assault against older individuals (as is defined in section 102 of the Older Americans Act of 1965) (42 U.S.C. 3002))."

(c) PROTECTIONS FOR OLDER INDIVIDUALS FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN STOP GRANTS.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2001(b)—

(A) in paragraph (7) (as amended by section 103(b) of this Act), by striking "and" at the end;

(B) in paragraph (8) (as added by section 103(b) of this Act), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(9) developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older women who are victims of domestic violence or sexual assault, including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support and counseling services to such older individuals."; and

(2) in section 2003(7) (as amended by section 103(b) of this Act), by inserting after "any other populations determined to be underserved" the following: ", and the needs of older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) who are victims of family violence".

(d) ENHANCING SERVICES FOR OLDER INDIVIDUALS IN SHELTERS.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) (as amended by section 202(a)(1) of this Act) is amended by inserting after "any other populations determined to be underserved" the following: ", and the needs of older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) who are victims of family violence".

TITLE III—LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

SEC. 301. SAFE HAVENS FOR CHILDREN PILOT PROGRAM.

(a) IN GENERAL.—The Attorney General may award grants to States, units of local government, and Indian tribal governments that propose to enter into or expand the scope of existing contracts and cooperative agreements with public or private nonprofit entities to provide supervised visitation and safe visitation exchange of children by and between parents in situations involving domestic violence, child abuse, or sexual assault.

(b) CONSIDERATIONS.—In awarding grants under subsection (a), the Attorney General shall take into account—

(1) the number of families to be served by the proposed visitation programs and services;

(2) the extent to which the proposed supervised visitation programs and services serve underserved populations (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2));

(3) with respect to an applicant for a contract or cooperative agreement, the extent to which the applicant demonstrates cooperation and collaboration with nonprofit, nongovernmental entities in the local community served, including the State domestic violence coalition, State sexual assault coalition, local shelters, and programs for domestic violence and sexual assault victims; and

(4) the extent to which the applicant demonstrates coordination and collaboration with State and local court systems, including mechanisms for communication and referral.

(c) APPLICANT REQUIREMENTS.—The Attorney General shall award grants for contracts and cooperative agreements to applicants that—

(1) demonstrate expertise in the area of family violence, including the areas of domestic violence or sexual assault, as appropriate;

(2) ensure that any fees charged to individuals for use of programs and services are based on the income of those individuals, unless otherwise provided by court order;

(3) demonstrate that adequate security measures, including adequate facilities, procedures, and personnel capable of preventing violence, are in place for the operation of supervised visitation programs and services or safe visitation exchange; and

(4) prescribe standards by which the supervised visitation or safe visitation exchange will occur.

(d) REPORTING.—

(1) IN GENERAL.—Not later than 1 year after the last day of the first fiscal year commencing on or after the date of enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter, the Attorney General shall submit to Congress a report that includes information concerning—

(A) the number of—

(i) individuals served and the number of individuals turned away from visitation programs and services and safe visitation exchange (categorized by State);

(ii) the number of individuals from underserved populations served and turned away from services; and

(iii) the type of problems that underlie the need for supervised visitation or safe visitation exchange, such as domestic violence, child abuse, sexual assault, other physical abuse, or a combination of such factors;

(B) the numbers of supervised visitations or safe visitation exchanges ordered under this section during custody determinations under a separation or divorce decree or protection order, through child protection services or other social services agencies, or by any other order of a civil, criminal, juvenile, or family court;

(C) the process by which children or abused partners are protected during visitations, temporary custody transfers, and other activities for which supervised visitation is established under this section;

(D) safety and security problems occurring during the reporting period during supervised visitation under this section, including the number of parental abduction cases; and

(E) the number of parental abduction cases in a judicial district using supervised visitation programs and services under this section, both as identified in criminal prosecution and custody violations.

(2) GUIDELINES.—The Attorney General shall establish guidelines for the collection and reporting of data under this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section \$15,000,000 for each of fiscal years 2001 and 2002.

(f) ALLOTMENT FOR INDIAN TRIBES.—Not less than 5 percent of the total amount made available for each fiscal year to carry out this section shall be available for grants to Indian tribal governments.

SEC. 302. REAUTHORIZATION OF RUNAWAY AND HOMELESS YOUTH GRANTS.

Section 388(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)) is amended by striking paragraph (4) and inserting the following:

“(4) PART E.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out part E \$22,000,000 for each of fiscal years 2001 through 2005.”

SEC. 303. REAUTHORIZATION OF VICTIMS OF CHILD ABUSE PROGRAMS.

(a) COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.—Section 218 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014) is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZATION.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this subtitle \$12,000,000 for each of fiscal years 2001 through 2005.”

(b) CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS.—Section 224 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024) is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZATION.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this subtitle \$2,300,000 for each of fiscal years 2001 through 2005.”

(c) GRANTS FOR TELEVIEWED TESTIMONY.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (7) and inserting the following:

“(7) There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out part N \$1,000,000 for each of fiscal years 2001 through 2005.”

(d) DISSEMINATION OF INFORMATION.—The Attorney General shall—

(1) annually compile and disseminate information (including through electronic publication) about the use of amounts expended and the projects funded under section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)), section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)), and section 1007(a)(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(7)), including any evaluations of the projects and information to enable replication and adoption of the strategies identified in the projects; and

(2) focus dissemination of the information described in paragraph (1) toward community-based programs, including domestic violence and sexual assault programs.

SEC. 304. REPORT ON EFFECTS OF PARENTAL KIDNAPPING LAWS IN DOMESTIC VIOLENCE CASES.

(a) IN GENERAL.—The Attorney General shall—

(1) conduct a study of Federal and State laws relating to child custody, including custody provisions in protection orders, the Parental Kidnaping Prevention Act of 1980, and the amendments made by that Act, and the effect of those laws on child custody cases in which domestic violence is a factor; and

(2) submit to Congress a report describing the results of that study, including the effects of implementing or applying model State laws, and the recommendations of the Attorney General to reduce the incidence or pattern of violence against women or of sexual assault of the child.

(b) SUFFICIENCY OF DEFENSES.—In carrying out subsection (a) with respect to the Parental Kidnaping Prevention Act of 1980, and the amendments made by that Act, the Attorney General shall examine the sufficiency of defenses to parental abduction charges available in cases involving domestic violence, and the burdens and risks encountered by victims of domestic violence arising from jurisdictional requirements of that Act and the amendments made by that Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$200,000 for fiscal year 2001.

(d) CONDITION FOR CUSTODY DETERMINATION.—Section 1738A(c)(2)(C)(ii) of title 28, United States Code, is amended by striking “he” and inserting “the child, a sibling, or parent of the child”.

TITLE IV—STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN

SEC. 401. EDUCATION AND TRAINING IN APPROPRIATE RESPONSES TO VIOLENCE AGAINST WOMEN.

(a) AUTHORITY.—The Secretary of Health and Human Services, in consultation with the Attorney General, may award grants in accordance with this section to public and private nonprofit entities that, in the determination of the Secretary, have—

(1) nationally recognized expertise in the areas of domestic violence and sexual assault; and

(2) a record of commitment and quality responses to reduce domestic violence and sexual assault.

(b) PURPOSE.—Grants under this section may be used for the purposes of developing, testing, presenting, and disseminating model programs to provide education and training in appropriate and effective responses to victims of domestic violence and sexual assault (including, as appropriate, the effects of domestic violence on children) for individuals (other than law enforcement officers and prosecutors) who are likely to come into contact with such victims during the course of their employment, including—

(1) caseworkers, supervisors, administrators, administrative law judges, and other individuals administering Federal and State benefits programs, such as child welfare and child protective services, Temporary Assistance to Needy Families, social security disability, child support, medicaid, unemployment, workers' compensation, and similar programs; and

(2) medical and health care professionals, including mental and behavioral health professionals such as psychologists, psychiatrists, social workers, therapists, counselors, and others.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of

1994 (42 U.S.C. 14211) to carry out this section \$5,000,000 for each of fiscal years 2001 through 2003.

SEC. 402. RAPE PREVENTION AND EDUCATION.

(a) IN GENERAL.—Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended by inserting after section 393A the following:

“SEC. 393B. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

“(a) PERMITTED USE.—The Secretary, acting through the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, shall award targeted grants to States to be used for rape prevention and education programs conducted by rape crisis centers, State sexual assault coalitions, and other public and private nonprofit entities for—

“(1) educational seminars;

“(2) the operation of hotlines;

“(3) training programs for professionals;

“(4) the preparation of informational material;

“(5) education and training programs for students and campus personnel designed to reduce the incidence of sexual assault at colleges and universities;

“(6) education to increase awareness about drugs used to facilitate rapes or sexual assaults; and

“(7) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved communities and awareness among individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

“(b) COLLECTION AND DISSEMINATION OF INFORMATION ON SEXUAL ASSAULT.—The Secretary shall, through the National Resource Center on Sexual Assault established under the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, provide resource information, policy, training, and technical assistance to Federal, State, local, and Indian tribal agencies, as well as to State sexual assault coalitions and local sexual assault programs and to other professionals and interested parties on issues relating to sexual assault, including maintenance of a central resource library in order to collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of sexual assault.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section, \$50,000,000 for each of fiscal years 2001 through 2005.

“(2) NATIONAL RESOURCE CENTER ALLOTMENT.—Of the total amount made available under this subsection in each fiscal year, not more than the greater of \$1,000,000 or 2 percent of such amount shall be available for allotment under subsection (b).

“(d) LIMITATIONS.—

“(1) SUPPLEMENT NOT SUPPLANT.—Amounts provided to States under this section shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services of the type described in subsection (a).

“(2) STUDIES.—A State may not use more than 2 percent of the amount received by the State under this section for each fiscal year for surveillance studies or prevalence studies.

“(3) ADMINISTRATION.—A State may not use more than 5 percent of the amount received by the State under this section for each fiscal year for administrative expenses.”

(b) REPEAL.—Section 40151 of the Violence Against Women Act of 1994 (108 Stat. 1920), and the amendment made by such section, is repealed.

SEC. 403. EDUCATION AND TRAINING TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, may award grants to States and nongovernmental private entities to provide education and technical assistance for the purpose of providing training, consultation, and information on domestic violence, stalking, and sexual assault against women who are individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(b) PRIORITIES.—In awarding grants under this section, the Attorney General shall give priority to applications designed to provide education and technical assistance on—

(1) the nature, definition, and characteristics of domestic violence, stalking, and sexual assault experienced by women who are individuals with disabilities;

(2) outreach activities to ensure that women who are individuals with disabilities who are victims of domestic violence, stalking, and sexual assault receive appropriate assistance;

(3) the requirements of shelters and victim services organizations under Federal anti-discrimination laws, including the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973; and

(4) cost-effective ways that shelters and victim services may accommodate the needs of individuals with disabilities in accordance with the Americans with Disabilities Act of 1990.

(c) USES OF GRANTS.—Each recipient of a grant under this section shall provide information and training to organizations and programs that provide services to individuals with disabilities, including independent living centers, disability-related service organizations, and domestic violence programs providing shelter or related assistance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section \$5,000,000 for each of fiscal years 2001 through 2005.

SEC. 404. COMMUNITY INITIATIVES.

Section 318 of the Family Violence Prevention and Services Act (42 U.S.C. 10418) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (G), by striking “and” at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

“(H) groups that provide services to individuals with disabilities;”;

(2) by striking subsection (h) and inserting the following:

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section \$5,000,000 for each of fiscal years 2001 through 2005.”.

SEC. 405. DEVELOPMENT OF RESEARCH AGENDA IDENTIFIED BY THE VIOLENCE AGAINST WOMEN ACT OF 1994.

(a) IN GENERAL.—The Attorney General shall—

(1) direct the National Institute of Justice, in consultation and coordination with the

Bureau of Justice Statistics and the National Academy of Sciences, through its National Research Council, to develop a research agenda based on the recommendations contained in the report entitled “Understanding Violence Against Women” of the National Academy of Sciences; and

(2) not later than 1 year after the date of enactment of this Act, in consultation with the Secretary of the Department of Health and Human Services, submit to Congress a report which shall include—

(A) a description of the research agenda developed under paragraph (1) and a plan to implement that agenda;

(B) recommendations for priorities in carrying out that agenda to most effectively advance knowledge about and means by which to prevent or reduce violence against women.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 31001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) such sums as may be necessary to carry out this section.

TITLE V—BATTERED IMMIGRANT WOMEN

SEC. 501. SHORT TITLE.

This title may be cited as the “Battered Immigrant Women Protection Act of 2000”.

SEC. 502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the goal of the immigration protections for battered immigrants included in the Violence Against Women Act of 1994 was to remove immigration laws as a barrier that kept battered immigrant women and children locked in abusive relationships;

(2) providing battered immigrant women and children who were experiencing domestic violence at home with protection against deportation allows them to obtain protection orders against their abusers and frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers and the abusers of their children without fearing that the abuser will retaliate by withdrawing or threatening withdrawal of access to an immigration benefit under the abuser's control; and

(3) there are several groups of battered immigrant women and children who do not have access to the immigration protections of the Violence Against Women Act of 1994 which means that their abusers are virtually immune from prosecution because their victims can be deported as a result of action by their abusers and the Immigration and Naturalization Service cannot offer them protection no matter how compelling their case under existing law.

(b) PURPOSES.—The purposes of this title are—

(1) to remove barriers to criminal prosecutions of persons who commit acts of battery or extreme cruelty against immigrant women and children; and

(2) to offer protection against domestic violence occurring in family and intimate relationships that are covered in State and tribal protection orders, domestic violence, and family law statutes.

SEC. 503. IMPROVED ACCESS TO IMMIGRATION PROTECTIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994 FOR BATTERED IMMIGRANT WOMEN.

(a) INTENDED SPOUSE DEFINED.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

“(50) The term ‘intended spouse’ means any alien who meets the criteria set forth in section 204(a)(3)(A)(ii) or 204(a)(4)(A)(ii).”.

(b) IMMEDIATE RELATIVE STATUS FOR SELF-PETITIONERS MARRIED TO U.S. CITIZENS.—

(1) SELF-PETITIONING SPOUSES.—

(A) BATTERY OR CRUELTY TO ALIEN OR ALIEN'S CHILD.—Section 204(a)(1)(A)(iii) of the

Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iii)) is amended to read as follows:

“(iii) An alien who is described in paragraph (3) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if the alien demonstrates to the Attorney General that—

“(I) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and

“(II) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.”.

(B) DESCRIPTION OF PROTECTED SPOUSE OR INTENDED SPOUSE.—Section 204(a) of the Immigration and Nationality Act (8 U.S.C. 1154(a)) is amended by adding at the end the following:

“(3) For purposes of paragraph (1)(A)(iii), an alien described in this paragraph is an alien—

“(A)(i) who is the spouse of a citizen of the United States; or

“(ii)(I) who believed that he or she had married a citizen of the United States and with whom a marriage ceremony was actually performed; and

“(II) who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such citizen of the United States; or

“(iii) who was a bona fide spouse of a United States citizen within the past 2 years and—

“(I) whose spouse died within the past 2 years;

“(II) whose spouse lost or renounced citizenship status related to an incident of domestic violence; or

“(III) who demonstrates a connection between the legal termination of the marriage and battering or extreme cruelty by the United States citizen spouse;

“(B) who is a person of good moral character;

“(C) who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) or who would have been so classified but for the bigamy of the citizen of the United States that the alien intended to marry; and

“(D) who has resided with the alien's spouse or intended spouse.”.

(2) SELF-PETITIONING CHILDREN.—Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended to read as follows:

“(iv) An alien who is the child of a citizen of the United States, or who was a child of a United States citizen parent who lost or renounced citizenship status related to an incident of domestic violence, and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who resides, or has resided in the past, with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent. For purposes of this clause, residence includes any period of visitation.”.

(3) FILING OF PETITIONS.—Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154 (a)(1)(A)(iv)) is amended by adding at the end the following:

“(v) An alien who is the spouse, intended spouse, or child of a United States citizen

living abroad and who is eligible to file a petition under clause (iii) or (iv) shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clauses (iii) or (iv)."

(C) SECOND PREFERENCE IMMIGRATION STATUS FOR SELF-PETITIONERS MARRIED TO LAWFUL PERMANENT RESIDENTS.—

(1) SELF-PETITIONING SPOUSES.—Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(ii)) is amended to read as follows:

"(ii) An alien who is described in paragraph (4) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if such a child has not been classified under clause (iii) of section 203(a)(2)(A) and if the alien demonstrates to the Attorney General that—

"(I) the marriage or the intent to marry the lawful permanent resident was entered into in good faith by the alien; and

"(II) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse."

(2) DESCRIPTION OF PROTECTED SPOUSE OR INTENDED SPOUSE.—Section 204(a) of the Immigration and Nationality Act (8 U.S.C. 1154) (as amended by subsection (b)(1)(B) of this section) is amended by adding at the end the following:

"(4) For purposes of paragraph (1)(B)(ii), an alien described in this paragraph is an alien—

"(A)(i) who is the spouse of a lawful permanent resident of the United States; or

"(ii)(I) who believed that he or she had married a lawful permanent resident of the United States and with whom a marriage ceremony was actually performed; and

"(II) who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such lawful permanent resident of the United States; or

"(III) who was a bona fide spouse of a lawful permanent resident within the past 2 years and—

"(aa) whose spouse lost status due to an incident of domestic violence; or

"(bb) who demonstrates a connection between the legal termination of the marriage and battering or extreme cruelty by the lawful permanent resident spouse;

"(B) who is a person of good moral character;

"(C) who is eligible to be classified as a spouse of an alien lawfully admitted for permanent residence under section 203(a)(2)(A) or who would have been so classified but for the bigamy of the lawful permanent resident of the United States that the alien intended to marry; and

"(D) who has resided with the alien's spouse or intended spouse."

(3) SELF-PETITIONING CHILDREN.—Section 204(a)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(iii)) is amended to read as follows:

"(iii) An alien who is the child of an alien lawfully admitted for permanent residence, or who was the child of a lawful permanent resident who lost lawful permanent resident status due to an incident of domestic violence, and who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who resides, or has resided in the past, with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the At-

torney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent. For purposes of this clause, residence includes any period of visitation."

(4) FILING OF PETITIONS.—Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) is amended by adding at the end the following:

"(iv) An alien who is the spouse, intended spouse, or child of a lawful permanent resident living abroad is eligible to file a petition under clause (ii) or (iii) shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clauses (ii) or (iii)."

(d) GOOD MORAL CHARACTER FOR SELF-PETITIONERS AND TREATMENT OF CHILD SELF-PETITIONERS AND PETITIONS INCLUDING DERIVATIVE CHILDREN ATTAINING 21 YEARS OF AGE.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) by redesignating subparagraphs (C) through (H) as subparagraphs (E) through (J), respectively; and

(2) by inserting after subparagraph (B) the following:

"(C) Notwithstanding section 101(f), an act or conviction that qualifies for an exception or is waivable with respect to the petitioner for purposes of a determination of the petitioner's admissibility under section 212(a) or deportability under section 237(a) shall not bar the Attorney General from finding the petitioner to be of good moral character under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty. In making determinations under this paragraph, the Attorney General shall consider any credible evidence relevant to the determination.

"(D)(i)(I) Any child who attains 21 years of age who has filed a petition under clause (iv) of section 204(a)(1)(A) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date assigned to the self-petition filed under clause (iv) of section 204(a)(1)(A). No new petition shall be required to be filed.

"(II) Any individual described in subclause (I) is eligible for deferred action and work authorization.

"(III) Any derivative child who attains 21 years of age who is included in a petition described in clause (ii) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date as that assigned to the petitioner in any petition described in clause (ii). No new petition shall be required to be filed.

"(IV) Any individual described in subclause (III) and any derivative child of a petition described in clause (ii) is eligible for deferred action and work authorization.

"(ii) The petition referred to in clause (i)(III) is a petition filed by an alien under subparagraph (A)(iii), (A)(iv), (B)(ii) or (B)(iii) in which the child is included as a derivative beneficiary."

(e) ACCESS TO NATURALIZATION FOR DIVORCED VICTIMS OF ABUSE.—Section 319(a) of the Immigration and Nationality Act (8 U.S.C. 1430(a)) is amended—

(1) by inserting ", or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty," after "United States" the first place such term appears; and

(2) by inserting "(except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent)" after "has been living in marital union with the citizen spouse".

SEC. 504. IMPROVED ACCESS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION UNDER THE VIOLENCE AGAINST WOMEN ACT OF 1994.

(a) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—Section 240A(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)) is amended to read as follows:

"(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—

"(A) AUTHORITY.—The Attorney General may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien demonstrates that—

"(i)(I) the alien has been battered or subjected to extreme cruelty by a spouse or parent who is or was a United States citizen (or is the parent of a child of a United States citizen and the child has been battered or subjected to extreme cruelty in the United States by such citizen parent);

"(II) the alien has been battered or subjected to extreme cruelty by a spouse or parent who is or was a lawful permanent resident (or is the parent of a child of an alien who is or was a lawful permanent resident and the child has been battered or subjected to extreme cruelty by such permanent resident parent); or

"(III) the alien has been battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident whom the alien intended to marry, but whose marriage is not legitimate because of that United States citizen's or lawful permanent resident's bigamy;

"(ii) the alien has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application, and the issuance of a charging document for removal proceedings shall not toll the 3-year period of continuous physical presence in the United States;

"(iii) the alien has been a person of good moral character during such period, subject to the provisions of subparagraph (C);

"(iv) the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraphs (1)(G) or (2) through (4) of section 237(a), and has not been convicted of an aggravated felony unless the act or conviction qualifies for an exemption or is waivable with respect to the alien for purposes of a determination of the alien's admissibility under section 212(a) or deportability under section 237(a); and

"(v) the removal would result in extreme hardship to the alien, the alien's child, or the alien's parent.

"(B) PHYSICAL PRESENCE.—Notwithstanding subsection (d)(2), for purposes of subparagraph (A)(i)(II) or for purposes of section 244(a)(3) (as in effect before the effective date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996)—

"(i) an absence in excess of 90 days shall not bar the Attorney General from finding that the alien maintained continuous physical presence if the alien has been physically

present for a total of 3 years and demonstrates that the interrupting absence or a portion thereof was connected to the alien's having been battered or subjected to extreme cruelty; and

"(ii) absences that in the aggregate exceed 180 days shall not bar the Attorney General from finding that the alien maintained continuous physical presence if the alien has been physically present for a total of 3 years and demonstrates that the interrupting absences or portions thereof were connected to the alien's having been battered or subjected to extreme cruelty.

"(C) GOOD MORAL CHARACTER.—Notwithstanding section 101(f), an act or conviction that qualifies for an exception or is waivable with respect to the alien for purposes of a determination of the alien's admissibility under section 212(a) or deportability under section 237(a) shall not bar the Attorney General from finding the alien to be of good moral character under subparagraph (A)(i)(III) or section 244(a)(3) (as in effect before the effective date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty and determines that a waiver is otherwise warranted.

"(D) CREDIBLE EVIDENCE CONSIDERED.—In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General."

(b) CHILDREN OF BATTERED ALIENS AND PARENTS OF BATTERED ALIEN CHILDREN.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended by adding at the end the following:

"(4) CHILDREN OF BATTERED ALIENS AND PARENTS OF BATTERED ALIEN CHILDREN.—

"(A) IN GENERAL.—The Attorney General shall grant parole under section 212(d)(5) to any alien who is a—

"(i) child of an alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the effective date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996); or

"(ii) parent of a child alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the effective date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

"(B) DURATION OF PAROLE.—The grant of parole shall extend from the time of the grant of relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the effective date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) to the time the application for adjustment of status filed by aliens covered under this paragraph has been finally adjudicated. Applications for adjustment of status filed by aliens covered under this paragraph shall be treated as if they were applications filed under section 204(a)(1)(A)(iii), (A)(iv), (B)(ii), or (B)(iii) for purposes of section 245 (a) and (c)."

(c) EFFECTIVE DATE.—Any individual who becomes eligible for relief by reason of the enactment of the amendments made by subsections (a) and (b), shall be eligible to file a motion to reopen pursuant to section 240(c)(6)(C)(iv). So much of the amendment as is included in section 240A(b)(2) (A)(iii), (B), (D), and (E) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587).

SEC. 505. OFFERING EQUAL ACCESS TO IMMIGRATION PROTECTIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994 FOR ALL QUALIFIED BATTERED IMMIGRANT SELF-PETITIONERS.

(a) ELIMINATING CONNECTION BETWEEN BATTERY AND UNLAWFUL ENTRY.—Section 212(a)(6)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)(ii)) is amended—

(1) by striking subclause (I) and inserting the following:

"(I) the alien qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(i); and";

(2) in subclause (II), by striking ", and" and inserting a period; and

(3) by striking subclause (III).

(b) ELIMINATING CONNECTION BETWEEN BATTERY AND VIOLATION OF THE TERMS OF AN IMMIGRANT VISA.—Section 212(a)(9)(B)(iii)(IV) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(iii)(IV)) is amended by striking "who would be described in paragraph (6)(A)(ii)" and all that follows before the period and inserting "who is described in paragraph (6)(A)(ii)".

(c) BATTERED IMMIGRANT WAIVER.—Section 212(a)(9)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(C)(ii)) is amended by adding at the end the following: "The Attorney General in the Attorney General's discretion may waive the provisions of section 212(a)(9)(C)(i) in the case of an alien to whom the Attorney General has granted classification under clause (iii), (iv), (v), or (vi) of section 204(a)(1)(A), or classification under clause (ii), (iii), or (iv) of section 204(a)(1)(B), in any case in which there is a connection between—

"(1) the aliens having been battered or subjected to extreme cruelty; and

"(2) the alien's—

"(A) removal;

"(B) departure from the United States;

"(C) reentry or reentries into the United States; or

"(D) attempted reentry into the United States.

(d) DOMESTIC VIOLENCE VICTIM WAIVER.—

(1) WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE.—Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended by inserting at the end the following:

"(7) WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE.—

"(A) IN GENERAL.—The Attorney General is not limited by the criminal court record and may waive the application of paragraph (2)(E)(i) (with respect to crimes of domestic violence and crimes of stalking) and (ii) in the case of an alien who has been battered or subjected to extreme cruelty and who is not and was not the primary perpetrator of violence in the relationship—

"(i) upon a determination that—

"(I) the alien was acting in self-defense;

"(II) the alien was found to have violated a protection order intended to protect the alien; or

"(III) the alien committed, was arrested for, was convicted of, or pled guilty to committing a crime—

"(aa) that did not result in serious bodily injury; and

"(bb) where there was a connection between the crime and the alien's having been battered or subjected to extreme cruelty.

"(B) CREDIBLE EVIDENCE CONSIDERED.—In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General."

(2) CONFORMING AMENDMENT.—Section 240A(b)(1)(C) of the Immigration and Nation-

ality Act (8 U.S.C. 1229b(b)(1)(C)) is amended by inserting "(unless the act or conviction qualifies for an exception or is waivable for the purposes of a determination of the alien's admissibility under section 212(a) or deportability under section 237(a))" after "237(a)(3)".

(e) MISREPRESENTATION WAIVERS FOR BATTERED SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—

(1) WAIVER OF INADMISSIBILITY.—Section 212(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(i)(1)) is amended by inserting before the period at the end the following: "or, in the case of an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), or who would otherwise qualify for relief under section 240A(b)(2) or under section 244(a)(3) (as in effect before the date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), the alien demonstrates extreme hardship to the alien or the alien's United States citizen, lawful permanent resident, or qualified alien parent or child".

(2) WAIVER OF DEPORTABILITY.—Section 237(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(H)) is amended—

(A) in clause (i), by inserting "(I)" after "(i)";

(B) by redesignating clause (ii) as sub-clause (II); and

(C) by adding after clause (i) the following:

"(ii) is an alien who qualifies for classification under clause (iii), or (iv), of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), or who qualifies for relief under section 240A(b)(2) or under section 244(a)(3) (as in effect before the date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996)."

(f) BATTERED IMMIGRANT WAIVER.—Section 212(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(g)(1)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by adding "or" at the end; and

(3) by inserting after subparagraph (B) the following:

"(C) qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B), relief under section 240A(b)(2), or relief under section 244(a)(3) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996);"

(g) WAIVERS FOR VAWA ELIGIBLE BATTERED IMMIGRANTS.—Section 212(h)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(h)(1)) is amended—

(1) in subparagraph (B), by striking "and" and inserting "or";

(2) by adding at the end the following:

"(C) the alien qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A), classification under clause (ii) or (iii) of section 204(a)(1)(B), relief under section 240A(b)(2) or relief under section 244(a)(3) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996); and"

(h) PUBLIC CHARGE.—Section 212(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)(B)) is amended by adding at the end the following:

"(iii) In determining under this paragraph whether or not an alien described in section 212(a)(4)(C)(i) is inadmissible under this paragraph or ineligible to receive an immigrant visa or otherwise to adjust to the status of permanent resident, the consular officer or the Attorney General shall not consider any benefits the alien may have received that

were authorized under section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1641(c))."

(i) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives covering, with respect to the fiscal year 1997 and each fiscal year thereafter—

(1) the policy and procedures of the Immigration and Naturalization Service by which an alien who has been battered or subjected to extreme cruelty who is eligible for suspension of deportation or cancellation of removal can request to be placed, and be placed, in deportation or removal proceedings so that such alien may apply for suspension of deportation or cancellation of removal;

(2) the number of requests filed at each district office under this policy;

(3) the number of these requests granted reported separately for each district; and

(4) the average length of time at each Immigration and Naturalization office between the date that an alien who has been subject to battering or extreme cruelty eligible for suspension of deportation or cancellation of removal requests to be placed in deportation or removal proceedings and the date that the immigrant appears before an immigration judge to file an application for suspension of deportation or cancellation of removal.

SEC. 506. RESTORING IMMIGRATION PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN ACT OF 1994.

(a) REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.—

(1) IMMIGRATION AMENDMENTS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(A) in subsection (a), by inserting "or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" after "into the United States."; and

(B) in subsection (c), by striking "Subsection (a) shall not be applicable to" and inserting the following: "Other than an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or B(iv) of section 204(a)(1), subsection (a) shall not be applicable to";

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to applications for adjustment of status pending on or made on or after January 14, 1998.

(b) REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.—

(1) NOT TREATING SERVICE OF NOTICE AS TERMINATING CONTINUOUS PERIOD.—Section 240A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended by striking "when the alien is served a notice to appear under section 239(a) or" and inserting "(A) except in the case of an alien who applies for cancellation of removal under subsection (b)(2) when the alien is served a notice to appear under section 239(a), or (B)".

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

"(C) Aliens in removal proceedings who applied for cancellation of removal under subsection (b)(2)."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform

and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587).

(4) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—Section 309(c)(5)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended—

(A) by striking the subparagraph heading and inserting the following:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—"; and

(B) in clause (i)—

(i) in subclause (IV), by striking "or" at the end;

(ii) in subclause (V), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings before April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act)."

(5) EFFECTIVE DATE.—The amendments made by paragraph (4) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

(c) ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.—

(1) REMOVAL PROCEEDINGS.—

(A) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

"(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) for filing such a motion does not apply—

"(I) if the basis for the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2); and

"(II) if the motion is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that has been or will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1229-1229c).

(2) DEPORTATION PROCEEDINGS.—

(A) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen or rescind deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) (8 U.S.C. 1252b(c)(3)) does not apply—

(i) if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as so in effect) (8 U.S.C. 1254(a)(3)); and

(ii) if the motion is accompanied by a suspension of deportation application to be filed with the Attorney General or by a copy of

the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(B) APPLICABILITY.—Subparagraph (A) shall apply to motions filed by aliens who—

(i) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(ii) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(I) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.); or

(II) this title.

SEC. 507. REMEDYING PROBLEMS WITH IMPLEMENTATION OF THE IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994.

(a) EFFECT OF CHANGES IN ABUSERS' CITIZENSHIP STATUS ON SELF-PETITION.—

(1) RECLASSIFICATION.—Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) (as amended by section 503(b)(3) of this title) is amended by adding at the end the following:

"(vi) For the purposes of any petition filed under clause (iii) or (iv), the denaturalization, loss or renunciation of citizenship, death of the abuser, divorce, or changes to the abuser's citizenship status after filing of the petition shall not adversely affect the approval of the petition, and for approved petitions shall not preclude the classification of the eligible self-petitioning spouse or child as an immediate relative or affect the alien's ability to adjust status under subsections (a) and (c) of section 245 or obtain status as a lawful permanent resident based on the approved self-petition under such clauses."

(2) LOSS OF STATUS.—Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) (as amended by section 503(c)(4) of this title) is amended by adding at the end the following:

"(v)(I) For the purposes of any petition filed or approved under clause (ii) or (iii), divorce, or the loss of lawful permanent resident status by a spouse or parent after the filing of a petition under that clause shall not adversely affect approval of the petition, and, for an approved petition, shall not affect the alien's ability to adjust status under subsections (a) and (c) of section 245 or obtain status as a lawful permanent resident based on an approved self-petition under clause (ii) or (iii).

"(II) Upon the lawful permanent resident spouse or parent becoming or establishing the existence of United States citizenship through naturalization, acquisition of citizenship, or other means, any petition filed with the Immigration and Naturalization Service and pending or approved under clause (ii) or (iii) on behalf of an alien who has been battered or subjected to extreme cruelty shall be deemed reclassified as a petition filed under subparagraph (A) even if the acquisition of citizenship occurs after divorce or termination of parental rights."

(3) DEFINITION OF IMMEDIATE RELATIVES.—Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1154(b)(2)(A)(i)) is amended by adding at the end the following: "For purposes of this clause, an alien

who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) of this Act remains an immediate relative in the event that the United States citizen spouse or parent loses United States citizenship on account of the abuse.”.

(b) **ALLOWING REMARRIAGE OF BATTERED IMMIGRANTS.**—Section 204(h) of the Immigration and Nationality Act (8 U.S.C. 1154(h)) is amended by adding at the end the following: “Remarriage of an alien whose petition was approved under section 204(a)(1)(B)(ii) or 204(a)(1)(A)(iii) or marriage of an alien described in section 204(a)(1)(A) (iv) or (vi) or 204(a)(1)(B)(iii) shall not be the basis for revocation of a petition approval under section 205.”.

SEC. 508. TECHNICAL CORRECTION TO QUALIFIED ALIEN DEFINITION FOR BATTERED IMMIGRANTS.

Section 431(c)(1)(B)(iii) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)(iii)) is amended to read as follows:

“(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).”.

SEC. 509. PROTECTION FOR CERTAIN CRIME VICTIMS INCLUDING CRIMES AGAINST WOMEN.

(a) **FINDINGS AND PURPOSE.**—

(1) **FINDINGS.**—Congress makes the following findings:

(A) Immigrant women and children are often targeted to be victims of crimes committed against them in the United States, including rape, torture, trafficking, incest, battery or extreme cruelty, sexual assault, female genital mutilation, forced prostitution, being held hostage or other violent crimes.

(B) All women and children who are victims of these crimes and other human rights violations committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation, of the crimes or other unlawful activity committed against them, the prosecution of the perpetrators of such crimes or activity, or both such investigation and prosecution.

(2) **PURPOSE.**—

(A) The purpose of this section is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of trafficking of aliens, battering, extreme crudity, and other crimes committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.

(B) Creating a new nonimmigrant visa classification will facilitate the reporting of violations to law enforcement officials by exploited, victimized, and abused aliens who are not in a lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations, prosecutions, and civil law enforcement proceedings. By providing temporary legal status to aliens who have been severely victimized by criminal or other unlawful activity, it also reflects the humanitarian interests of the United States.

(C) Finally, this section gives the Attorney General discretion to convert such nonimmigrants to permanent resident status when it is justified on humanitarian grounds or is otherwise in the public interest.

(b) **ESTABLISHMENT OF HUMANITARIAN/MATERIAL WITNESS NONIMMIGRANT CLASSIFICATION.**—Section 101(a)(15) of the Immigration

and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking “or” at the end of subparagraph (R);

(2) by striking the period at the end of subparagraph (S) and inserting “; or”; and

(3) by adding at the end the following:

“(T)(i) an alien who the Attorney General determines—

“(I) is physically present in the United States or at a port of entry thereto;

“(II) is or has been a victim of a severe form of trafficking in persons as defined in section 3 of the Trafficking Victims Protection Act of 2000;

“(III)(aa) has not unreasonably refused to assist in the investigation or prosecution of acts of trafficking; or

“(bb) has not attained the age of 14 years; and

“(IV) would face a significant possibility of retribution or other hardship if removed from the United States,

and, if the Attorney General considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in this subparagraph if accompanying, or following to join, the alien, except that no person shall be eligible for admission to the United States under this subparagraph if there is substantial reason to believe that the person has committed an act of a severe form of trafficking in persons as defined in section 3 of the Trafficking Victims Protection Act of 2000;

“(ii) subject to section 214(m), an alien (and the spouse, children, and parents of the alien if accompanying or following to join the alien) who files an application for status under this subparagraph, if the Attorney General determines that—

“(I) the alien possesses material information concerning criminal or other unlawful activity;

“(II) the alien is willing to supply, has supplied, or has not unreasonably refused to supply such information to Federal or State law enforcement official or a Federal or State administrative agency investigating or bringing an enforcement action, or to a Federal or State court;

“(III) the alien, would be helpful, were the alien, to remain in the United States, to a Federal or State investigation or prosecution of criminal or other unlawful activity;

“(IV) the alien (or a child of the alien) has suffered substantial physical or mental abuse as a result of the criminal or other unlawful activity;

“(V) the alien has filed an affidavit from a Federal or State law enforcement official or a Federal or State administrative agency investigating or bringing an enforcement action, or is a Federal or State court, that provides information addressing the requirements under subclauses (I) through (III); and

“(iii) the provisions of section 204(a)(1)(H) shall apply to applications filed under clause (i) or (ii).”.

(2) **DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO “T” VISA NONIMMIGRANTS.**—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following:

“(i) With respect to nonimmigrant aliens described in subsection (a)(15)(T)—

“(1) the Attorney General and other government officials, where appropriate, shall provide those aliens with referrals to non-governmental organizations that would educate the aliens regarding their options while in the United States and the resources available to them; and

“(2) the Attorney General shall, during the period those aliens are in lawful temporary resident status under that subsection, grant the aliens authorization to engage in employment in the United States and provide

the aliens with an ‘employment authorized’ endorsement or other appropriate work permit.”.

(3) **WAIVER OF GROUNDS FOR INELIGIBILITY FOR ADMISSION.**—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following:

“(13) The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(T). The Attorney General, in the Attorney General’s discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(T), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Attorney General from instituting removal proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(T) for material nontrafficking related conduct committed after the alien’s admission into the United States, or for material nontrafficking related conduct or a condition that was not disclosed to the Attorney General prior to the alien’s admission as a nonimmigrant under section 101(a)(15)(T).”.

(c) **CONDITIONS FOR ADMISSION.**—

(1) **NUMERICAL LIMITATIONS, PERIOD OF ADMISSION, ETC.**—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

“(m)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(T) in any fiscal year may not exceed 2,000.

“(2) The period of admission of an alien as such a nonimmigrant may not exceed 3 years and such period may not be extended.

“(3) As a condition for the admission (or the provision of status), and continued stay in lawful status, of an alien as such a nonimmigrant, the alien—

“(A) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission (or obtaining such status) unless the alien qualifies for an exception or a waiver under section 212(a) or section 237(a); and

“(B) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

“(4) The Attorney General shall, during the period those aliens are in lawful temporary resident status under that subsection, grant the aliens authorization to engage in employment in the United States and provide the aliens with an ‘employment authorized’ endorsement or other appropriate work permit.”.

(2) **PROHIBITION OF CHANGE OF NON-IMMIGRANT CLASSIFICATION.**—Section 248(l) of the Immigration and Nationality Act (8 U.S.C. 1258(l)) is amended by striking “or (S)” and inserting “(S), or (T)”.

(3) **NONEXCLUSIVE RELIEF.**—Nothing in this title, or the amendments made by this title, affects the ability of an alien to seek any relief for which the alien may be eligible, including—

(A) asylum, gender-based asylum, withholding of removal, or withholding of removal based on protection under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; or

(B) relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 240A(b)(2), or section 244(a)(3) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

(4) **PROHIBITION ON ADVERSE DETERMINATIONS OF ADMISSIBILITY OR DEPORTABILITY.**—Section 384(a)(1) of the Illegal Immigration

Reform and Immigrant Responsibility Act of 1996 is amended—

(A) by striking “or” at the end of subparagraph (D),

(B) by adding at the end the following:

“(E) in the case of an alien applying for relief under section 101(a)(15)(T), the perpetrator of the substantial physical or mental abuse and the criminal or unlawful activity; and”;

(C) by inserting in paragraph (2) after “216(c)(4)(C),” the following “101(a)(15)(T).”.

(d) **ADJUSTMENT TO PERMANENT RESIDENT STATUS.**—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

“(1)(I) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States under section 101(a)(15)(T)(i)—

“(A) has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under section 101(a)(15)(T)(i);

“(B) has, throughout such period, been a person of good moral character;

“(C) has not, during such period, unreasonably refused to provide assistance in the investigation or prosecution of acts of trafficking; and

“(D) would face a significant possibility of retribution or other hardship if removed from the United States, the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

“(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

“(3) The Attorney General may adjust the status of an alien admitted into the United States (or otherwise provided nonimmigrant status) under section 101(a)(15)(T) (and a spouse, child, or parents admitted under such section) to that of an alien lawfully admitted for permanent residence if—

“(A) in the opinion of the Attorney General, the alien’s continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest; and

“(B) the alien is not described in subparagraph (A)(i)(I), (A)(ii), (A)(iii), (C), or (E) of section 212(a)(3).

“(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Attorney General shall record the alien’s admission for permanent residence as of the date of such approval.”.

SEC. 510. ACCESS TO CUBAN ADJUSTMENT ACT FOR BATTERED IMMIGRANT SPOUSES AND CHILDREN.

(a) **IN GENERAL.**—The last sentence of the first section of Public Law 89-732 (November 2, 1966; 8 U.S.C. 1255 note) is amended by striking the period at the end and inserting the following: “, except that such spouse or child who has been battered or subjected to extreme cruelty may adjust to permanent resident status under this Act without demonstrating that he or she is residing with the Cuban spouse or parent in the United States. In acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H).”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall be effective as if included in subtitle G of title IV of the Vio-

lent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.).

SEC. 511. ACCESS TO THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT FOR BATTERED SPOUSES AND CHILDREN.

Section 309(c)(5)(C) of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1101 note) is amended—

(1) in clause (i)—

(A) by striking “For purposes” and inserting “Subject to clauses (ii), (iii), and (iv), for purposes”;

(B) by striking “or” at the end of subclause (IV);

(C) by striking the period at the end of subclause (V) and inserting “; or”;

(D) by adding at the end the following:

“(VI) is at the time of filing of an application under subclause (I), (II), (V), or (VI) the spouse or child of an individual described in subclause (I), (II), or (V) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subclause (I), (II), or (V).”;

(2) by adding at the end the following:

“(iii) **CONSIDERATION OF PETITIONS.**—In acting on a petition filed under subclause (VI) or (VII) of clause (i) the provisions set forth in section 204(a)(1)(H) shall apply.

“(iv) **RESIDENCE WITH SPOUSE OR PARENT NOT REQUIRED.**—For purposes of the application of subclauses (VI) and (VII) of clause (i), a spouse or child shall not be required to demonstrate that he or she is residing with the spouse or parent in the United States.”.

SEC. 512. ACCESS TO THE HAITIAN REFUGEE FAIRNESS ACT OF 1998 FOR BATTERED SPOUSES AND CHILDREN.

(a) **IN GENERAL.**—Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105-277; 112 Stat. 2681-538) is amended to read as follows:

“(B)(i) the alien is the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a);

“(ii) at the time of filing or the application for adjustment under subsection (a) or this subsection the alien is the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and

“(iii) in acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H).”.

(b) **RESIDENCE WITH SPOUSE OR PARENT NOT REQUIRED.**—Section 902(d) of such Act is amended—

(1) in paragraph (1), by striking “The status” and inserting “Subject to paragraphs (2) and (3), the status”;

(2) by adding at the end the following:

“(3) **RESIDENCE WITH SPOUSE OR PARENT NOT REQUIRED.**—A spouse, or child may adjust to permanent resident status under paragraph (1) without demonstrating that he or she is residing with the spouse or parent in the United States.”.

SEC. 513. ACCESS TO SERVICES AND LEGAL REPRESENTATION FOR BATTERED IMMIGRANTS.

(a) **LAW ENFORCEMENT AND PROSECUTION GRANTS.**—Section 2001(b) of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended—

(1) in paragraph (1), by inserting “, immigration and asylum officers, immigration judges,” after “law enforcement officers”;

(2) in paragraph (8) (as amended by section 209(c) of this Act), by striking “and” at the end;

(3) in paragraph (9) (as added by section 209(c) of this Act), by striking the period at the end and inserting “; and”;

(4) by adding at the end the following:

“(10) providing assistance to victims of domestic violence and sexual assault in immigration matters.”.

(b) **GRANTS TO ENCOURAGE ARRESTS.**—Section 2101(b)(5) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)(5)) is amended by inserting before the period the following: “, including strengthening assistance to domestic violence victims in immigration matters”.

(c) **RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT GRANTS.**—Section 40295(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953; 42 U.S.C. 13971(a)(2)) is amended to read as follows:

“(2) to provide treatment, counseling, and assistance to victims of domestic violence and child abuse, including in immigration matters; and”.

(d) **CAMPUS DOMESTIC VIOLENCE GRANTS.**—Section 826(b)(5) of the Higher Education Amendments of 1998 (Public Law 105-244; 20 U.S.C. 1152) is amended by inserting before the period at the end the following: “, including assistance to victims in immigration matters”.

TITLE VI—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

SEC. 601. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) **IN GENERAL.**—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) is amended by striking paragraphs (1) through (5) and inserting the following:

“(1) for fiscal year 2001, \$6,025,000,000;

“(2) for fiscal year 2002, \$6,169,000,000;

“(3) for fiscal year 2003, \$6,316,000,000;

“(4) for fiscal year 2004, \$6,458,000,000; and

“(5) for fiscal year 2005, \$6,616,000,000.”.

(b) **DISCRETIONARY LIMITS.**—Title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.) is amended by inserting after section 310001 the following:

“SEC. 310002. DISCRETIONARY LIMITS.

“For the purposes of allocations made for the discretionary category under section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)), the term ‘discretionary spending limit’ means—

“(1) with respect to fiscal year 2001—

“(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

“(B) for the violent crime reduction category, \$6,025,000,000 in new budget authority and \$5,718,000,000 in outlays;

“(2) with respect to fiscal year 2002—

“(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

“(B) for the violent crime reduction category, \$6,169,000,000 in new budget authority and \$6,020,000,000 in outlays;

“(3) with respect to fiscal year 2003—

“(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

“(B) for the violent crime reduction category, \$6,316,000,000 in new budget authority and \$6,161,000,000 in outlays;

“(4) with respect to fiscal year 2004—

“(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

“(B) for the violent crime reduction category, \$6,459,000,000 in new budget authority and \$6,303,000,000 in outlays; and

“(5) with respect to fiscal year 2005—

“(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

“(B) for the violent crime reduction category, \$6,616,000 in new budget authority and \$6,452,000,000 in outlays; as adjusted in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)) and section 314 of the Congressional Budget Act of 1974.”.

JEFFORDS (AND OTHERS) AMENDMENT NO. 3200

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself, Mr. AL-LARD, Mr. BINGAMAN, Mr. KENNEDY, and Mr. LEAHY) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 239, following line 22, add the following:

SEC. 656. MODIFICATION OF TIME FOR USE BY CERTAIN MEMBERS OF THE SELECTED RESERVE OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (a) of section 16133 of title 10, United States Code, is amended by striking “(1) at the end” and all that follows through the end and inserting “on the date the person is separated from the Selected Reserve.”.

(b) CERTAIN MEMBERS.—Paragraph (1) of subsection (b) of that section is amended in the flush matter following subparagraph (B) by striking “shall be determined” and all that follows through the end and inserting “shall expire on the later of (i) the 10-year period beginning on the date on which such person becomes entitled to educational assistance under this chapter, or (ii) the end of the 4-year period beginning on the date such person is separated from, or ceases to be, a member of the Selected Reserve.”.

(c) CONFORMING AMENDMENTS.—Subsection (b) of that section is further amended—

(1) in paragraph (2), by striking “subsection (a)” and inserting “subsections (a) and (b)(1)”;

(2) in paragraph (3), by striking “subsection (a)” and inserting “subsection (b)(1)”;

(3) in paragraph (4)—

(A) in subparagraph (A), by striking “subsection (a)” and inserting “subsections (a) and (b)(1)”;

(B) in subparagraph (B), by striking “clause (2) of such subsection” and inserting “subsection (a)”.

THOMAS AMENDMENT NO. 3201

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill (S. 2549), supra; as follows:

At the appropriate place in the bill, add the following new section and renumber the remaining sections accordingly:

SEC. . PROHIBITION ON THE RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(a) PROHIBITION.—Notwithstanding section 2572 of title 10, United States Code, or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or entity controlled by a foreign government, or otherwise transfer or convey such object to any person or entity for purposes of the ultimate transfer or conveyance of such object to a foreign country or entity controlled by a foreign government, unless specifically authorized by law.

(b) DEFINITIONS.—In this section:

(1) ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.—The term “entity controlled by a foreign government” has the meaning given that term in section 2536(c)(1) of title 10, United States Code.

(2) VETERANS MEMORIAL OBJECT.—The term “veterans memorial object” means any object, including a physical structure or portion thereof, that—

(A) is located in a cemetery of the national Cemetery System, war memorial, or military installation in the United States;

(B) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the United States Armed Forces; and

(C) was brought to the United States from abroad as a memorial of combat abroad.

DODD AMENDMENT NO. 3202

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. AUTHORITY TO PROVIDE HEADSTONES OR MARKERS FOR MARKED GRAVES OR OTHERWISE COMMEMORATE CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 2306 of title 38, United States Code, is amended—

(1) in subsections (a) and (e)(1), by striking “the unmarked graves of”; and

(2) by adding at the end the following:

“(f) A headstone or marker furnished under subsection (a) shall be furnished, upon request, for the marked grave or unmarked grave of the individual or at another area appropriate for the purpose of commemorating the individual.”.

(b) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendment to subsection (a) of section 2306 of title 38, United States Code, made by subsection (a) of this section, and subsection (f) of such section 2306, as added by subsection (a) of this section, shall apply with respect to burials occurring before, on, or after the date of the enactment of this Act.

(2) The amendments referred to in paragraph (1) shall not apply in the case of the grave for any individual who died before November 1, 1990, for which the Administrator of Veterans' Affairs provided reimbursement in lieu of furnishing a headstone or marker under subsection (d) of section 906 of title 38,

United States Code, as such subsection was in effect after September 30, 1978, and before November 1, 1990.

INHOFE (AND NICKLES) AMENDMENT NO. 3203

(Ordered to lie on the table.)

Mr. INHOFE (for himself and Mr. NICKLES) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

On page 58, between lines 7 and 8, insert the following:

SEC. 313. INDUSTRIAL MOBILIZATION CAPACITY, MCALESTER ARMY AMMUNITION ACTIVITY, OKLAHOMA.

Of the amount authorized to be appropriated under section 301(1), \$10,300,000 shall be available for funding the industrial mobilization capacity at the McAlester Army Ammunition Activity, Oklahoma.

STEVENS AMENDMENT NO. 3204

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 239, following line 22, add the following:

SEC. 656. RECOGNITION OF MEMBERS OF THE ALASKA TERRITORIAL GUARD AS VETERANS.

(a) IN GENERAL.—Section 106 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(f) Service as a member of the Alaska Territorial Guard during World War II of any individual who was honorably discharged therefrom under section 656(b) of the National Defense Authorization Act for Fiscal Year 2001 shall be considered active duty for purposes of all laws administered by the Secretary.”.

(b) DISCHARGE.—(1) The Secretary of Defense shall issue to each individual who served as a member of the Alaska Territorial Guard during World War II a discharge from such service under honorable conditions if the Secretary determines that the nature and duration of the service of the individual so warrants.

(2) A discharge under paragraph (1) shall designate the date of discharge. The date of discharge shall be the date, as determined by the Secretary, of the termination of service of the individual concerned as described in that paragraph.

(c) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits shall be paid to any individual for any period before the date of the enactment of this Act by reason of the enactment of this section.

SANTORUM AMENDMENT NO. 3205

(Ordered to lie on the table.)

Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill, S. 2549, supra; as follows:

On page 31, between lines 18 and 19, insert the following:

SEC. 126. REMANUFACTURED AV-8B AIRCRAFT.

Of the amount authorized to be appropriated by section 102(a)(1)—

(1) \$374,132,000 is available for the procurement of remanufactured AV-8B aircraft;

(2) \$32,600,000 is available for the procurement of UC-35 aircraft;

(3) \$81,039,000 is available for the procurement of Litening II targeting pods for AV-8B aircraft; and

(4) \$262,514,000 is available for engineering change proposal 583 for FA-18 aircraft.

SMITH OF NEW HAMPSHIRE (AND OTHERS) AMENDMENT NO. 3206

(Ordered to lie on the table.)

Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, Mr. ALLARD, and Mr. HUTCHINSON) submitted an amendment intended to be proposed by them to the bill, S. 2549, supra; as follows:

At the appropriate place, add the following:

“SEC. . PERSONNEL SECURITY POLICIES.

No officer or employee of the Department of Defense, and no member of the Armed Forces shall be granted a security clearance unless that person:

(1) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

(2) is not a fugitive from justice;

(3) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(4) has not been adjudicated as a mental defective or been committed to a mental institution;

(5) has not been discharged from the Armed Forces under dishonorable conditions; and.”.

JOHNSON AMENDMENTS NOS. 3207–3209

(Ordered to lie on the table.)

Mr. JOHNSON submitted three amendments intended to be proposed by him to the bill, S. 2459, supra; as follows:

AMENDMENT No. 3207

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following:

“(f) Own, feed, or control livestock intended for slaughter (for more than 14 days prior to slaughter and acting through the packer or a person that directly or indirectly controls, or is controlled by or under common control with, the packer), except that this subsection shall not apply to—

“(1) a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

“(A) own, feed, or control livestock; and

“(B) provide the livestock to the cooperative for slaughter; or

“(2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or”; and

(3) in subsection (h) (as so redesignated), by striking “or (e)” and inserting “(e), or (f)”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer—

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.

AMENDMENT No. 3208

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. MEDICARE PRESCRIPTION DRUG PRICE REDUCTION PROGRAM.

(a) PARTICIPATING MANUFACTURERS.—

(1) IN GENERAL.—Each participating manufacturer of a covered outpatient drug shall make available for purchase by each pharmacy such covered outpatient drug in the amount described in paragraph (2) at the price described in paragraph (3).

(2) DESCRIPTION OF AMOUNT OF DRUGS.—The amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy is an amount equal to the aggregate amount of the covered outpatient drug sold or distributed by the pharmacy to medicare beneficiaries.

(3) DESCRIPTION OF PRICE.—The price at which a participating manufacturer shall make a covered outpatient drug available for purchase by a pharmacy is the price equal to the lower of the following:

(A) The lowest price paid for the covered outpatient drug by any agency or department of the United States.

(B) The manufacturer's best price for the covered outpatient drug, as defined in section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)).

(b) SPECIAL PROVISION WITH RESPECT TO HOSPICE PROGRAMS.—For purposes of determining the amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy under subsection (a), there shall be included in the calculation of such amount the amount of the covered outpatient drug sold or distributed by a pharmacy to a hospice program. In calculating such amount, only amounts of the covered outpatient drug furnished to a medicare beneficiary enrolled in the hospice program shall be included.

(c) ADMINISTRATION.—The Secretary shall issue such regulations as may be necessary to implement the program established by this section.

(d) REPORTS TO CONGRESS REGARDING EFFECTIVENESS OF SECTION.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Secretary shall report to Congress regarding the effectiveness of the program established by this section in—

(A) protecting medicare beneficiaries from discriminatory pricing by participating manufacturers; and

(B) making covered outpatient drugs available to medicare beneficiaries at prices substantially lower than the prices such beneficiaries would have paid for such drugs on the date of enactment of this section.

(2) CONSULTATION.—In preparing such reports, the Secretary shall consult with public health experts, affected industries, organizations representing consumers and older Americans, and other interested persons.

(3) RECOMMENDATIONS.—The Secretary shall include in such reports any recommendations that the Secretary considers appropriate for changes in this section to further reduce the cost of covered outpatient drugs to medicare beneficiaries.

(e) DEFINITIONS.—In this section:

(1) PARTICIPATING MANUFACTURER.—The term “participating manufacturer” means any manufacturer of drugs or biologicals that, on or after the date of enactment of

this section, enters into or renews a contract or agreement with the United States for the sale or distribution of covered outpatient drugs to the United States.

(2) COVERED OUTPATIENT DRUG.—The term “covered outpatient drug” has the meaning given that term in section 1927(k)(2) of the Social Security Act (42 U.S.C. 1396r–8(k)(2)).

(3) MEDICARE BENEFICIARY.—The term “medicare beneficiary” means an individual entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) or enrolled under part B of such title (42 U.S.C. 1395j et seq.), or both.

(4) HOSPICE PROGRAM.—The term “hospice program” has the meaning given that term under section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

(5) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(f) EFFECTIVE DATE.—The Secretary shall implement this section as expeditiously as practicable and in a manner consistent with the obligations of the United States.

AMENDMENT No. 3209

At the end of the bill, add the following:

DIVISION D—GENERIC PHARMACEUTICAL ACCESS**SEC. 4001. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Generic Pharmaceutical Access and Choice for Consumers Act of 2000”.

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

DIVISION D—GENERIC PHARMACEUTICAL ACCESS

Sec. 4001. Short title; table of contents.

Sec. 4002. Findings and purposes.

TITLE XLI—ENCOURAGEMENT OF THE USE OF GENERIC DRUGS

Sec. 4101. Encouragement of the use of generic drugs under the Public Health Service Act.

Sec. 4102. Application to Federal employees health benefits program.

Sec. 4103. Application to medicare program.

Sec. 4104. Application to medicaid program.

Sec. 4105. Application to Indian Health Service.

Sec. 4106. Application to veterans programs.

Sec. 4107. Application to recipients of uniformed services health care.

Sec. 4108. Application to Federal prisoners.

TITLE XLII—THERAPEUTIC EQUIVALENCE REQUIREMENTS FOR GENERIC DRUGS

Sec. 4201. Therapeutic equivalence of generic drugs.

TITLE XLIII—GENERIC PHARMACEUTICALS AND MEDICARE REFORM

Sec. 4301. Sense of the Senate regarding a preference for the use of generic pharmaceuticals under the medicare program.

SEC. 4002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Generic pharmaceuticals are approved by the Food and Drug Administration on the basis of testing and other information establishing that such pharmaceuticals are therapeutically equivalent to brand-name pharmaceuticals, ensuring consumers a safe, efficacious, and cost-effective alternative to brand-name pharmaceuticals.

(2) The pharmaceutical market has become increasingly competitive during the last decade because of the increasing availability and accessibility of generic pharmaceuticals.

(3) The Congressional Budget Office estimates that—

(A) the substitution of generic pharmaceuticals for brand-name pharmaceuticals will save purchasers of pharmaceuticals between \$8,000,000,000 and \$10,000,000,000 each year; and

(B) quality generic pharmaceuticals cost between 25 percent and 60 percent less than brand-name pharmaceuticals, resulting in an estimated average savings of \$15 to \$30 on each prescription filled.

(4) Generic pharmaceuticals are widely accepted by both consumers and the medical profession, as the market share held by generic pharmaceuticals compared to brand-name pharmaceuticals has more than doubled during the last decade, from approximately 19 percent to 43 percent, according to the Congressional Budget Office.

(b) PURPOSES.—The purposes of this Act are—

(1) to reduce the cost of prescription drugs to the United States Government and to beneficiaries under Federal health care programs while maintaining the quality of health care by encouraging the use of generic drugs rather than nongeneric drugs under those programs whenever feasible; and

(2) to increase the utilization of generic pharmaceuticals by requiring the Food and Drug Administration, where appropriate, to determine that a generic pharmaceutical is the therapeutic equivalent of its brand-name counterpart, and by affording national uniformity to that determination.

TITLE XII—ENCOURAGEMENT OF THE USE OF GENERIC DRUGS

SEC. 4101. ENCOURAGEMENT OF THE USE OF GENERIC DRUGS UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following new section:

“SEC. 247. USE OF GENERIC DRUGS ENCOURAGED.

“(a) Each grant or contract entered into under this Act that involves the provision of health care items or services to individuals shall include provisions to ensure that, to the extent feasible, any prescriptions provided for under such grant or contract are filled by providing the generic form of the drug involved, unless the nongeneric form of the drug is—

“(1) specifically ordered by the prescribing provider; or

“(2) requested by the individual for whom the drug is prescribed.

“(b) In this section:

“(1) The term ‘generic form of the drug’ means a drug that is the subject of an application approved under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), for which the Secretary has made a determination that the drug is the therapeutic equivalent of a listed drug under section 505(j)(5)(E) of that Act (21 U.S.C. 355(j)(5)(E)).

“(2) The term ‘nongeneric form of the drug’ means a drug that is the subject of an application approved under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any drug furnished on or after the date of enactment of this Act.

SEC. 4102. APPLICATION TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—Section 8902 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(p) To the extent feasible, if a contract under this chapter provides for the provision of, the payment for, or the reimbursement of the cost of any prescription drug, the carrier shall provide, pay, or reimburse the cost of the generic form of the drug (as defined in section 247(b)(1) of the Public Health Service Act), except, if the nongeneric form of the drug (as defined in section 247(b)(2) of such Act) is—

“(1) specifically ordered by the prescribing provider; or

“(2) requested by the individual for whom the drug is prescribed.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any drug furnished during contract years beginning on or after January 1, 2001.

SEC. 4103. APPLICATION TO MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1861(t) of the Social Security Act (42 U.S.C. 1395x(t)) is amended by adding at the end the following new paragraph:

“(3) For purposes of paragraph (1), the term ‘drugs’ means, to the extent feasible, the generic form of the drug (as defined in section 247(b)(1) of the Public Health Service Act), unless the nongeneric form of such drug (as defined in section 247(b)(2) of such Act) is—

“(A) specifically ordered by the health care provider; or

“(B) requested by the individual to whom the drug is provided.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply with respect to any drug furnished on or after the date of enactment of this Act.

(2) MEDICARE+CHOICE PLANS.—In the case of a Medicare+Choice plan offered by a Medicare+Choice organization under part C of title XVIII of the Social Security Act (42 U.S.C. 1395w-21 et seq.), the amendment made by this section shall apply to any drug furnished during contract years beginning on or after January 1, 2001.

SEC. 4104. APPLICATION TO MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (64), by striking “and” at the end;

(2) in paragraph (65), by striking the period at the end and inserting “; and”; and

(3) by adding the following new paragraph:

“(66) provide that the State shall, in conjunction with the program established under section 1927(g), to the extent feasible, provide for the use of a generic form of a drug (as defined in section 247(b)(1) of the Public Health Service Act), unless the nongeneric form of the drug (as defined in section 247(b)(2) of such Act) is—

“(A) specifically ordered by the provider; or

“(B) requested by the individual to whom the drug is provided.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any drug furnished under State plans that are approved or renewed on or after the date of enactment of this Act.

SEC. 4105. APPLICATION TO INDIAN HEALTH SERVICE.

(a) IN GENERAL.—Title II of the Indian Health Care Improvement Act (25 U.S.C. 1621 et seq.) is amended by adding at the end the following new subsection:

“SEC. 225. USE OF GENERIC DRUGS ENCOURAGED.

“In providing health care items or services under this Act, the Indian Health Service shall ensure that, to the extent feasible, any prescriptions that are provided for under this Act are filled by providing the generic form of the drug (as defined in section 247(b)(1) of the Public Health Service Act) involved, unless the nongeneric form of the drug (as defined in section 247(b)(2) of such Act) is—

“(1) specifically ordered by the prescribing provider; or

“(2) requested by the individual for whom the drug is prescribed.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect

to any drug furnished on or after the date of enactment of this Act.

SEC. 4106. APPLICATION TO VETERANS PROGRAMS.

(a) USE OF GENERIC DRUGS ENCOURAGED.—Subchapter III of chapter 17 of title 38, United States Code, is amended by inserting after section 1722A the following new section:

“§ 1722B. Use of generic drugs encouraged

“When furnishing a prescription drug under this chapter, the Secretary shall furnish a generic form of the drug (as defined in section 247(b)(1) of the Public Health Service Act), unless the nongeneric form of the drug (as defined in section 247(b)(2) of such Act) is—

“(1) specifically ordered by the prescribing provider; or

“(2) requested by the individual for whom the drug is prescribed.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1722A the following new item:

“1722B. Use of generic drugs encouraged.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any drug furnished on or after the date of enactment of this Act.

SEC. 4107. APPLICATION TO RECIPIENTS OF UNIFORMED SERVICES HEALTH CARE.

(a) USE OF GENERIC DRUGS ENCOURAGED.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 1110. Use of generic drugs encouraged

“The administering Secretaries shall ensure that, whenever feasible, each health care provider who furnishes a drug furnishes the generic form of the drug (as defined in section 247(b)(1) of the Public Health Service Act) under this chapter, unless the nongeneric form of the drug (as defined in section 247(b)(2) of such Act) is—

“(1) specifically ordered by the prescribing provider; or

“(2) requested by the individual for whom the drug is prescribed.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1109 the following new item:

“1110. Use of generic drugs encouraged.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any drug furnished under this chapter on or after the date of enactment of this Act.

SEC. 4108. APPLICATION TO FEDERAL PRISONERS.

(a) IN GENERAL.—Section 4006(b) of title 18, United States Code, is amended by adding at the end the following new paragraph:

“(3) USE OF GENERIC DRUGS ENCOURAGED.—The Attorney General shall ensure that, whenever feasible, each health care provider who furnishes a drug to a prisoner charged with or convicted of an offense against the United States furnishes the generic form of the drug (as defined in section 247(b)(1) of the Public Health Service Act), unless the nongeneric form of the drug (as defined in section 247(b)(2) of such Act) is—

“(A) specifically ordered by the prescribing provider; or

“(B) requested by the prisoner for whom the drug is prescribed.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any drug furnished on or after the date of enactment of this Act.

TITLE XLII—THERAPEUTIC EQUIVALENCE REQUIREMENTS FOR GENERIC DRUGS

SEC. 4201. THERAPEUTIC EQUIVALENCE OF GENERIC DRUGS.

(a) IN GENERAL.—Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended—

(1) in paragraph (5), by adding at the end the following new subparagraph:

“(E)(i) For each abbreviated application filed under paragraph (1), the Secretary shall determine whether the new drug for which the application is filed is the therapeutic equivalent of the listed drug referred to in paragraph (2)(A)(i) prior to the approval of the application.

“(ii) For purposes of clause (i), a new drug is the therapeutic equivalent of a listed drug if—

“(I) each active ingredient of the new drug and the listed drug is the same;

“(II) the new drug and the listed drug (aa) are of the same dosage form; (bb) have the same route of administration; (cc) are identical in strength or concentration; (dd) meet the same compendial or other applicable standards, except that the drugs may differ in shape, scoring, configuration, packaging, excipient, expiration time, or, subject to paragraph (2)(A)(v), labeling; and (ee) are expected to have the same clinical effect and safety profile when administered to patients under conditions specified in the labeling; and

“(III)(aa) the new drug does not present a known or potential bioequivalence problem and meets an acceptable in vitro standard; or (bb) if the new drug presents a known or potential bioequivalence problem, the drug is shown to meet an appropriate bioequivalence standard.

“(iii) With respect to a new drug for which an abbreviated application is filed under paragraph (1), the provisions of this subparagraph shall supersede any provisions of the law of any State relating to the determination of the therapeutic equivalence of the drug to a listed drug.”; and

(2) in paragraph (7)(A), by adding at the end the following:

“(iv) The Secretary shall include in each revision of the list under clause (ii) on or after the date of enactment of this clause the official and proprietary name of each listed drug that is therapeutically equivalent to a new drug approved under this subsection during the preceding 30-day period, as determined under paragraph (5)(E).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

TITLE XLIII—GENERIC PHARMACEUTICALS AND MEDICARE REFORM

SEC. 4301. SENSE OF THE SENATE REGARDING A PREFERENCE FOR THE USE OF GENERIC PHARMACEUTICALS UNDER THE MEDICARE PROGRAM.

It is the sense of the Senate that legislative language requiring, to the extent feasible, a preference for the safe and cost-effective use of generic pharmaceuticals should be considered in conjunction with any legislation that adds a comprehensive prescription drug benefit to the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

SMITH OF NEW HAMPSHIRE (AND OTHERS) AMENDMENT NO. 3210

Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, Mr. ALLARD, Mr. HUTCHINSON, and Mr. HARKIN) proposed and amendment to the bill S. 2549, supra; as follows:

At the appropriate place, add the following

“SEC. . PERSONNEL SECURITY POLICIES.

No officer or employee of the Department of Defense or any contractor thereof, and no member of the Armed Forces shall be granted a security clearance unless that person:

(1) has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

(2) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(3) has not been adjudicated as mentally incompetent;

(4) has not been discharged from the Armed Forces under dishonorable conditions.”.

WELLSTONE (AND DURBIN) AMENDMENT NO. 3211

Mr. WELLSTONE (for himself and Mr. DURBIN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 462, between lines 2 and 3, insert the following:

SEC. 1210. SENSE OF CONGRESS REGARDING THE USE OF CHILDREN AS SOLDIERS.

(a) FINDINGS.—Congress finds that—

(1) in the year 2000 approximately 300,000 individuals under the age of 18 are participating in armed conflict in more than 30 countries worldwide;

(2) many of these children are forcibly conscripted through kidnapping or coercion, while others join military units due to economic necessity, to avenge the loss of a family member, or for their own personal safety;

(3) many military commanders frequently force child soldiers to commit gruesome acts of ritual killings or torture against their enemies, including against other children;

(4) many military commanders separate children from their families in order to foster dependence on military units and leaders, leaving children vulnerable to manipulation, deep traumatization, and in need of psychological counseling and rehabilitation;

(5) child soldiers are exposed to hazardous conditions and risk physical injuries, sexually transmitted diseases, malnutrition, deformed backs and shoulders from carrying overweight loads, and respiratory and skin infections;

(6) many young female soldiers face the additional psychological and physical horrors of rape and sexual abuse, being enslaved for sexual purposes by militia commanders, and forced to endure severe social stigma should they return home;

(7) children in northern Uganda continue to be kidnapped by the Lords Resistance Army (LRA), which is supported and funded by the Government of Sudan and which has committed and continues to commit gross human rights violations in Uganda;

(8) children in Sri Lanka have been forcibly recruited by the opposition Tamil Tigers movement and forced to kill or be killed in the armed conflict in that country;

(9) an estimated 7,000 child soldiers have been involved in the conflict in Sierra Leone, some as young as age 10, with many being forced to commit extrajudicial executions, torture, rape, and amputations for the rebel Revolutionary United Front;

(10) on January 21, 2000, in Geneva, a United Nations Working Group, including representatives from more than 80 governments including the United States, reached consensus on an optional protocol on the use of child soldiers;

(11) this optional protocol will raise the international minimum age for conscription and direct participation in armed conflict to age eighteen, prohibit the recruitment and use in armed conflict of persons under the age of eighteen by non-governmental armed forces, encourage governments to raise the

minimum legal age for voluntary recruits above the current standard of 15 and, commits governments to support the demobilization and rehabilitation of child soldiers, and when possible, to allocate resources to this purpose;

(12) on October 29, 1998, United Nations Secretary General Kofi Annan set minimum age requirements for United Nations peacekeeping personnel that are made available by member nations of the United Nations;

(13) United Nations Under-Secretary General for Peace-keeping, Bernard Miyet, announced in the Fourth Committee of the General Assembly that contributing governments of member nations were asked not to send civilian police and military observers under the age of 25, and that troops in national contingents should preferably be at least 21 years of age but in no case should they be younger than 18 years of age;

(14) on August 25, 1999, the United Nations Security Council unanimously passed Resolution 1261 (1999) condemning the use of children in armed conflicts;

(15) in addressing the Security Council, the Special Representative of the Secretary General for Children and Armed Conflict, Olara Otunnu, urged the adoption of a global three-pronged approach to combat the use of children in armed conflict, first to raise the age limit for recruitment and participation in armed conflict from the present age of 15 to the age of 18, second, to increase international pressure on armed groups which currently abuse children, and third to address the political, social, and economic factors which create an environment where children are induced by appeal of ideology or by socio-economic collapse to become child soldiers;

(16) the United States delegation to the United Nations working group relating to child soldiers, which included representatives from the Department of Defense, supported the Geneva agreement on the optional protocol;

(17) on May 25, 2000, the United Nations General Assembly unanimously adopted the optional protocol on the use of child soldiers;

(18) the optional protocol was opened for signature on June 5, 2000; and

(17) President Clinton has publicly announced his support of the optional protocol and a speedy process of review and signature.

(b) SENSE OF CONGRESS.—(1) Congress joins the international community in—

(A) condemning the use of children as soldiers by governmental and nongovernmental armed forces worldwide; and

(B) welcoming the optional protocol as a critical first step in ending the use of children as soldiers.

(2) It is the sense of Congress that—

(A) It is essential that the President consult closely with the Senate with the objective of building support for this protocol, and the Senate move forward as expeditiously as possible.

(B) the President and Congress should work together to enact a law that establishes a fund for the rehabilitation and reintegration into society of child soldiers; and

(C) the Departments of State and Defense should undertake all possible efforts to persuade and encourage other governments to ratify and endorse the new optional protocol on the use of child soldiers.

LOTT AMENDMENT NO. 3212

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill, S. 2459, supra; as follows:

On page 58, between lines 7 and 8, insert the following:

SEC. 313. WEATHERPROOFING OF FACILITIES AT KEESLER AIR FORCE BASE, MISSISSIPPI.

Of the total amount authorized to be appropriated by section 301(4), \$2,800,000 is available for the weatherproofing of facilities at Keesler Air Force Base, Mississippi.

BENNETT AMENDMENT NO. 3213

(Ordered to lie on the table.)

Mr. BENNETT submitted an amendment intended to be proposed by him to the bill, S. 2459, supra; as follows:

On page 611, after line 21, add the following:

SEC. 3202. LAND TRANSFER AND RESTORATION.

(a) **SHORT TITLE.**—This section may be cited as the "Ute-Moab Land Restoration Act".

(b) **TRANSFER OF OIL SHALE RESERVE.**—Section 3405 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105-261) is amended to read as follows:

"SEC. 3405. TRANSFER OF OIL SHALE RESERVE NUMBERED 2.

"(a) **DEFINITIONS.**—In this section:

"(1) **MAP.**—The term "map" means the map entitled 'Boundary Map,,', numbered ____ and dated ____, to be kept on file and available for public inspection in the offices of the Department of the Interior.

"(2) **MOAB SITE.**—The term 'Moab site' means the Moab uranium milling site located approximately 3 miles northwest of Moab, Utah, and identified in the Final Environmental Impact Statement issued by the Nuclear Regulatory Commission in March 1996, in conjunction with Source Material License No. SUA 917.

"(3) **NOSR-2.**—The term 'NOSR-2' means Oil Shale Reserve Numbered 2, as identified on a map on file in the Office of the Secretary of the Interior.

"(4) **TRIBE.**—The term 'Tribe' means the Ute Indian Tribe of the Uintah and Ouray Indian Reservation.

"(b) **CONVEYANCE.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (2), the United States conveys to the Tribe, subject to valid existing rights in effect on the day before the date of enactment of this section, all Federal land within the exterior boundaries of NOSR-2 in fee simple (including surface and mineral rights).

"(2) **RESERVATIONS.**—The conveyance under paragraph (1) shall not include the following reservations of the United States:

"(A) A 9 percent royalty interest in the value of any oil, gas, other hydrocarbons, and all other minerals from the conveyed land that are produced, saved, and sold, the payments for which shall be made by the Tribe or its designee to the Secretary of Energy during the period that the oil, gas, hydrocarbons, or minerals are being produced, saved, sold, or extracted.

"(B) The portion of the bed of Green River contained entirely within NOSR-2, as depicted on the map.

"(C) The land (including surface and mineral rights) to the west of the Green River within NOSR-2, as depicted on the map.

"(D) A ¼ mile scenic easement on the east side of the Green River within NOSR-2.

"(3) **CONDITIONS.**—

"(A) **MANAGEMENT AUTHORITY.**—On completion of the conveyance under paragraph (1), the United States relinquishes all management authority over the conveyed land (including tribal activities conducted on the land).

"(B) **NO REVERSION.**—The land conveyed to the Tribe under this subsection shall not revert to the United States for management in trust status.

"(C) **USE OF EASEMENT.**—The reservation of the easement under paragraph (2)(D) shall not affect the right of the Tribe to obtain, use, and maintain access to, the Green River through the use of the road within the easement, as depicted on the map.

"(c) **WITHDRAWALS.**—Each withdrawal that applies to NOSR-2 and that is in effect on the date of enactment of this section is revoked to the extent that the withdrawal applies to NOSR-2.

"(d) **ADMINISTRATION OF RESERVED LAND AND INTERESTS IN LAND.**—

"(1) **IN GENERAL.**—The Secretary shall administer the land and interests in land reserved from conveyance under subparagraphs (B) and (C) of subsection (b)(2) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

"(2) **MANAGEMENT PLAN.**—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to Congress a land use plan for the management of the land and interests in land referred to in paragraph (1).

"(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection.

"(e) **ROYALTY.**—

"(1) **PAYMENT OF ROYALTY.**—

"(A) **IN GENERAL.**—The royalty interest reserved from conveyance in subsection (b)(2)(A) that is required to be paid by the Tribe shall not include any development, production, marketing, and operating expenses.

"(B) **FEDERAL TAX RESPONSIBILITY.**—The United States shall bear responsibility for and pay—

"(i) gross production taxes;

"(ii) pipeline taxes; and

"(iii) allocation taxes assessed against the gross production.

"(2) **REPORT.**—The Tribe shall submit to the Secretary of Energy and to Congress an annual report on resource development and other activities of the Tribe concerning the conveyance under subsection (b).

"(3) **FINANCIAL AUDIT.**—

"(A) **IN GENERAL.**—Not later than 5 years after the date of enactment of this section, and every 5 years thereafter, the Tribe shall obtain an audit of all resource development activities of the Tribe concerning the conveyance under subsection (b), as provided under chapter 75 of title 31, United States Code.

"(B) **INCLUSION OF RESULTS.**—The results of each audit under this paragraph shall be included in the next annual report submitted after the date of completion of the audit.

"(f) **RIVER MANAGEMENT.**—

"(1) **IN GENERAL.**—The Tribe shall manage, under Tribal jurisdiction and in accordance with ordinances adopted by the Tribe, land of the Tribe that is adjacent to, and within ¼ mile of, the Green River in a manner that—

"(A) maintains the protected status of the land; and

"(B) is consistent with the government-to-government agreement and in the memorandum of understanding dated February 11, 2000, as agreed to by the Tribe and the Secretary.

"(2) **NO MANAGEMENT RESTRICTIONS.**—An ordinance referred to in paragraph (1) shall not impair, limit, or otherwise restrict the management and use of any land that is not owned, controlled, or subject to the jurisdiction of the Tribe.

"(3) **REPEAL OR AMENDMENT.**—An ordinance adopted by the Tribe and referenced in the government-to-government agreement may not be repealed or amended without the written approval of—

"(A) the Tribe; and

"(B) the Secretary.

"(g) **PLANT SPECIES.**—

"(1) **IN GENERAL.**—In accordance with a government-to-government agreement between the Tribe and the Secretary, in a manner consistent with levels of legal protection in effect on the date of enactment of this section, the Tribe shall protect, under ordinances adopted by the Tribe, any plant species that is—

"(A) listed as an endangered species or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

"(B) located or found on the NOSR-2 land conveyed to the Tribe.

"(2) **TRIBAL JURISDICTION.**—The protection described in paragraph (1) shall be performed solely under tribal jurisdiction

"(h) **HORSES.**—

"(1) **IN GENERAL.**—The Tribe shall manage, protect, and assert control over any horse not owned by the Tribe or tribal members that is located or found on the NOSR-2 land conveyed to the Tribe in a manner that is consistent with Federal law governing the management, protection, and control of horses in effect on the date of enactment of this section.

"(2) **TRIBAL JURISDICTION.**—The management, control, and protection of horses described in paragraph (1) shall be performed solely—

"(A) under tribal jurisdiction; and

"(B) in accordance with a government-to-government agreement between the Tribe and the Secretary.

"(i) **REMEDIAL ACTION AT MOAB SITE.**—

"(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subsection, the Secretary of Energy shall prepare a plan for the commencement, not later than 1 year after the date of completion of the plan, of remedial action (including ground water restoration) at the Moab site in accordance with section 102(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912(a)).

"(2) **LIMIT ON EXPENDITURES.**—The Secretary shall limit the amounts expended in carrying out the remedial action under paragraph (1) to—

"(A) amounts specifically appropriated for the remedial action in an Act of appropriation; and

"(B) other amounts made available for the remedial action under this subsection.

"(3) **RETENTION OF ROYALTIES.**—

"(A) **IN GENERAL.**—The Secretary of Energy shall retain the amounts received as royalties under subsection (e)(1).

"(B) **AVAILABILITY.**—Amounts referred to in subparagraph (A) shall be available, without further Act of appropriation, to carry out the remedial action under paragraph (1).

"(C) **EXCESS AMOUNTS.**—On completion of the remedial action under paragraph (1), all remaining royalty amounts shall be deposited in the General Fund of the Treasury.

"(D) **EXCLUSION OF WEAPONS ACTIVITIES FUNDING.**—The Secretary shall not use any funds made available to the Department of Energy for weapons activities to carry out the remedial action under paragraph (1).

"(E) **AUTHORIZATION OF APPROPRIATIONS.**—

"(i) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Energy to carry out the remedial action under paragraph (1) such sums as are necessary.

"(ii) **CONTINUATION OF NRC TRUSTEE REMEDIATION ACTIVITIES.**—After the date of enactment of this section and until such date as funds are made available under clause (i), the Secretary, using funds available to the Secretary that are not otherwise appropriated, shall carry out—

"(I) this subsection; and

"(II) any remediation activity being carried out at the Moab site by the trustee appointed by the Nuclear Regulatory Commission for the Moab site on the date of enactment of this section.

"(4) SALE OF MOAB SITE.—

"(A) IN GENERAL.—If the Moab site is sold after the date on which the Secretary of Energy completes the remedial action under paragraph (I), the seller shall pay to the Secretary of Energy, for deposit in the miscellaneous receipts account of the Treasury, the portion of the sale price that the Secretary determines resulted from the enhancement of the value of the Moab site that is attributable to the completion of the remedial action, as determined in accordance with subparagraph (B).

"(B) DETERMINATION OF ENHANCED VALUE.—The enhanced value of the Moab site referred to in subparagraph (A) shall be equal to the difference between—

"(i) the fair market value of the Moab site on the date of enactment of this section, based on information available on that date; and

"(ii) the fair market value of the Moab site, as appraised on completion of the remedial action."

(C) URANIUM MILL TAILINGS.—Section 102(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912(a)) is amended by inserting after paragraph (3) the following:

"(4) DESIGNATION AS PROCESSING SITE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Moab uranium milling site (referred to in this paragraph as the 'Moab Site') located approximately 3 miles northwest of Moab, Utah, and identified in the Final Environmental Impact Statement issued by the Nuclear Regulatory Commission in March 1996, in conjunction with Source Material License No. SUA 917, is designated as a processing site.

"(B) APPLICABILITY.—This title applies to the Moab Site in the same manner and to the same extent as to other processing sites designated under this subsection, except that—

"(i) sections 103, 107(a), 112(a), and 115(a) of this title shall not apply;

"(ii) a reference in this title to the date of the enactment of this Act shall be treated as a reference to the date of enactment of this paragraph; and

"(iii) the Secretary, subject to the availability of appropriations and without regard to section 104(b), shall conduct remediation at the Moab site in a safe and environmentally sound manner, including—

"(I) ground water restoration; and

"(II) the removal, to at a site in the State of Utah, for permanent disposition and any necessary stabilization, of residual radioactive material and other contaminated material from the Moab Site and the floodplain of the Colorado River."

(d) CONFORMING AMENDMENT.—Section 3406 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105-261) is amended by inserting after subsection (e) the following:

"(f) OIL SHALE RESERVE NUMBERED 2.—This section does not apply to the transfer of Oil Shale Reserve Numbered 2 under section 3405."

MCCAIN (AND OTHERS) AMENDMENT NO. 3214

Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. SCHUMER, Mr. BYRD, Mr. BIDEN, Mr. REID, and Mr. LEVIN) proposed an amendment to amendment No. 3210 proposed by Mr. SMITH of New Hampshire to the bill, S. 2549, supra; as follows:

At the end of the pending matter add the following new Title:

TITLE —INFORMATION DISCLOSURE SECTION . REQUIRED NOTIFICATION OF SECTION 527 STATUS.

(a) IN GENERAL.—Section 527 of the Internal Revenue Code of 1986 (relating to political organizations) is amended by adding at the end the following new subsection:

"(i) ORGANIZATIONS MUST NOTIFY SECRETARY THAT THEY ARE SECTION 527 ORGANIZATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (5), an organization shall not be treated as an organization described in this section—

"(A) unless it has given notice to the Secretary, electronically and in writing, that it is to be so treated; or

"(B) if the notice is given after the time required under paragraph (2), the organization shall not be so treated for any period before such notice is given.

"(2) TIME TO GIVE NOTICE.—The notice required under paragraph (1) shall be transmitted not later than 24 hours after the date on which the organization is established.

"(3) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall include information regarding—

"(A) the name and address of the organization (including any business address, if different) and its electronic mailing address,

"(B) the purpose of the organization,

"(C) the names and addresses of its officers, highly compensated employees, contact person, custodian of records, and members of its Board of Directors,

"(D) the name and address of, and relationship to, any related entities (within the meaning of section 168(h)(4)), and

"(E) such other information as the Secretary may require to carry out the internal revenue laws.

"(4) EFFECT OF FAILURE.—In the case of an organization failing to meet the requirements of paragraph (1) for any period, the taxable income of such organization shall be computed by taking into account any exempt function income (and any deductions directly connected with the production of such income).

"(5) EXCEPTIONS.—This subsection shall not apply to any organization—

"(A) to which this section applies solely by reason of subsection (f)(1), or

"(B) which reasonably anticipates that it will not have gross receipts of \$25,000 or more for any taxable year.

"(6) COORDINATION WITH OTHER REQUIREMENTS.—This subsection shall not apply to any person required (without regard to this subsection) to report under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) as a political committee."

(b) DISCLOSURE REQUIREMENTS.—

(1) INSPECTION AT INTERNAL REVENUE SERVICE OFFICES.—

(A) IN GENERAL.—Section 6104(a)(1)(A) of the Internal Revenue Code of 1986 (relating to public inspection of applications) is amended—

(i) by inserting "or a political organization is exempt from taxation under section 527 for any taxable year" after "taxable year",

(ii) by inserting "or notice of status filed by the organization under section 527(i)" before ", together",

(iii) by inserting "or notice" after "such application" each place it appears,

(iv) by inserting "or notice" after "any application",

(v) by inserting "for exemption from taxation under section 501(a)" after "any organization" in the last sentence, and

(vi) by inserting "OR 527" after "SECTION 501" in the heading.

(B) CONFORMING AMENDMENT.—The heading for section 6104(a) of such Code is amended by inserting "OR NOTICE OF STATUS" before the period.

(2) INSPECTION OF NOTICE ON INTERNET AND IN PERSON.—Section 6104(a) of such Code is amended by adding at the end the following new paragraph:

"(3) INFORMATION AVAILABLE ON INTERNET AND IN PERSON.—

"(A) IN GENERAL.—The Secretary shall make publicly available, on the Internet and at the offices of the Internal Revenue Service—

"(i) a list of all political organizations which file a notice with the Secretary under section 527(i), and

"(ii) the name, address, electronic mailing address, custodian of records, and contact person for such organization.

"(B) TIME TO MAKE INFORMATION AVAILABLE.—The Secretary shall make available the information required under subparagraph (A) not later than 5 business days after the Secretary receives a notice from a political organization under section 527(i)."

(3) INSPECTION BY COMMITTEE OF CONGRESS.—Section 6104(a)(2) of such Code is amended by inserting "or notice of status of any political organization which is exempt from taxation under section 527 for any taxable year" after "taxable year".

(4) PUBLIC INSPECTION MADE AVAILABLE BY ORGANIZATION.—Section 6104(d) of such Code (relating to public inspection of certain annual returns and applications for exemption) is amended—

(A) by striking "AND APPLICATIONS FOR EXEMPTION" and inserting "APPLICATIONS FOR EXEMPTION, AND NOTICES OF STATUS" in the heading,

(B) by inserting "or notice of status under section 527(i)" after "section 501" and by inserting "or any notice materials" after "materials" in paragraph (1)(A)(ii),

(C) by inserting or "or such notice materials" after "materials" in paragraph (1)(B), and

(D) by adding at the end the following new paragraph:

"(6) NOTICE MATERIALS.—For purposes of paragraph (1), the term 'notice materials' means the notice of status filed under section 527(i) and any papers submitted in support of such notice and any letter or other document issued by the Internal Revenue Service with respect to such notice."

(c) FAILURE TO MAKE PUBLIC.—Section 6652(c)(1)(D) of the Internal Revenue Code of 1986 (relating to public inspection of applications for exemption) is amended—

(1) by inserting "or notice materials (as defined in such section)" after "section", and

(2) by inserting "AND NOTICE OF STATUS" after "EXEMPTION" in the heading.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on the date of the enactment of this section.

(2) ORGANIZATIONS ALREADY IN EXISTENCE.—In the case of an organization established before the date of the enactment of this section, the time to file the notice under section 527(i)(2) of the Internal Revenue Code of 1986, as added by this section, shall be 30 days after the date of the enactment of this section.

(3) INFORMATION AVAILABILITY.—The amendment made by subsection (b)(2) shall take effect on the date that is 45 days after the date of the enactment of this section.

SEC. 2. DISCLOSURES BY POLITICAL ORGANIZATIONS.

(a) REQUIRED DISCLOSURE OF 527 ORGANIZATIONS.—Section 527 of the Internal Revenue

Code of 1986 (relating to political organizations), as amended by section 1(a), is amended by adding at the end the following new section:

“(j) REQUIRED DISCLOSURE OF EXPENDITURES AND CONTRIBUTIONS.—

“(1) DENIAL OF EXEMPTION.—An organization shall not be treated as an organization described in this section unless it makes the required disclosures under paragraph (2).

“(2) REQUIRED DISCLOSURE.—A political organization which accepts a contribution, or makes an expenditure, for an exempt function during any calendar year shall file with the Secretary either—

“(A)(i) in the case of a calendar year in which a regularly scheduled election is held—

“(I) quarterly reports, beginning with the first quarter of the calendar year in which a contribution is accepted or expenditure is made, which shall be filed not later than the 15th day after the last day of each calendar quarter, except that the report for the quarter ending on December 31 of such calendar year shall be filed not later than January 31 of the following calendar year,

“(II) a pre-election report, which shall be filed not later than the 12th day before (or posted by registered or certified mail not later than the 15th day before) any election with respect to which the organization makes a contribution or expenditure, and which shall be complete as of the 20th day before the election, and

“(III) a post-general election report, which shall be filed not later than the 30th day after the general election and which shall be complete as of the 20th day after such general election, and

“(ii) in the case of any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year, or

“(B) monthly reports for the calendar year, beginning with the first month of the calendar year in which a contribution is accepted or expenditure is made, which shall be filed not later than the 20th day after the last day of the month and shall be complete as if the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with subparagraph (A)(i)(II), a post-general election report shall be filed in accordance with subparagraph (A)(i)(III), and a year end report shall be filed not later than January 31 of the following calendar year.

“(3) CONTENTS OF REPORT.—A report required under paragraph (2) shall contain the following information:

“(A) The amount of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds \$500 and the name and address of the person (in the case of an individual, include the occupation and name of employer of such individual).

“(B) The name and address (in the case of an individual, include the occupation and name of employer of such individual) of all contributors which contributed an aggregate amount of \$200 or more to the organization during the calendar year and the amount of the contribution.

Any expenditure or contribution disclosed in a previous reporting period is not required to be included in the current reporting period.

“(4) CONTRACTS TO SPEND OR CONTRIBUTE.—For purposes of this subsection, a person shall be treated as having made an expenditure or contribution if the person has con-

tracted or is otherwise obligated to make the expenditure or contribution.

“(5) COORDINATION WITH OTHER REQUIREMENTS.—This subsection shall not apply—

“(A) to any person required (without regard to this subsection) to report under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) as a political committee,

“(B) to any State or local committee of a political party or political committee of a State or local candidate,

“(C) to any organization which reasonably anticipates that it will not have gross receipts of \$25,000 or more for any taxable year,

“(D) to any organization to which this section applies solely by reason of subsection (f)(1), or

“(E) with respect to any expenditure which is an independent expenditure (as defined in section 301 of such Act).

“(6) ELECTION.—For purposes of this subsection, the term ‘election’ means—

“(A) a general, special, primary, or runoff election for a Federal office,

“(B) a convention or caucus of a political party which has authority to nominate a candidate for Federal office,

“(C) a primary election held for the selection of delegates to a national nominating convention of a political party, or

“(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.”.

(b) PUBLIC DISCLOSURE OF REPORTS.—

(1) IN GENERAL.—Section 6104(d) of the Internal Revenue Code of 1986 (relating to public inspection of certain annual returns and applications for exemption), as amended by section 1(b)(4), is amended—

(A) by inserting “REPORTS,” after “RETURNS,” in the heading,

(B) in paragraph (1)(A), by striking “and” at the end of clause (i), by inserting “and” at the end of clause (ii), and by inserting after clause (ii) the following new clause:

“(iii) the reports filed under section 527(j) (relating to required disclosure of expenditures and contributions) by such organization,”; and

(C) in paragraph (1)(B), by inserting “, reports,” after “return”.

(2) DISCLOSURE OF CONTRIBUTORS ALLOWED.—Section 6104(d)(3)(A) of such Code (relating to nondisclosure of contributors, etc.) is amended by inserting “or a political organization exempt from taxation under section 527” after “509(a)”.

(3) DISCLOSURE BY INTERNAL REVENUE SERVICE.—Section 6104(d) of such Code is amended by adding at the end the following new paragraph:

“(6) DISCLOSURE OF REPORTS BY INTERNAL REVENUE SERVICE.—Any report filed by an organization under section 527(j) (relating to required disclosure of expenditures and contributions) shall be made available to the public at such times and in such places as the Secretary may prescribe.”.

(c) FAILURE TO MAKE PUBLIC.—Section 6652(c)(1)(C) of the Internal Revenue Code of 1986 (relating to public inspection of annual returns) is amended—

(1) by inserting “or report required under section 527(j)” after “filing”;

(2) by inserting “or report” after “1 return”, and

(3) by inserting “AND REPORTS” after “RETURNS” in the heading.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures made and contributions received after the date of enactment of this Act, except that such amendment shall not apply to expenditures made, or contributions received, after such date pursuant to a contract entered into on or before such date.

SEC. 3. RETURN REQUIREMENTS RELATING TO SECTION 527 ORGANIZATIONS.

(a) RETURN REQUIREMENTS.—

(1) ORGANIZATIONS REQUIRED TO FILE.—Section 6012(a)(6) of the Internal Revenue Code of 1986 (relating to political organizations required to make returns of income) is amended by inserting “or which has gross receipts of \$25,000 or more for the taxable year (other than an organization to which section 527 applies solely by reason of subsection (f)(1) of such section)” after “taxable year”.

(2) INFORMATION REQUIRED TO BE INCLUDED ON RETURN.—Section 6033 of such Code (relating to returns by exempt organizations) is amended by redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection:

“(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.—In the case of a political organization required to file a return under section 6012(a)(6)—

“(1) such organization shall file a return—

“(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), and

“(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection, and

“(2) subsection (a)(2)(B) (relating to discretionary exceptions) shall apply with respect to such return.”.

(b) PUBLIC DISCLOSURE OF RETURNS.—

(1) RETURNS MADE AVAILABLE BY SECRETARY.—

(A) IN GENERAL.—Section 6104(b) of the Internal Revenue Code of 1986 (relating to inspection of annual information returns) is amended by inserting “6012(a)(6),” before “6033”.

(B) CONTRIBUTOR INFORMATION.—Section 6104(b) of such Code is amended by inserting “or a political organization exempt from taxation under section 527” after “509(a)”.

(2) RETURNS MADE AVAILABLE BY ORGANIZATIONS.—

(A) IN GENERAL.—Paragraph (1)(A)(i) of section 6104(d) of such Code (relating to public inspection of certain annual returns, reports, applications for exemption, and notices of status) is amended by inserting “or section 6012(a)(6) (relating to returns by political organizations)” after “organizations”.

(B) CONFORMING AMENDMENTS.—

(i) Section 6104(d)(1) of such Code is amended in the matter preceding subparagraph (A) by inserting “or an organization exempt from taxation under section 527(a)” after “501(a)”.

(ii) Section 6104(d)(2) of such Code is amended by inserting “or section 6012(a)(6)” after “section 6033”.

(c) FAILURE TO FILE RETURN.—Section 6652(c)(1) of the Internal Revenue Code of 1986 (relating to annual returns under section 6033) is amended—

(1) by inserting “or section 6012(c)(6) (relating to returns by political organizations)” after “organizations” in subparagraph (A)(i),

(2) by inserting “or section 6012(c)(6)” after “section 6033” in subparagraph (A)(ii),

(3) by inserting “or section 6012(c)(6)” after “section 6033” in the third sentence of subparagraph (A), and

(4) by inserting “OR 6012(c)(6)” after “SECTION 6033” in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after June 30, 2000.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 15, 2000, 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 the goals and specific legislative provisions of S. 2557, the National Energy Security Act of 2000. The bill would protect the energy security of the United States and decrease America's dependency on foreign oil sources to 50 percent by the year 2010 by enhancing the use of renewable energy resources, conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies, mitigating the effect of increases in energy prices on the American consumer, including the poor and elderly, and for other purposes.

Presentation of oral testimony is by Committee invitation only. However, those who wish to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, D.C. 20510-6150. For further information, please contact Brian Malnak at (202) 224-4971.

AUTHORITY FOR COMMITTEES TO
MEETCOMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, June 7, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 7, 2000 at 11:00 a.m. to hold a business meeting.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet on Wednesday, June 7, 2000 at 2:30 p.m. in room 485 of the Russell Senate Building to conduct a hearing on S. 2508, the Colorado Ute Indian Water Rights Settlement Act Amendments of 2000.

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

JOINT ECONOMIC COMMITTEE

Mr. WARNER. Mr. President, I ask unanimous consent that the Joint Economic Committee be permitted to meet on June 6, 2000 from the hours of 9:30 a.m. to 12:30 p.m. and on June 7, 2000 from the hours of 10 a.m. to 12:30 p.m. in room 216 of the Hart Senate Office Building to conduct a congressional hearing on high technology.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS
RIGHTS AND COMPETITION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Antitrust, Business Rights and Competition be authorized to meet to conduct a hearing on Wednesday, June 7, 2000 at 2:00 p.m., in SD226.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Senate Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, June 7, at 2:00 p.m. to conduct a hearing. The subcommittee will receive testimony on S. 2300, a bill to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for coal that may be held by an entity in any one State; S. 2069, a bill to permit the conveyance of certain land in Powell, Wyoming; and S. 1331, a bill to give Lincoln County, Nevada, the right to purchase at fair market value certain public land in the county.

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC
POLICY, EXPORT AND TRADE PROMOTION

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion be authorized to meet during the session of the Senate on Wednesday, June 7, 2000 at 2:30 pm to hold a hearing.

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

PRIVILEGES OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that Senator JEFFORDS' fellow, Sande Blalock, be given floor privileges under this bill.

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

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that Lt. Col. Tim Wiseman, a legislative fellow on my staff, and Amanda Wiley, a staff intern, be given floor privileges for the remainder of the debate on S. 2549.

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

Mr. WARNER. Mr. President, I ask unanimous consent Curt McFarlin

from the Office of KAY BAILEY HUTCHISON be granted floor privileges during consideration of this bill, S. 2549.

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

Mr. WARNER. Mr. President, I ask unanimous consent Nancy Thompson of my staff be granted floor privileges during the consideration of this bill.

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

Mr. REID. Mr. President, I ask unanimous consent that Bob Herbert, a Congressional Fellow in my office, be granted floor privileges during the pendency of this legislation.

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

Mr. ALLARD. Mr. President, I ask unanimous consent that Glen Davis, a fellow in my office, be granted the privilege of the floor during the entire debate of S. 2549.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that John Jennings, Dana Krupa, and Pam Nicholson, legislative fellows in Senator BINGAMAN's office, be granted floor privileges during the pendency of S. 2549.

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

Mr. INHOFE. Mr. President, I ask unanimous consent that Major Greg Sheppard, an Air Force fellow in my office, be granted floor privileges for the remainder of the debate on Defense authorization.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, in consultation with the Democratic leader, pursuant to Public Law 105-389, announces the appointment of Robert R. Ferguson III of North Carolina to serve as a member of the First Flight Centennial Federal Advisory Board.

DESIGNATION OF THE NATIONAL
OPERA

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 4542, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4542) to designate the Washington Opera in Washington, DC as the National Opera.

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

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4542) was read a third time and passed.

HONORING THOSE LOST ABOARD THE U.S.S. "THRESHER" ON APRIL 10, 1963

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 318, submitted earlier by Senator SNOWE, for herself and others.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A resolution (S. Res. 318) honoring the 129 sailors and civilians lost aboard the USS THRESHER on April 10, 1963, and for other purposes.

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

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and finally, any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 318) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 318

Whereas this is the 100th year of service to the people of the United States by the United States Navy submarine force, the "Silent Service";

Whereas this is the 200th year of service to the Nation of the Portsmouth Naval Shipyard;

Whereas Portsmouth Naval Shipyard launched the first Navy built submarine, the L-8, on April 23, 1917;

Whereas 52 years and 133 submarines later, on November 11, 1969, Portsmouth Naval Shipyard launched the last submarine built by the Navy, the U.S.S. Sand Lance;

Whereas the U.S.S. Thresher was launched at Portsmouth Naval Shipyard on July 9, 1960;

Whereas the U.S.S. Thresher departed Portsmouth Naval Shipyard on April 9, 1963, with a crew of 129 composed of 16 officers, 96 sailors, and 17 civilians;

Whereas the mix of that crew reflects the unity of the naval submarine service, military and civilian, in the protection of the Nation;

Whereas at approximately 7:45 a.m. on April 10, 1963, at a location near 41.46 degrees North latitude and 65.03 degrees West longitude, the U.S.S. Thresher began her final mission;

Whereas the U.S.S. Thresher was declared lost with all hands on April 10, 1963;

Whereas from the loss of that submarine, there arose the SUBSAFE program which has kept America's submariners safe at sea ever since as the strongest, safest submarine force in history;

Whereas from the loss of the U.S.S. Thresher, there arose in our Nation's universities the ocean engineering curricula that enables America's preeminence in submarine warfare; and

Whereas the "last full measure of devotion" shown by the crew of the U.S.S.

Thresher characterizes the sacrifice of all submariners, past and present, military and civilian, in the service of this Nation: Now, therefore, be it

Resolved, That the Senate—

(1) remembers with profound sorrow the loss of the U.S.S. Thresher and her gallant crew of sailors and civilians on April 10, 1963;

(2) expresses its deepest gratitude to all submariners on "eternal patrol", forever bound together by their dedicated and honorable service to the United States of America;

(3) recognizes with appreciation and respect the commitment and sacrifices made by the Naval Submarine Service for the past 100 years in providing for the common defense of the United States; and

(4) offers its admiration and gratitude for the workers of the Portsmouth Naval Shipyard whose 200 years of dedicated service to the United States Navy has contributed directly to the greatness and freedom of the United States.

SEC. 2. TRANSMISSION OF RESOLUTION.

The Secretary of the Senate shall transmit this resolution to the Chief of Naval Operations and to the Commanding Officer of the Portsmouth Naval Shipyard who shall accept this resolution on behalf of the families and shipmates of the crew of the U.S.S. Thresher.

PUBLIC HEALTH SERVICE ACT AMENDMENT

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Health Committee be discharged from further consideration of S. 2625, and the Senate then proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2625) to amend the Public Health Service Act to revise the performance standards and certification process for organ procurement organizations.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2625) was read a third time and passed, as follows:

S. 2625

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

SECTION 1. ORGAN PROCUREMENT ORGANIZATION CERTIFICATION ACT OF 2000.

(a) FINDINGS.—Congress makes the following findings:

(1) Organ procurement organizations play an important role in the effort to increase organ donation in the United States.

(2) The current process for the certification and recertification of organ procurement organizations conducted by the Department of Health and Human Services has created a level of uncertainty that is interfering with the effectiveness of organ procurement organizations in raising the level of organ donation.

(3) The General Accounting Office, the Institute of Medicine, and the Harvard School

of Public Health have identified substantial limitations in the organ procurement organization certification and recertification process and have recommended changes in that process.

(4) The limitations in the recertification process include:

(A) An exclusive reliance on population-based measures of performance that do not account for the potential in the population for organ donation and do not permit consideration of other outcome and process standards that would more accurately reflect the relative capability and performance of each organ procurement organization.

(B) A lack of due process to appeal to the Secretary of Health and Human Services for recertification on either substantive or procedural grounds.

(5) The Secretary of Health and Human Services has the authority under section 1138(b)(1)(A)(i) of the Social Security Act (42 U.S.C. 1320b-8(b)(1)(A)(i)) to extend the period for recertification of an organ procurement organization from 2 to 4 years on the basis of its past practices in order to avoid the inappropriate disruption of the nation's organ system.

(6) The Secretary of Health and Human Services can use the extended period described in paragraph (5) for recertification of all organ procurement organizations to—

(A) develop improved performance measures that would reflect organ donor potential and interim outcomes, and to test these measures to ensure that they accurately measure performance differences among the organ procurement organizations; and

(B) improve the overall certification process by incorporating process as well as outcome performance measures, and developing equitable processes for appeals.

(b) CERTIFICATION AND RECERTIFICATION OF ORGAN PROCUREMENT ORGANIZATIONS.—Section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)) is amended—

(1) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively;

(2) by realigning the margin of subparagraph (F) (as so redesignated) so as to align with subparagraph (E) (as so redesignated); and

(3) by inserting after subparagraph (C) the following:

"(D) notwithstanding any other provision of law, has met the other requirements of this section and has been certified or recertified by the Secretary within the previous 4-year period as meeting the performance standards to be a qualified organ procurement organization through a process that either—

"(i) granted certification or recertification within such 4-year period with such certification or recertification in effect as of January 1, 2000, and remaining in effect through the earlier of—

"(I) January 1, 2002; or

"(II) the completion of recertification under the requirements of clause (ii); or

"(ii) is defined through regulations that are promulgated by the Secretary by not later than January 1, 2002, that—

"(I) require recertifications of qualified organ procurement organizations not more frequently than once every 4 years;

"(II) rely on outcome and process performance measures that are based on empirical evidence, obtained through reasonable efforts, of organ donor potential and other related factors in each service area of qualified organ procurement organizations;

"(III) use multiple outcome measures as part of the certification process; and

“(IV) provide for a qualified organ procurement organization to appeal a decertification to the Secretary on substantive and procedural grounds;”.

ORDERS FOR THURSDAY, JUNE 8,
2000

Mr. SMITH of New Hampshire. Mr. President, on behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, June 8. I further ask unanimous consent that on Thursday immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day. I further ask unanimous consent that the Senate then resume consideration of S. 2549, the Department of

Defense authorization bill, under the previous order.

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

Mr. SMITH of New Hampshire. Mr. President, I further ask unanimous consent that Senator SMITH of New Hampshire be recognized for up to 30 minutes of general debate on S. 2549 during tomorrow's session.

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

PROGRAM

Mr. SMITH of New Hampshire. Mr. President, for the information of all Senators, on behalf of the leader, I announce that the Senate will convene at 9:30 a.m. tomorrow and resume debate on the Defense authorization bill. Under the order, at 1 p.m. there will be 2 hours of debate on the McCain-Fein-

gold amendment regarding soft money disclosure. Following that debate, at 3 p.m. the Senate will begin consideration of the Kennedy HMO amendment for up to 2 hours. Votes on the McCain and Kennedy amendments will be stacked to occur at 5 p.m. Further amendments may be offered prior to the votes, and therefore votes may occur prior to the 5 p.m. votes.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

Mr. SMITH of New Hampshire. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:05 p.m., adjourned until Thursday, June 8, 2000, at 9:30 a.m.